

**Department of Legislative Services**  
 Maryland General Assembly  
 2026 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 996 (Senator Zucker)  
 Judicial Proceedings

**Family Law and State Government - Child Protection and the Office of the Child Welfare Ombudsman (Kanaiyah's Law)**

This bill prohibits the Social Services Administration (SSA) within the Department of Human Services (DHS), in the administration of its out-of-home placement program, from allowing the placement of a child in an unlicensed setting. In addition, the bill makes numerous alterations to statutory provisions related to guardianships, including (1) the establishment of procedures requiring adults in the home of an individual whom the juvenile court has appointed as guardian to obtain a criminal history records check (CHRC) and (2) requiring a local department of social services to file a petition for the review of a guardianship with the juvenile court if the local department deems it to be in the child’s best interests based on a review of information received in a CHRC. The bill also establishes the Office of the Child Welfare Ombudsman in the Office of the Attorney General (OAG) to investigate and determine whether (1) the needs of children and families under the jurisdiction of DHS or a local department are being met in compliance with State law; (2) the rights of children and families are being upheld; and (3) the children are not being abused or neglected.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by at least \$4.1 million in FY 2027 for staff, CHRC fee reimbursements, one-time programming costs, and higher placement costs. Future year expenditures reflect annualization and inflation, as well as additional staff beginning in FY 2028. The penalty provisions do not have a material impact on State finances or operations.

(\$ in millions)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	4.1	5.5	5.7	5.8	5.9
Net Effect	(\$4.1)	(\$5.5)	(\$5.7)	(\$5.8)	(\$5.9)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

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

**Small Business Effect:** None.

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## Analysis

### Bill Summary:

#### *Out-of-home Placements – Prohibition on Unlicensed Settings*

SSA may not allow a child to be placed in an unlicensed setting. “Unlicensed setting” means a setting for an out-of-home placement that is not licensed, and includes (1) a hotel, motel, or short-term rental; (2) a shelter designated to meet the needs of a child who has run away or is homeless; and (3) an office building or other nonresidential environment. Unlicensed setting does not include the voluntary placement of a former child in need of assistance (CINA) or the placement of a child with an individual who currently is (or is applying to be) a kinship caregiver or foster parent, or a parent, including in a family-based residential treatment setting.

#### *Criminal History Records Checks, Guardianship Orders, and Review Hearings*

The bill requires an adult in the home of an individual with whom the juvenile court appoints as guardian to obtain a CHRC. To facilitate this requirement, an individual who is appointed guardian by the juvenile court must periodically provide the local department of social services, in a form and manner required by the local department, the name of each adult residing in the guardian’s home. If a local department receives information indicating that an adult is residing in the guardian’s home, and that adult has not obtained a CHRC, the local department must immediately refer the adult for completion of a CHRC. On completion, if the local department determines that it is in the best interests of the child, the local department must file a petition with the juvenile court to review the guardianship, as specified. DHS must adopt regulations to implement these provisions.

The juvenile court must schedule a hearing to occur within 30 days after the filing of the petition. If the juvenile court determines that it is in the best interests of the child, the juvenile court must (1) set aside the guardianship order; (2) schedule a prompt trial on the merits of the guardianship petition; and (3) reopen the CINA case for review.

The bill makes related changes to facilitate review of CHRCs required under the bill. As discussed below, under current law, an order granting custody and guardianship to an individual has several effects, including the termination of the local department’s legal

obligations and responsibilities to the child. The bill creates an exception by referencing the local department's ongoing responsibilities with respect to CHRCs, as established by the bill. The bill makes a similar change in provisions under § 5-326 of the Family Law Article, which governs designation of a guardian at specified guardianship review hearings.

Additionally, the bill establishes that, in a separate order accompanying an order granting guardianship of a child (as required under current law), a juvenile court, for a child placed with a specific individual, must direct the individual to immediately notify a local department if an adult begins residing in the home of the individual and the adult has not completed a CHRC.

### *Office of the Child Welfare Ombudsman*

*Establishment and Funding:* The bill establishes the Office of the Child Welfare Ombudsman within OAG. The budget of the ombudsman and the office must be a part of the budget of OAG, and the Governor must provide in the State budget sufficient money for the office to hire necessary staff. If the budget is insufficient to allow the office to perform its duties, the ombudsman may apply to the Board of Public Works (BPW) for additional money, as specified. Personnel of the office are generally subject to the provisions of the State Personnel and Pensions Article. By January 31, 2028, and annually thereafter, the ombudsman must report to the Secretary of Budget and Management and the General Assembly all personnel positions, classifications, and salaries in the office as of the end of the immediately preceding calendar year.

The ombudsman must be appointed by the Attorney General, with the advice and consent of the Senate and input from current or former foster children. The ombudsman must meet specified requirements, serves a five-year term, and may be removed by the Attorney General for good cause shown after notice and an opportunity to be heard.

*Duties of the Office:* The office must:

- identify, receive, investigate, and seek the resolution or referral of complaints made by or on behalf of a child involved in CINA cases concerning any act, omission, practice, policy, or procedure of a State or local agency or any person working on behalf of the agency that may adversely affect the health, safety, or welfare of the child;
- inspect and review the operation, policies, and procedures of foster care homes, group homes, kinship care homes, residential treatment facilities, shelters for the care of abused or neglected children, and independent living arrangements operated, licensed, or approved for payment by DHS or a local department or used by DHS or a local department for the care of children in its custody;

- review, evaluate, report, and make recommendations to a State or local agency concerning procedures established by the agency to provide services to children and families that are at risk of abuse or neglect, children in State or institutional custody, or children and families who receive child protective kinship care or foster care services;
- receive, investigate, and make referrals to other State or local agencies, or take other appropriate actions with respect to a complaint received by the office regarding the actions of DHS, a local department, or a State-funded private entity that provides services to children and families who are at risk of abuse or neglect, children in State or institutional custody, or children and families who receive child protective, kinship care, or foster care services;
- establish and maintain a 24-hour helpline and website to receive and respond to calls from individuals regarding the welfare of children under the jurisdiction of DHS or a local department;
- conduct unannounced site visits at reasonable times and in a reasonable manner to any institution or facility to which children are committed or placed, as specified;
- consult with any appropriate State or county agency or State-funded private entity providing child welfare services to children, and may request from such entity, and the entity is authorized and directed to provide, such cooperation and assistance as will enable the child advocate to properly perform its responsibilities; and
- establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of children who are recipients of the services of the local departments.

*Duties of the Ombudsman:* The ombudsman may (1) review and copy relevant laws, policies, procedures, and specified records and reports, including those relating to an individual child; (2) conduct interviews with staff, children, and others; (3) issue subpoenas to compel the attendance and testimony of witnesses or the production of books, papers, and other documents (and apply to the appropriate circuit court for relief in instances of noncompliance); (4) administer oaths to witnesses; and (5) if the ombudsman considers that legislation would affect the interests of persons under its jurisdiction, recommend such legislation to the General Assembly.

*Complaints:* A child who is the recipient of services from DHS or a local department or is a CINA may file a complaint with the ombudsman, as specified. The complaint process must be confidential, expedient, and responsive to the child's perception of safety issues and the child's emotional needs. The ombudsman must establish and implement appropriate response times and safety measures for different types of complaints. Local departments of social services must include, in developmentally appropriate language, specified information in each child's record about the complaint procedure. A child must be given the information at the initial court hearing, before any subsequent court hearings, and before every new placement.

The office must provide training on complaint policies and procedures to specified workers as well as other professionals working with children through CINA cases. The training must be provided as part of the professionals' employment orientation and continuing professional development.

The office must inform the child, in a developmentally appropriate way, of the outcome of any investigation. If the outcome of the investigation entails site visits with the child for a specified period of time, the child must be informed of the scope and intent of the follow-up process. The ombudsman must treat all complaints received as confidential, including the identities of complainants and individuals from whom information is acquired. However, the ombudsman may disclose information as necessary to enable the performance of the duties of the ombudsman and to support any recommendations resulting from an investigation. Records relating to complaints received by the office and the investigation of complaints are exempt from disclosure under the Public Information Act.

*Reporting Requirements:* The office must report in a timely manner to the Secretary of Human Services and the General Assembly knowledge of any systemic or life-threatening problems and any findings, actions, and recommendations relating to investigations regarding the care, supervision, and treatment of (1) children and families who are at risk of abuse or neglect; (2) children in DHS or local department custody; or (3) children and families who receive protective kinship or foster care services. All other findings, actions, and recommendations related to the office's activities must also be reported. The bill also requires quarterly reports to the Secretary of Human Services of specified items, including all activities of the office and details regarding the complaints made to the office. A copy of the report must be provided to specified entities.

By November 30 of each year, beginning in 2028, the office must report to the Secretary, the Citizens Review Board for Children, the State Council on Child Abuse and Neglect, the Governor, and the General Assembly on all the office's activities and the actions taken by DHS in response to findings and recommendations of the office. The office must remove any identifying information as necessary to protect the privacy of the child and the child's family.

*Penalties:* A person may not discriminate or retaliate in any manner against a person for filing a complaint, providing information to an advocate of a child in good faith, or willfully interfering with an advocate of a child in the performance of the advocate's official duties. A violator is guilty of a misdemeanor and subject to maximum penalties of a \$5,000 fine and/or imprisonment for five years.

**Current Law:** DHS, through SSA, has the primary responsibility for child welfare services throughout the State, which are provided primarily by the local departments of social services.

## *Child in Need of Assistance Proceedings – In General*

*Child in Need of Assistance:* A CINA is a child who requires court intervention because (1) the child has been abused or neglected, has a developmental disability, or has a mental disorder, and (2) the child's parents, guardian, or custodian is unable or unwilling to give proper care and attention to the child and the child's needs.

Statutory provisions outline numerous requirements for CINA and related proceedings, some of which are described in further detail below, and circumstances under which a child may be placed in out-of-home care prior to or after being adjudicated as a CINA.

### *Family Law Article § 5-326 – Review Hearings*

A court must hold an *initial* guardianship review hearing to establish a permanency plan for the child; at least once each year after the initial guardianship review hearing (and until the juvenile court's jurisdiction terminates), the court must hold a guardianship review hearing. At each guardianship review hearing, a juvenile court must determine whether (1) the child's current circumstances and placement are in the child's best interests; (2) the permanency plan that is in effect is in the child's best interests; and (3) reasonable efforts have been made to finalize the permanency plan that is in effect. Statute specifies different time periods for the court and local department to provide notice to specified individuals.

A child's permanency plan may be, in order of priority, (1) adoption of the child; (2) custody and guardianship of the child by an individual; or (3) for a child at least age 16, another planned permanent living arrangement that addresses the individualized needs of the child, including the child's educational plan, emotional stability, physical placement, and socialization needs and includes goals that promote the continuity of relations with individuals who will fill a lasting and significant role in the child's life.

At each guardianship review hearing for a child, the juvenile court must take specified actions, including evaluating the child's safety and projecting a reasonable date by which the permanency plan will be finalized.

At a guardianship review hearing held at least one year after the juvenile court enters an order for guardianship of a child, the court may designate an individual guardian of the child if (1) the local department certifies the child's successful placement with the individual under the supervision of the local department or its agent for at least 180 days or a shorter period allowed by the juvenile court on recommendation of the local department; (2) the local department files a report by a child placement agency, completed in accordance with department regulations, as to the suitability of the individual to be the child's guardian; and (3) the juvenile court makes a specific finding that for a compelling reason, adoption is not in the child's best interests and custody and guardianship by the individual is in the child's best interests and is the least restrictive alternative available.

Designation of a guardian under these circumstances terminates the local department's legal obligations and responsibilities to the child; however, after designation of a guardian, a juvenile court may order any further review that the juvenile court finds to be in the child's best interests.

#### *Family Law Article § 5-324 – Contents of Additional Order*

In a separate order accompanying an order granting guardianship of a child, a juvenile court must include a directive terminating the child's CINA case. Consistent with the child's best interests, the court may place the child in a specific type of facility or with a specific individual and must direct the provision of any other service or taking of any other action as to the child's education, health, and welfare; the court may also take numerous other actions relating to placements, services, and visitation, as further specified in statute.

#### *Courts and Judicial Proceedings Article § 3-819.2 – Custody and Guardianship to an Individual*

As part of a CINA proceeding, the court may grant custody and guardianship to a relative or nonrelative. An order granting the custody and guardianship to an individual (1) rescinds the child's commitment to the local department; (2) achieves the child's permanency plan; (3) terminates the local department's legal obligations and responsibilities to the child; and (4) terminates the child's case, unless the court finds good cause not to terminate the child's case. A guardian has legal custody of the child unless the court that appoints the guardian gives legal custody to another person.

Before granting custody and guardianship, the court must consider (1) any assurance by the local department that it will provide funds for necessary support and maintenance for the child; (2) all factors necessary to determine the best interests of the child; and (3) a report by a local department or a licensed child placement agency, completed in compliance with regulations adopted by DHS, on the suitability of the individual to be the guardian of the child. The report must include a home study, child protective services history, *CHRC*, and review of the proposed guardian's physical and mental health history. A court may not enter an order granting custody and guardianship until the report is submitted to and considered by the court.

#### *Criminal History Records Checks*

The Criminal Justice Information System Central Repository (CJIS-CR) is established by the Criminal Procedure Article, §§ 10-213 *et seq.*, within the Department of Public Safety and Correctional Services to collect, manage, and disseminate Maryland criminal history records checks for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes. For national records' checks, CJIS-CR collects the fee and submits the requests for national information to the Federal Bureau of Investigation electronically.

Pursuant to provisions in the Family Law Article, certain employees and individuals involved in the oversight and care of children must obtain a CHRC, including (1) an individual who is seeking to adopt a child through a child placement agency; (2) an individual who is seeking to become a guardian through a local department; and (3) an individual whom the juvenile court appoints as guardian of the child. Further, upon the request of a local department of social services, a CHRC must be obtained by (1) a parent or guardian of a child who is committed to the local department and is or has been placed in an out-of-home placement within the past year and (2) any adult known by the local department to be residing in the home of the parent or guardian. The local department must reimburse an adult residing in a foster care home and an individual the local department requested to obtain a CHRC for fees incurred.

### **State Expenditures:**

#### *Department of Human Services*

*Unlicensed Settings:* According to DHS, existing practices are *generally* in compliance with the prohibition against youth being placed in unlicensed settings; specifically, based on the most recent information readily available at the time of publication of this fiscal and policy note, fewer than 10 youth *at most* are thought to be in an unlicensed setting (with reported plans for re-placement). However, while this number is assumed to reflect placements at unlicensed settings specifically mentioned in the bill (*e.g.*, hotel, office building, etc.), DHS advises there are currently 108 youth in semi-independent living arrangements (SILAs); these are typically individuals who are still in the legal care and custody of DHS/a local department but are living on a college campus or in their own residences, fully independent with minimal supervision. DHS advises that under the bill, these SILAs may not qualify as a licensed setting. Accordingly, State expenditures increase by an estimated \$270,100 per month (approximately \$3.2 million on an annual basis) to relocate youth currently placed in a SILA into a licensed setting. This reflects State funding assumed to be needed to cover higher monthly care costs for these youth who need to be re-placed in other settings under the bill.

*Criminal History Records Checks and Coordination with the Child Welfare Ombudsman:* General fund expenditures for DHS further increase to implement the provisions related to CHRCs required by the bill and to coordinate with the Child Welfare Ombudsman. DHS anticipates the need for at least 42 personnel (12 background screening analysts, 24 social workers, 3 quality assistance analysts, 2 assistant Attorneys General, and 1 human services specialist). These positions are purported in part to be needed to request and evaluate the CHRCs on an annual basis, and to provide legal services and coordination (including records requests) associated with the ombudsman's office.

Under current practice, DHS advises that local departments of social services only request a CHRC at the time of evaluation for granting guardianship of a CINA or when the initial

CINA proceeding occurs due to the neglect or abuse of a parent or guardian. After a youth has been placed with a family or guardian, DHS is not permitted to perform CHRCs and generally ceases all contact with the family, since permanency for the child is considered achieved.

In reaching its staffing estimate, DHS advises data is not readily available on the total number of guardianship homes in the State. For context, DHS is aware of approximately 2,600 households that receive Guardianship Assistance Payments; however, DHS cautions that many households do not receive these payments. Reliable information on the composition of each household is also unavailable (*e.g.*, whether there are two partnered or married guardians or other children in the home that are at least age 18, etc.).

The Department of Legislative Services (DLS), while generally acknowledging that the legislation may result in increased levels of effort in many cases, advises that without experience under the bill, it is unable to independently verify the extent to which additional staff at the magnitude of that estimated by DHS are required. For example, the estimate from DHS assumes the need for 24 social workers to – among other tasks – provide supportive services to households when a CHRC reveals information warranting further action (including a subsequent court hearing). Absent experience under the bill, however, DLS cannot reliably predict the frequency with which such information will be included in an individual’s CHRC. For purposes of this analysis, however, it is assumed that a *minimum* of six administrative CHRC specialists, one assistant Attorney General, one coordinator, and two quality assurance specialists are needed. Accordingly, general fund expenditures increase by at least \$883,149 in fiscal 2027, which accounts for the bill’s October 1, 2026 effective date, and by at least \$851,614 annually thereafter; the estimate also includes \$150,000 in programming costs in fiscal 2027 only.

Positions	10.0
Salaries and Fringe Benefits	\$641,741
Programming Costs	150,000
Operating Expenses	<u>91,408</u>
<b>Minimum FY 2027 DHS Staff/Programming Expenditures</b>	<b>\$883,149</b>

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating costs. DHS may request additional resources as needed through the annual budget process.

In addition, DHS anticipates conducting *at least* 4,000 CHRCs in the first 12 months of implementation and incurring costs of approximately \$250,000 annually to reimburse individuals for CHRC-related fees.

*Office of the Child Welfare Ombudsman within the Office of the Attorney General*

General fund expenditures for OAG increase by \$622,180 in fiscal 2027, which accounts for the bill's October 1, 2026 effective date. This estimate reflects the cost of hiring six personnel (one ombudsman, one deputy ombudsman, two investigators, one data and technology manager, and one administrative specialist) to initially staff the Office of the Child Welfare Ombudsman within OAG. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	6.0
Salaries and Fringe Benefits	\$567,335
Operating Expenses	<u>54,845</u>
<b>Minimum FY 2027 OAG Expenditures</b>	<b>\$622,180</b>

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Further, it is assumed that as the office begins receiving additional complaints and performing more inspections, reviews, and investigations, additional staffing support is required. Accordingly, this estimate assumes that beginning October 1, 2027, one attorney, three investigators, and one paralegal also join the office to further support an anticipated increase in workloads. In fiscal 2028 and annually thereafter, general fund expenditures of approximately \$1.4 million are anticipated for staff.

In addition, the estimate above does not include expenditures relating to the establishment of a 24-hour helpline, or any expenditures relating to contracting with experts in the field of child welfare, both of which have the potential to significantly increase expenditures further. DLS notes that the above estimates are preliminary only, as a precise determination of the expenditures associated with creating the office cannot be reliably determined before the function commences, particularly when expenditures depend in large part on the scope of the activities undertaken by the office, as well as the number of complaints that are received. However, DLS also advises that the number of children subject to the purview of the new office is assumed to be significant. To the extent additional staff are needed in future years, the office may request additional resources through the annual budget process (and/or apply for additional money through BPW, as specified in the bill).

*Other Impacts*

It is assumed that the bill does not otherwise impact State finances or operations, including the workload of the Judiciary.

## Additional Information

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

**Designated Cross File:** HB 980 (Delegate Griffith, *et al.*) - Judiciary.

**Information Source(s):** Baltimore, Carroll, Harford, Queen Anne's, and St. Mary's counties; Office of the Attorney General; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Human Services; Board of Public Works; Department of State Police; Department of Public Safety and Correctional Services; Department of Legislative Services

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