

# HOUSE BILL 745

E4

9lr2366  
CF SB 809

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By: Delegates W. Fisher, Acevero, Atterbeary, Barron, Bridges, Cardin, Carr, Charles, Conaway, Crutchfield, D.E. Davis, Dumais, Gilchrist, Glenn, Guyton, Hettleman, Ivey, Jackson, Jalisi, Kelly, Korman, J. Lewis, Lierman, Love, Moon, Mosby, Palakovich Carr, Pena-Melnyk, Qi, Sample-Hughes, Shetty, Stewart, Sydnor, Turner, Washington, R. Watson, Wells, and Wilkins

Introduced and read first time: February 8, 2019

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Facilities – Restrictive Housing – Pregnant Inmates**

3 FOR the purpose of requiring each correctional facility to have a written policy in place  
4 regarding the medical care of pregnant inmates that addresses the use of medical  
5 isolation or restrictive housing for certain purposes during pregnancy and during a  
6 certain post-pregnancy period; establishing that a pregnant inmate may not be  
7 involuntarily placed in certain restrictive housing, with certain exceptions; providing  
8 that a certain pregnant inmate may be placed in certain restrictive housing if a  
9 certain managing official makes a certain determination; requiring a certain  
10 managing official to make a certain documentation; requiring that a certain  
11 documentation be reviewed and affirmed in a certain manner at a certain time;  
12 requiring that a certain individual placed in certain restrictive housing be medically  
13 assessed at a certain time, housed only in a certain setting, and given a certain  
14 treatment plan; requiring a certain pregnant inmate to be admitted to the infirmary  
15 by order of a certain medical professional; requiring a certain inmate to be housed in  
16 the infirmary as an admitted patient under certain circumstances until a certain  
17 time; requiring a certain inmate who has been housed in the infirmary to be provided  
18 with certain benefits and privileges; requiring a certain inmate to be provided a  
19 certain notification within a certain period of time; requiring a correctional facility  
20 to post certain information in a certain manner; requiring the Secretary of Public  
21 Safety and Correctional Services to establish a certain process; requiring a certain  
22 managing official of a correctional facility to submit a certain report under certain  
23 circumstances; requiring the Secretary, on or before a certain date and annually  
24 thereafter, to make a certain report to the General Assembly; defining a certain term;  
25 and generally relating to pregnant inmates.

26 BY repealing and reenacting, without amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Correctional Services  
2 Section 9–601(j)(1)  
3 Annotated Code of Maryland  
4 (2017 Replacement Volume and 2018 Supplement)

5 BY repealing and reenacting, with amendments,  
6 Article – Correctional Services  
7 Section 9–601(j)(2)(ix) and (x)  
8 Annotated Code of Maryland  
9 (2017 Replacement Volume and 2018 Supplement)

10 BY adding to  
11 Article – Correctional Services  
12 Section 9–602(j)(2)(xi) and 9–601.1  
13 Annotated Code of Maryland  
14 (2017 Replacement Volume and 2018 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
16 That the Laws of Maryland read as follows:

17 **Article – Correctional Services**

18 9–601.

19 (j) (1) This subsection applies to local correctional facilities and correctional  
20 facilities in the Department.

21 (2) Each correctional facility shall have a written policy in place regarding  
22 the medical care of pregnant inmates that addresses:

23 (ix) eligibility and access to behavioral health counseling and social  
24 services during the prenatal and postpartum recovery periods; [and]

25 (x) use of restraints during pregnancy, transportation, labor and  
26 delivery, and postpartum recovery; **AND**

27 **(XI) USE OF INVOLUNTARY MEDICAL ISOLATION OR**  
28 **RESTRICTIVE HOUSING FOR ADMINISTRATIVE, PROTECTIVE, OR DISCIPLINARY**  
29 **PURPOSES DURING PREGNANCY AND 8 WEEKS DURING THE POSTPARTUM OR**  
30 **POST-PREGNANCY RECOVERY PERIOD.**

31 **9–601.1.**

32 **(A) IN THIS SECTION, “RESTRICTIVE HOUSING” HAS THE MEANING STATED**  
33 **IN § 9–614 OF THIS SUBTITLE.**

1           **(B) EXCEPT AS PROVIDED IN THIS SECTION, A PREGNANT INMATE MAY NOT**  
2 **BE INVOLUNTARILY PLACED IN RESTRICTIVE HOUSING, INCLUDING INVOLUNTARY**  
3 **MEDICAL ISOLATION OR INFIRMARY.**

4           **(C) (1) A PREGNANT INMATE MAY BE INVOLUNTARILY PLACED IN**  
5 **RESTRICTIVE HOUSING IF THE MANAGING OFFICIAL OF THE CORRECTIONAL**  
6 **FACILITY, IN CONSULTATION WITH THE PERSON OVERSEEING WOMEN'S HEALTH**  
7 **AND SERVICES IN THE FACILITY, MAKES AN INDIVIDUALIZED AND WRITTEN**  
8 **DETERMINATION THAT RESTRICTIVE HOUSING IS REQUIRED AS A TEMPORARY**  
9 **RESPONSE TO BEHAVIOR THAT POSES:**

10                   **(I) A SERIOUS AND IMMEDIATE RISK OF PHYSICAL HARM; OR**

11                   **(II) AN IMMEDIATE AND CREDIBLE FLIGHT RISK THAT CANNOT**  
12 **BE REASONABLY PREVENTED BY OTHER MEANS.**

13           **(2) A MANAGING OFFICIAL WHO MAKES A DETERMINATION**  
14 **DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL DOCUMENT THE**  
15 **REASON WHY OTHER LESS RESTRICTIVE HOUSING IS NOT POSSIBLE.**

16           **(3) THE DETERMINATION DESCRIBED IN PARAGRAPH (1) OF THIS**  
17 **SUBSECTION SHALL BE REVIEWED AND AFFIRMED AT LEAST EVERY 24 HOURS IN**  
18 **WRITING WITH A COPY PROVIDED TO THE INMATE.**

19           **(D) AN INDIVIDUAL PLACED IN RESTRICTIVE HOUSING UNDER THIS**  
20 **SECTION SHALL BE:**

21                   **(1) MEDICALLY ASSESSED EVERY 8 HOURS;**

22                   **(2) HOUSED ONLY IN THE LEAST RESTRICTIVE SETTING CONSISTENT**  
23 **WITH THE HEALTH AND SAFETY OF THE INDIVIDUAL; AND**

24                   **(3) GIVEN AN INTENSIVE TREATMENT PLAN DEVELOPED AND**  
25 **APPROVED BY THE PERSON OVERSEEING WOMEN'S HEALTH AND SERVICES IN THE**  
26 **FACILITY.**

27           **(E) (1) A PREGNANT INMATE WHO IS DEEMED TO NEED INFIRMARY CARE**  
28 **SHALL BE ADMITTED TO THE INFIRMARY ON ORDER OF A PRIMARY CARE NURSE**  
29 **PRACTITIONER OR OBSTETRICIAN.**

30                   **(2) IF THE INMATE IS OVERDUE IN THE PREGNANCY, THE INMATE**  
31 **SHALL BE HOUSED IN THE INFIRMARY AS AN ADMITTED PATIENT UNTIL LABOR**  
32 **BEGINS OR UNTIL THE OBSTETRICAL CONSULTANT HAS MADE OTHER HOUSING AND**

1 CARE RECOMMENDATIONS.

2 (3) A PREGNANT INMATE WHO HAS BEEN PLACED IN THE INFIRMARY  
3 SHALL BE PROVIDED:

4 (I) ACCESS TO REGULAR OUTSIDE RECREATION CONSISTENT  
5 WITH THE GENERAL POPULATION;

6 (II) THE ABILITY TO PURCHASE FOOD ITEMS THROUGH THE  
7 COMMISSARY;

8 (III) ACCESS TO VISITS, MAIL, AND TELEPHONE CONSISTENT  
9 WITH GENERAL POPULATION PRIVILEGES; AND

10 (IV) THE ABILITY TO CONTINUE TO PARTICIPATE IN WORK  
11 DETAIL, PROGRAMMING, AND CLASSES.

12 (F) (1) WITHIN 48 HOURS AFTER CONFIRMATION BY A HEALTH CARE  
13 PROFESSIONAL THAT AN INMATE IS PREGNANT, THE INMATE SHALL BE NOTIFIED IN  
14 WRITING OF THE RESTRICTIONS ON A PREGNANT INMATE BEING PLACED IN  
15 RESTRICTIVE HOUSING PROVIDED IN THIS SECTION.

16 (2) (I) EACH CORRECTIONAL FACILITY SHALL POST THE  
17 RESTRICTIONS ON A PREGNANT INMATE BEING PLACED IN RESTRICTIVE HOUSING  
18 PROVIDED IN THIS SECTION.

19 (II) THE POSTING REQUIRED IN THIS PARAGRAPH SHALL BE  
20 PLACED IN CONSPICUOUS PLACES WITHIN THE CORRECTIONAL FACILITY WHERE  
21 INMATES ARE LIKELY TO SEE THE POSTING, INCLUDING HOUSING UNITS, MEDICAL  
22 UNITS, LIBRARIES, AND ALL INMATE HANDBOOKS.

23 (III) THE SECRETARY SHALL ESTABLISH A PROCESS THROUGH  
24 WHICH AN INMATE MAY REPORT A VIOLATION OF THIS SECTION.

25 (G) THE MANAGING OFFICIAL OF A CORRECTIONAL FACILITY WHO  
26 AUTHORIZED THE PLACEMENT OF A PREGNANT INMATE IN RESTRICTIVE HOUSING  
27 SHALL SUBMIT WITHIN 30 DAYS OF THE PLACEMENT A REPORT IN WRITING TO THE  
28 SECRETARY AND TO THE PERSON OVERSEEING WOMEN'S HEALTH AND SERVICES IN  
29 THE FACILITY THAT DESCRIBES THE FACTS AND CIRCUMSTANCES SURROUNDING  
30 THE PLACEMENT, INCLUDING:

31 (1) THE REASONING FOR THE DETERMINATION TO PLACE THE  
32 INMATE IN RESTRICTIVE HOUSING;

1           **(2) DETAILS OF THE PLACEMENT, INCLUDING THE NAMES OF THOSE**  
2 **WHO CONDUCTED MEDICAL ASSESSMENTS OF THE INMATE, DATES AND TIMES OF**  
3 **PLACEMENT, AND THE DATE, IF APPLICABLE, THE INMATE WAS RELEASED FROM**  
4 **RESTRICTIVE HOUSING; AND**

5           **(3) ANY PHYSICAL OR MENTAL EFFECTS ON THE INMATE OR FETUS**  
6 **RESULTING FROM THE PLACEMENT OBSERVED OR REPORTED BY THE PERSON**  
7 **OVERSEEING WOMEN’S HEALTH AND SERVICES IN THE FACILITY.**

8           **(H) ON OR BEFORE OCTOBER 1, 2020, AND ANNUALLY THEREAFTER, THE**  
9 **SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES SHALL REPORT TO**  
10 **THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE**  
11 **GOVERNMENT ARTICLE, WITHOUT ANY PERSONALLY IDENTIFIABLE INFORMATION**  
12 **OF ANY INMATE, ON:**

13           **(1) THE NUMBER OF PREGNANT INMATES PLACED IN RESTRICTIVE**  
14 **HOUSING DURING THE PREVIOUS YEAR; AND**

15           **(2) THE OUTCOME OF THE PREGNANCIES, INCLUDING THE NUMBER**  
16 **OF STILLBIRTHS, MISCARRIAGES, ABORTIONS, ECTOPIC PREGNANCIES, MATERNAL**  
17 **DEATHS, NEONATAL DEATHS, AND PRETERM BIRTHS.**

18           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 2019.