



**HUMAN RIGHTS**  
*for KIDS*

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**TESTIMONY IN SUPPORT OF HB 855 BEFORE  
THE MARYLAND HOUSE JUDICIARY COMMITTEE**

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*February 22, 2024*

Dear Chairman Clippinger and Members of the Maryland House Judiciary Committee:

Human Rights for Kids respectfully requests a favorable report on HB 855. We are grateful to Delegate Bartlett for her leadership in introducing this bill and we appreciate the opportunity to express our support.

Human Rights for Kids is a Washington, D.C.-based non-profit organization dedicated to the promotion and protection of the human rights of children. We work to inform the way the nation understands Adverse Childhood Experiences (ACEs) from a human rights perspective, to better educate the public and policymakers' understanding of the relationship between early childhood trauma and negative life outcomes. We use an integrated, multi-faceted approach which consists of research and public education, coalition-building and grassroots mobilization, and policy advocacy and strategic litigation to advance critical human rights on behalf of children in the United States.

We are joined in this testimony in support of HB 855 by the following organizations:

**ACLU-Maryland**

**Center for Criminal Justice Reform, University of Baltimore School of Law**

**Justice Policy Institute**

**National Youth Justice Network**

We support HB 855 because it will continue the important work to restrict the use of solitary confinement on children that this body began in 2019 with the passage of HB 1001.<sup>1</sup> In that legislation, the Department of Juvenile Services and the Department of Public Safety and Correctional Services became prohibited from placing a minor in “restrictive housing” unless there was clear and convincing evidence that certain qualifying conditions exist.

While HB 1001 was a positive step in protecting the human rights of children who are detained or incarcerated, HB 855 strengthens those protections in vital ways by placing a specific time limit on any use of solitary confinement, providing a clear path back to the general population for any child who is placed in solitary confinement, guaranteeing mental and physical health evaluations, and better defining when this practice can be used on a child.

### **Summary of HB 855**

HB 855 would place important restrictions on the use of solitary confinement (referred to in Maryland’s statutes as “restrictive housing”) to ensure that a child is held in such placement for the least amount of time possible and only as a temporary response to emergent issues.

The bill does the following:

- Prohibits the use of solitary confinement for punishment, discipline, retaliation, administrative convenience, or as a response to staffing shortages.
- Specifies that a minor may only be placed in restrictive housing as a **temporary** measure and places a strict 6-hour time limit on its use.
- Places greater restrictions on when a minor may be placed in restrictive housing:
  - There must be no reasonable means to eliminate the risk with another measure.
  - It must be used only to the extent necessary to eliminate the risk.
  - It must take place under the least restrictive conditions practicable.
  - The minor must be promptly notified of the rationale for their placement in restrictive housing.
  - A plan must be developed that allows the minor to leave restrictive housing as soon as possible.
- A health care or mental health care provider must conduct a mental health screening within one hour of the minor’s placement in restrictive housing.
- A minor may still be placed in restrictive housing at their request.

### **Solitary Confinement on Children is a Human Rights Violation**

International human rights standards are clear: the use of solitary confinement on children is a violation of human rights. The United Nations Convention on the Rights of the Child (CRC)

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<sup>1</sup> <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb1001/?ys=2019rs>

requires that children be protected from torture as well as cruel and unusual punishment,<sup>2</sup> and the U.N. Committee on the Rights of the Child has deemed solitary confinement a violation of Article 37 of the CRC.<sup>3</sup>

Subsequent U.N. publications have further noted the harms of solitary confinement on children and reiterated the strict ban on its use.<sup>4</sup> The Committee against Torture and the Special Rapporteur on Torture have also classified the use of solitary confinement on children as cruel, inhumane, and degrading treatment.

### **Effects of Solitary Confinement**

Children placed in solitary confinement can experience profound negative physical, emotional and psychological effects, including but not limited to psychosis, depression, increased aggression and increased risk of suicide. The use of solitary confinement on children can also lead to their failure to develop positive social skills, limited their access to developmental and educational resources, and can cause stunted physical growth due to inadequate diet and exercise.<sup>5</sup> For children who have experienced trauma and abuse prior to their detention, the harmful effects can be even more profound.

Because of its well-documented negative effects of the use of solitary confinement on children, in 2012, the American Academy of Child and Adolescent Psychiatry (AACAP) issued a policy statement stating its concurrence with the United Nations standards and opposing the use of solitary confinement on minors.<sup>6</sup>

### **Bipartisan Efforts at the Federal Level**

In 2016, President Barack Obama instituted a ban on solitary confinement for juvenile offenders in the federal prison system, citing its overuse and “potential for devastating psychological consequences.”<sup>7</sup>

Congress took action to prohibit the use of solitary confinement on children in the federal system through the passage of the First Step Act in 2018 (S. 756) which was subsequently signed into

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<sup>2</sup> U.N. Convention on the Rights of the Child, opened for signature Nov. 20, 1989, 1577 U.N.T.S. 3 (entered into force Sept. 2, 1990) (“CRC”).

<sup>3</sup> 3 U.N. Comm. on the Rights of the Child, 44th Sess., General Comment No. 10, Children’s rights in juvenile justice, U.N. Doc. CRC/C/GC/10 (2007).

<sup>4</sup> See U.N. Guidelines for the Prevention of Juvenile Delinquency, G.A. Res. 45/112, Annex, 45 U.N. GAOR Supp. (No. 49A), U.N. Doc. A/45/49, at 201 (Dec. 14, 1990) (“The Riyadh Guidelines”) and U.N. Rules for the Protection of Juveniles Deprived of their Liberty, G.A. Res. 45/113, Annex, 45 U.N. GAOR Supp. (No. 49A), U.N. Doc. A/45/49, ¶ 67 (Dec. 14, 1990) (“The Beijing Rules”).

<sup>5</sup> James, K., & Vanko, E. (2021, April). *The Impacts of Solitary Confinement*. Brooklyn, New York: Vera Institute of Justice, 1-3.

<sup>6</sup> [https://www.aacap.org/aacap/Policy\\_Statements/2012/Solitary\\_Confinement\\_of\\_Juvenile\\_Offenders.aspx](https://www.aacap.org/aacap/Policy_Statements/2012/Solitary_Confinement_of_Juvenile_Offenders.aspx)

<sup>7</sup> Eilperin, Juliet (2016, Jan. 26). Obama bans solitary confinement for juveniles in federal prisons. *The Washington Post*. [https://www.washingtonpost.com/politics/obama-bans-solitary-confinement-for-juveniles-in-federal-prisons/2016/01/25/056e14b2-c3a2-11e5-9693-933a4d31bcc8\\_story.html](https://www.washingtonpost.com/politics/obama-bans-solitary-confinement-for-juveniles-in-federal-prisons/2016/01/25/056e14b2-c3a2-11e5-9693-933a4d31bcc8_story.html)

law by President Trump. Delegate Bartlett's HB 855 is modeled after the language in this bipartisan legislation.

### **Conclusion**

Because the use of solitary confinement on children is strictly prohibited as a form of cruel and inhumane treatment under international human rights standards, the practice should be limited as a temporary response and should never be used for punitive reasons. Maryland should strengthen its current statute by adopting HB 855 which would address facility safety concerns by allowing for a "cooling off" period that can be used in extreme cases, but only for as long as reasonably necessary for the child to be reintegrated with the rest of the children in the facility.

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