



**Empowering People to Lead Systemic Change**

The Protection and Advocacy System for the State of Maryland

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## **Maryland Developmental Disabilities Council**

**CREATING CHANGE • IMPROVING LIVES**

### **House Judiciary Committee**

#### **House Bill 1553: Estates and Trusts - Guardianship of the Person of a Disabled Person - Emergency and Temporary Guardianship Petitions**

**March 11, 2026**

#### **POSITION: OPPOSE**

Disability Rights Maryland (DRM), a non-profit legal advocacy organization, is the federally-mandated Protection and Advocacy agency for the State of Maryland, charged with defending and advancing the rights of persons with disabilities. We have been serving children, youth, and adults with disabilities in our state for over 40 years. The Maryland Developmental Disabilities Council (Council) creates change to make it possible for people with developmental disabilities to live the lives they want with the support they need. Together, we work to increase opportunities for Marylanders with disabilities to be integrated into their communities, live independently and access high-quality, affordable health care.

Adults with disabilities are regularly subject to being placed under a court-ordered guardianship order based on the biased assumption that they lack the capacity to make their own decisions because of their diagnoses. When placed under guardianship, people with disabilities lose the authority to make many personal decisions; this can include decisions regarding their own healthcare, finances, or even their own relationships. Too often, these guardianship orders are overbroad and unnecessary, stripping away an individual's basic rights to direct their own life. Additionally, many of these orders are permanent; once a guardian is appointed, it is often very difficult to terminate or limit the orders.

DRM and the Council have long advocated for alternatives to guardianship such as advance directives or financial power of attorney documents that allow for individuals to retain their decision-making authority and avoid guardianship. In recent years, Maryland has continued to expand the use of these alternatives to limit, terminate, or avoid guardianship. Notably, in 2022, DRM and the Council, along with over 27 partners in the Cross-Disability Supported Decision Making Coalition, advocated for the passage of SB 559, codifying the use of supported decision-making (SDM) as a less restrictive alternative to guardianship<sup>1</sup>. The passage of this bill served as

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<sup>1</sup> Md. Estates and Trusts Article, §13-204

a critical turning point in protecting the decision-making authority of people with disabilities in Maryland.

While we acknowledge the good intentions behind HB 1553, specifically the intentions to expand access to family members and to address instances of neglect by preexisting guardians, we are concerned with the potential unintended consequence presented by this bill. The text of this bill ultimately expands guardianship with the addition of Md. Estates and Trusts Article, §13-709.1 “Protective Services on a Temporary Basis Until Appointment of a Guardian of the Person.” Adding a new process for temporary guardianship is an expansion of guardianship. We know that once guardianship is granted it can be very challenging to rescind. We also know that because of the individual rights at stake in guardianship proceedings, guardianship, even on a temporary basis, should be rarely sought. Codifying additional avenues by which people with disabilities can be subject to guardianship is of great concern.

HB 1553 also alters the legal standard for the issuance of emergency and temporary guardianship in Md. Estates and Trusts Article, §13-709 to a preponderance of the evidence standard. Previously, the standard applied was “clear and convincing evidence”.<sup>2</sup> A preponderance of the evidence means that something is more likely than not to be true, while clear and convincing evidence requires a higher degree of certainty that a given condition is true. Application of this lower standard of proof will make it easier to place people with disabilities under guardianship, potentially even allowing guardianship in cases where there is weak justification. Due to the restrictive nature of guardianship and the high risks incurred by the loss of personal autonomy, the higher burden of proof should be retained.

All individuals deserve the right to make their own decisions. Unfortunately, individuals with disabilities have been in a constant cycle of oppression, inequity and powerlessness that limits that right. HB 1553 expands the grounds for guardianship and lowers the burden of proof required in emergency and temporary guardianship proceedings, thus continuing that cycle. We are concerned that HB 1553 ultimately undermines the equity and autonomy of people with disabilities.

**For these reasons, DRM and the Council oppose HB 1553.**

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<sup>2</sup> Md. Estates and Trusts Article, §13-709