

Department of Legislative Services  
Maryland General Assembly  
2026 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 134  
Judiciary

(Delegate Vogel)

---

**Family Law - Incapacitated or Protected Persons - Petition for Visitation**

---

This bill establishes a rebuttable presumption that it is in the best interest of an “alleged incapacitated or protected person” to have visitation from (1) the spouse of the person, if the spouse and the person are not legally separated; (2) the adult children of the person; (3) the adult grandchildren of the person; (4) the parents of the person; (5) the adult siblings of the person; and (6) other interested parties. Such persons may petition the court for reasonable visitation with the alleged incapacitated or protected person. The bill prohibits a petition if the authorized decision maker of the alleged incapacitated or protected person is a public guardian. The bill establishes a petition process, court procedures, and a requirement for an authorized decision maker to provide specified information about the alleged incapacitated or protected person to an interested party on written request.

---

**Fiscal Summary**

**State Effect:** The bill is not anticipated to materially affect State operations or finances.

**Local Effect:** The bill is not anticipated to materially affect local government operations or finances.

**Small Business Effect:** None.

---

**Analysis**

**Bill Summary:** The bill expresses the intent of the General Assembly to recognize the right of every adult in the State to have visitation with whomever the adult chooses, unless a court has specifically ordered otherwise or the adult is incapacitated and the visitation is not in the adult’s best interest.

### *Petition for Visitation*

A petition for visitation must be verified and state facts showing (1) the petitioner is a person eligible for visitation, as specified by the bill; (2) that visitation by the petitioner with the alleged incapacitated person has been unreasonably interfered with or denied; and (3) the identity of the person or persons who have unreasonably interfered with or denied visitation. A petition must also include a statement by the petitioner that the petitioner agrees to abide by any order of the court issued as a condition of evaluating the petition and the petitioner, including a background check, judgment search, or mental health screening or evaluation.

The petitioner must personally serve a copy of the petition on:

- the alleged incapacitated or protected person;
- the attorney for the alleged incapacitated or protected person;
- the guardian of the person of the alleged incapacitated or protected person, if any;
- the authorized decision maker for the alleged incapacitated or protected person;
- the attending physician, nurse practitioner, or physician assistant for the alleged incapacitated or protected person;
- the principal administrator, or the administrator's designee, and the medical director of a health care facility providing services to the alleged incapacitated or protected person, if any; and
- any person alleged to have interfered with or denied visitation.

### *Hearings and Court Procedures*

At any hearing on the petition, if evidence is presented that the alleged incapacitated or protected person objects to the petition or has in the past expressed an objection to visitation by the petitioner, the burden of proof for the rebuttable presumption must shift to the petitioner to prove, by clear and convincing evidence, that the alleged incapacitated or protected person's current or prior objection was not based on reliable evidence.

The presumption for visitation may be rebutted by clear and convincing evidence that the visitation would not be in the best interests of the alleged incapacitated or protected person because, among other things, (1) the petitioner has committed physical or financial abuse or neglect or has been the subject of a protective order issued by a court that restricted or prohibited conduct by the petitioner; (2) visitation is contrary to the wishes of the alleged incapacitated or protected person; or (3) the visitation would be harmful to the health or mental state of the alleged incapacitated or protected person.

In a ruling on a petition, the court must issue a statement of facts and law. The court may impose reasonable restrictions on a visitation ordered, including time and frequency limitations and requiring that visitations be monitored at the petitioner's expense. The court may assess costs of the petition or visitation, including the cost of monitoring visits, to the petitioner.

The court may assess sanctions, in the amount of the reasonable attorney's fees incurred, against a petitioner who files a petition in bad faith or against a party that is claimed to have unjustifiably interfered with or denied visitation. No costs or sanctions may be assessed against the alleged incapacitated or protected person who is the subject of the petition.

An authorized decision maker, a health care facility, or an employee or agent of a health care facility who denies or restricts a visit or visitation must be immune from civil liability if the restriction or denial is based on (1) a court order issued to deny or restrict visitation or (2) a good faith belief that a visit or visitation is not in the best interest of an alleged incapacitated or protected person.

#### *Notification Requirements*

On written request by an interested party, an authorized decision maker must, within 72 hours after receipt of the request, identify in writing or by electronic communication (1) the health care facility or other location where the alleged incapacitated or protected person is residing; (2) all current funeral arrangements; or (3) the burial location or disposition of the body of the deceased alleged incapacitated or protected person.

#### *Definitions*

"Interested party" means a person who is (1) appointed as a guardian of the person or as a guardian of the property; (2) an agent under an advance directive, as specified; (3) a surrogate decision maker; or (4) an attorney in fact under a durable power of attorney, as specified. An interested party does not include persons appointed under a public guardianship, as specified in § 13-707 of the Estates and Trusts Article.

"Visit" or "visitation" means any in-person meeting, or any telephonic, mail, or electronic communication between the petitioner and the alleged incapacitated or protected person.

**Current Law:** Statute does not explicitly address visitation in the manner and to the extent provided under the bill.

For example, in regard to guardianship cases, while guardians of the person of a disabled person have general authority to direct the activities of a disabled person, there are no State statutory provisions that specifically limit or grant a guardian's authority to restrict or prohibit communication or visitation with adult family members or other individuals.

Generally, a court may grant to a guardian of a person only those powers necessary to provide for the demonstrated need of the disabled person. The rights, duties, and powers that the court may order include:

- the same rights, powers, and duties that a parent has with respect to an unemancipated minor child, except that the guardian is not liable solely by reason of the guardianship to third persons for any act of the disabled person;
- the right to custody of the disabled person and to establish his or her place of abode, within and without the State, provided there is court authorization for any change in the classification of abode, except that no one may be committed to a mental facility without an involuntary commitment proceeding, as specified;
- the duty to provide for care, comfort, and maintenance, including social, recreational, and friendship requirements, and, if appropriate, for training and education of the disabled person; and
- if it is in the best interest of the disabled person, the duty to foster and preserve family relationships including, as appropriate, assisting to arrange visitation and communication by telephone calls, personal mail, and electronic communications.

---

### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Maryland Department of Aging; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Legislative Services

**Fiscal Note History:** First Reader - February 4, 2026  
jg/jkb

---

Analysis by: Amanda L. Douglas

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510