

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1256
Judiciary

(Delegate Jalisi, *et al.*)

Judicial Proceedings

Department of Juvenile Services - Implementation of Task Force
Recommendations - Report

This bill requires the Department of Juvenile Services (DJS), by December 1, 2017, to report to the Governor and the General Assembly on the implementation of the recommendations of the Task Force to Study the Restraint, Searches, and Needs of Children in the Juvenile Justice System.

The bill takes effect June 1, 2017, and terminates June 30, 2018.

Fiscal Summary

State Effect: DJS can submit the required report using existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: DJS must report on changes to its policies and procedures regarding the use of visual body searches and mechanical restraints during transportation. It must also report on the collection of data related to the use of visual body searches, including (1) the number of searches conducted; (2) the circumstances leading to the searches; (3) whether contraband was recovered as a result of the searches; and (4) the types of contraband recovered.

Current Law: DJS must adopt regulations applicable to residential facilities it operates that (1) prohibit the use of locked door seclusion and restraints as punishment and describe the circumstances under which these methods may be used and (2) prohibit abuse of a child. DJS must also adopt regulations that set standards for juvenile detention facilities operated by DJS and by private agencies. The standards must reflect the following central purposes of juvenile detention: (1) to protect the public; (2) to provide a safe, humane, and caring environment for children; and (3) to provide access to required services for children. Standards must include provisions establishing specified factors, such as criteria for the placement of a child in a particular juvenile detention facility, requirements regarding staff qualifications and training, and the rights of children in a juvenile detention facility, including the right to privacy.

Background: The State's Juvenile Justice Monitoring Unit within the Office of the Attorney General has, on multiple occasions, drawn attention to the policies and practices of DJS regarding the indiscriminate shackling and strip searching of youth within the juvenile justice system. During the 2016 session, the General Assembly also expressed concern about DJS's policy of routinely strip searching children, regardless of whether there is an individualized or reasonable suspicion that they are concealing something potentially harmful. These concerns resulted in the addition of restrictive language in the fiscal 2017 budget bill withholding \$1.0 million from DJS pending receipt of a report on the issues and the enactment of Chapter 655 of 2016 establishing the Task Force to Study the Restraint, Searches, and Needs of Children in the Juvenile Justice System.

DJS submitted the required report but noted that it did not have data related to the number of incidences or the age range of youth for when a visual body search was performed. According to the report, visual body searches, which involve a youth being entirely undressed, were conducted at all DJS facilities whenever a youth is admitted to a facility after being off-grounds and after visitation, including visits with family members or legal counsel. Searches must be conducted by two staff who are the same gender as the youth in an area that ensures privacy. DJS staff are not permitted to touch youth during the visual body searches. If contraband is detected, the youth is taken to the local hospital.

The report also indicated that DJS policy requires mechanical restraints to be used at all times to transport a youth who has been placed in either a secure detention or hardware secure committed facility, regardless of the reason for transport. Youth placed in staff secure committed facilities are transported with the use of mechanical restraints for the first 30 days of placement. After 30 days, unless the youth poses a safety, security, or escape risk, transport is nonsecure. All secure transports are completed through DJS's Transportation Unit by staff designated as transportation officers, who are required to complete specific training on a regular basis related to secure transports. Youth in community-based placements do not require the use of mechanical restraints during

transport. Data regarding the use of mechanical restraints during transport was also not collected, as it occurs as a matter of policy and procedure.

The task force established by Chapter 655 submitted its [final report](#) in December 2016. Recommendations within the report included requiring DJS to submit a report by December 31, 2017, to update the General Assembly on the implementation of the task force recommendations. DJS has already implemented some of the task force's recommendations, including (1) directing staff to use a graduated approach before conducting a visual body search; (2) providing youth with a disposable paper gown when conducting a visual body search; (3) evaluating the reorganization of its secure transportation unit; (4) providing a period of five minutes free of mechanical restraints for every four hours a youth is restrained during transport; and (5) developing procedures for out-of-state secure transports. DJS has also recently developed policies to address the use of visual body searches, including prohibiting a visual body search, except at admission to a DJS facility, unless there is an articulated reasonable belief that the youth is concealing contraband. Unless there is a reasonable belief that contraband is being concealed, a visual body search at admission is not allowed when youth have remained under the direct and continuous supervision of DJS staff during an off-campus outing.

Additional Information

Prior Introductions: None.

Cross File: SB 982 (Senator Muse, *et al.*) - Judicial Proceedings.

Information Source(s): Department of Juvenile Services; Department of Legislative Services

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