

HOUSE BILL 134

D4

6lr1339

(PRE-FILED)

By: Delegate Vogel

Requested: October 27, 2025

Introduced and read first time: January 14, 2026

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

Family Law – Incapacitated or Protected Persons – Petition for Visitation

3 FOR the purpose of establishing a rebuttable presumption relating to the best interest of
4 an alleged incapacitated or protected person in an action under this Act; authorizing
5 a certain person to petition a certain court for reasonable visitation with a certain
6 alleged incapacitated or protected person; authorizing the court to impose certain
7 restrictions on a certain visitation; establishing a certain immunity from civil
8 liability under certain circumstances; requiring an authorized decision maker to
9 provide certain notifications within a certain period of time under certain
10 circumstances; and generally relating to visitation of alleged incapacitated or
11 protected persons.

12 BY adding to

Article – Family Law

14 Section 15–101 through 15–103 to be under the new title “Title 15. Visitation”

Annotated Code of Maryland

16 (2019 Replacement Volume and 2025 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

18 That the Laws of Maryland read as follows:

Article – Family Law

TITLE 15. VISITATION.

21 15-101.

22 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(B) "ALLEGED INCAPACITATED OR PROTECTED PERSON"** MEANS THE
2 PERSON THE PETITIONER SEEKS TO VISIT.

3 **(C) "HEALTH CARE FACILITY"** MEANS:

- 4 **(1) AN ASSISTED LIVING PROGRAM;**
5 **(2) A HOSPICE;**
6 **(3) A HOSPITAL; OR**
7 **(4) A NURSING HOME.**

8 **(D) (1) "INTERESTED PARTY"** MEANS A PERSON WHO IS:

9 **(I) APPOINTED AS A GUARDIAN OF THE PERSON UNDER §**
10 **13–705 OF THE ESTATES AND TRUSTS ARTICLE;**

11 **(II) APPOINTED AS A GUARDIAN OF THE PROPERTY UNDER §**
12 **13–201 OF THE ESTATES AND TRUSTS ARTICLE;**

13 **(III) AN AGENT UNDER AN ADVANCE DIRECTIVE THAT IS VALID**
14 **UNDER TITLE 5, SUBTITLE 6 OF THE HEALTH – GENERAL ARTICLE;**

15 **(IV) A SURROGATE DECISION MAKER UNDER § 5–605 OF THE**
16 **HEALTH – GENERAL ARTICLE; OR**

17 **(V) AN ATTORNEY IN FACT UNDER A DURABLE POWER OF**
18 **ATTORNEY THAT IS VALID UNDER TITLE 17 OF THE ESTATES AND TRUSTS ARTICLE.**

19 **(2) "INTERESTED PARTY"** DOES NOT INCLUDE A PERSON DESCRIBED
20 **UNDER § 13–707(A)(10) OF THE ESTATES AND TRUSTS ARTICLE.**

21 **(E) "PETITIONER"** MEANS A PERSON WHO FILES A PETITION INDIVIDUALLY
22 OR JOINTLY WITH ANOTHER PERSON UNDER SUBSECTION (D) OF THIS SECTION
23 SEEKING VISITATION WITH AN ALLEGED INCAPACITATED OR PROTECTED PERSON.

24 **(F) "VISIT" OR "VISITATION"** MEANS ANY IN-PERSON MEETING, OR ANY
25 TELEPHONIC, MAIL, OR ELECTRONIC COMMUNICATION, BETWEEN THE PETITIONER
26 AND THE ALLEGED INCAPACITATED OR PROTECTED PERSON.

27 **15–102.**

1 **IT IS THE INTENT OF THE GENERAL ASSEMBLY TO RECOGNIZE THE RIGHT OF**
2 **EVERY ADULT IN THE STATE TO HAVE VISITATION WITH WHOMEVER THE ADULT**
3 **CHOOSES, UNLESS A COURT HAS SPECIFICALLY ORDERED OTHERWISE OR THE**
4 **ADULT IS INCAPACITATED AND THE VISITATION IS NOT IN THE ADULT'S BEST**
5 **INTEREST.**

6 **15-103.**

7 **(A) THERE IS A REBUTTABLE PRESUMPTION IN AN ACTION UNDER THIS**
8 **SECTION THAT IT IS IN THE BEST INTEREST OF AN ALLEGED INCAPACITATED OR**
9 **PROTECTED PERSON TO HAVE VISITATION FROM:**

10 **(1) THE SPOUSE OF THE PERSON, IF THE SPOUSE AND THE PERSON**
11 **ARE NOT LEGALLY SEPARATED;**

12 **(2) THE ADULT CHILDREN OF THE PERSON;**

13 **(3) THE ADULT GRANDCHILDREN OF THE PERSON;**

14 **(4) THE PARENTS OF THE PERSON;**

15 **(5) THE ADULT SIBLINGS OF THE PERSON; AND**

16 **(6) OTHER INTERESTED PARTIES.**

17 **(B) (1) A PERSON LISTED IN SUBSECTION (A) OF THIS SECTION MAY**
18 **PETITION THE COURT, IN THE JURISDICTION IN WHICH THE ALLEGED**
19 **INCAPACITATED OR PROTECTED PERSON RESIDES OR IN THE COURT THAT**
20 **APPOINTED A GUARDIAN OF THE PERSON FOR THAT PERSON, FOR REASONABLE**
21 **VISITATION BY THAT PETITIONER WITH THE ALLEGED INCAPACITATED OR**
22 **PROTECTED PERSON.**

23 **(2) A PETITION MAY NOT BE MADE UNDER PARAGRAPH (1) OF THIS**
24 **SUBSECTION IF THE AUTHORIZED DECISION MAKER OF THE ALLEGED**
25 **INCAPACITATED OR PROTECTED PERSON IS A PUBLIC GUARDIAN.**

26 **(C) A PETITION DESCRIBED IN SUBSECTION (B) OF THIS SECTION SHALL:**

27 **(1) BE VERIFIED AND STATE FACTS SHOWING:**

28 **(I) THAT THE PETITIONER IS A PERSON LISTED IN SUBSECTION**
29 **(A) OF THIS SECTION;**

6 **(2) INCLUDE A STATEMENT BY THE PETITIONER THAT THE**
7 **PETITIONER AGREES TO ABIDE BY ANY ORDER OF THE COURT ISSUED AS A**
8 **CONDITION OF EVALUATING THE PETITION AND THE PETITIONER, INCLUDING A**
9 **BACKGROUND CHECK, JUDGMENT SEARCH, OR MENTAL HEALTH SCREENING OR**
10 **EVALUATION.**

11 (D) THE PETITIONER SHALL PERSONALLY SERVE A COPY OF THE PETITION
12 ON:

13 (1) THE ALLEGED INCAPACITATED OR PROTECTED PERSON;

14 **(2) THE ATTORNEY FOR THE ALLEGED INCAPACITATED OR**
15 **PROTECTED PERSON;**

18 **(4) THE AUTHORIZED DECISION MAKER FOR THE ALLEGED**
19 **INCAPACITATED OR PROTECTED PERSON;**

(5) THE ATTENDING PHYSICIAN, NURSE PRACTITIONER, OR
PHYSICIAN ASSISTANT FOR THE ALLEGED INCAPACITATED OR PROTECTED PERSON;

22 (6) THE PRINCIPAL ADMINISTRATOR, OR THE ADMINISTRATOR'S
23 DESIGNEE, AND THE MEDICAL DIRECTOR OF A HEALTH CARE FACILITY PROVIDING
24 SERVICES TO THE ALLEGED INCAPACITATED OR PROTECTED PERSON, IF ANY; AND

(7) ANY PERSON ALLEGED TO HAVE INTERFERED WITH OR DENIED
VISITATION.

27 (E) (1) AT ANY HEARING ON THE PETITION, IF EVIDENCE IS PRESENTED
28 THAT THE ALLEGED INCAPACITATED OR PROTECTED PERSON OBJECTS TO THE
29 PETITION OR HAS IN THE PAST EXPRESSED AN OBJECTION TO VISITATION BY THE
30 PETITIONER, THE BURDEN OF PROOF DESCRIBED IN SUBSECTION (A) OF THIS
31 SECTION SHALL SHIFT TO THE PETITIONER TO PROVE, BY CLEAR AND CONVINCING
32 EVIDENCE, THAT THE ALLEGATION OF AN ALLEGED INCAPACITATED OR PROTECTED
33 PERSON'S CURRENT OR PRIOR OBJECTION WAS NOT BASED ON RELIABLE EVIDENCE.

1 (2) THE PRESUMPTION DESCRIBED IN SUBSECTION (A) OF THIS
2 SECTION MAY BE REBUTTED BY CLEAR AND CONVINCING EVIDENCE THAT THE
3 VISITATION WOULD NOT BE IN THE BEST INTERESTS OF THE ALLEGED
4 INCAPACITATED OR PROTECTED PERSON BECAUSE:

5 (I) THE PETITIONER HAS COMMITTED PHYSICAL OR FINANCIAL
6 ABUSE OR NEGLECT OR HAS BEEN THE SUBJECT OF A PROTECTIVE ORDER ISSUED
7 BY A COURT THAT RESTRICTED OR PROHIBITED CONDUCT BY THE PETITIONER;

8 (II) VISITATION IS CONTRARY TO THE WISHES OF THE ALLEGED
9 INCAPACITATED OR PROTECTED PERSON;

10 (III) THE AUTHORIZED DECISION MAKER IS ACTING BASED ON A
11 RECOMMENDATION OF AN ATTENDING PHYSICIAN OR A PROTECTIVE ORDER ISSUED
12 BY A COURT;

13 (IV) THE PETITIONER'S AFFIDAVIT DOES NOT QUALIFY THE
14 PETITIONER AS AN INTERESTED PARTY;

15 (V) STATEMENTS, WRITINGS, OR ACTIONS BY THE ALLEGED
16 INCAPACITATED OR PROTECTED PERSON DEMONSTRATE THAT THE ALLEGED
17 INCAPACITATED OR PROTECTED PERSON:

18 1. DOES NOT WANT VISITATION WITH THE PETITIONER;
19 OR

20 2. INTENDED TO VEST COMPLETE AUTHORITY OVER
21 VISITATION WITH THE AUTHORIZED DECISION MAKER; OR

22 (VI) THE VISITATION WOULD BE HARMFUL TO THE HEALTH OR
23 MENTAL WELL-BEING OF THE ALLEGED INCAPACITATED OR PROTECTED PERSON.

24 (F) (1) IN RULING ON A PETITION UNDER THIS SECTION, THE COURT
25 SHALL ISSUE A STATEMENT OF FACTS AND LAW.

26 (2) THE COURT MAY IMPOSE REASONABLE RESTRICTIONS ON A
27 VISITATION ORDERED UNDER THIS SECTION, INCLUDING TIME AND FREQUENCY
28 LIMITATIONS AND REQUIRING THAT VISITATIONS BE MONITORED AT THE
29 PETITIONER'S EXPENSE.

30 (G) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE COURT
31 MAY ASSESS COSTS OF THE PETITION OR VISITATION, INCLUDING THE COST OF
32 MONITORING VISITS, TO THE PETITIONER UNDER THIS SECTION.

1 **(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE COURT**
2 MAY ASSESS SANCTIONS, IN THE AMOUNT OF THE REASONABLE ATTORNEY'S FEES
3 INCURRED, AGAINST A PETITIONER WHO FILES A PETITION UNDER THIS SECTION IN
4 BAD FAITH OR AGAINST A PARTY THAT IS CLAIMED TO HAVE UNJUSTIFIABLY
5 INTERFERED WITH OR DENIED VISITATION.

6 **(3) NO COSTS OR SANCTIONS UNDER THIS SECTION MAY BE ASSESSED**
7 AGAINST THE ALLEGED INCAPACITATED OR PROTECTED PERSON WHO IS THE
8 SUBJECT OF THE PETITION.

9 **(4) AN AUTHORIZED DECISION MAKER, A HEALTH CARE FACILITY, OR**
10 AN EMPLOYEE OR AGENT OF A HEALTH CARE FACILITY WHO DENIES OR RESTRICTS
11 A VISIT OR VISITATION SHALL BE IMMUNE FROM CIVIL LIABILITY IF THE
12 RESTRICTION OR DENIAL IS BASED ON:

13 **(I) A COURT ORDER ISSUED TO DENY OR RESTRICT VISITATION;**
14 OR

15 **(II) A GOOD FAITH BELIEF THAT A VISIT OR VISITATION IS NOT**
16 IN THE BEST INTEREST OF AN ALLEGED INCAPACITATED OR PROTECTED PERSON.

17 **(H) ON WRITTEN REQUEST BY AN INTERESTED PARTY, AN AUTHORIZED**
18 DECISION MAKER SHALL, WITHIN 72 HOURS AFTER RECEIPT OF THE REQUEST,
19 IDENTIFY IN WRITING OR BY ELECTRONIC COMMUNICATION:

20 **(1) THE HEALTH CARE FACILITY OR OTHER LOCATION WHERE THE**
21 ALLEGED INCAPACITATED OR PROTECTED PERSON IS RESIDING;

22 **(2) ALL CURRENT FUNERAL ARRANGEMENTS; OR**

23 **(3) THE BURIAL LOCATION OR DISPOSITION OF THE BODY OF THE**
24 DECEASED ALLEGED INCAPACITATED OR PROTECTED PERSON.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2026.