

House Judiciary Committee
HB 855: Juvenile Law – Restrictive Housing - Limitation
February 22, 2024
POSITION: SUPPORT

Disability Rights Maryland (DRM) is Maryland’s state-designated Protection and Advocacy organization, empowered under state and federal law to protect individuals with disabilities from abuse, neglect and civil rights violations. Over the past decade, DRM has advocated for improved conditions for individuals with serious mental illness and other disabilities in state correctional facilities, particularly those housed on segregation (restrictive housing) units. DRM has received many complaints of youth with disabilities being maintained in restrictive housing in detention centers, whether as a means of addressing behavior problems, keeping the youth safe, the need to manage apparent serious mental illness or developmental disabilities, or at the request of the youth who is concerned about violence and victimization if maintained in the general population. DRM agrees with the positions adopted by the National Commission on Correctional Health Care (NCCHC) and the American Academy of Child and Adolescent Psychiatry, that the practice of restrictive housing should not be used with juveniles in corrections. Restrictive housing should never be used as a disciplinary or punitive measure under any circumstances, as a response to minor infractions, because of staffing shortages, for administrative convenience, or for retaliation. DRM supports HB 855 as a means of addressing ongoing and widespread use of restrictive housing for youth in Maryland’s detention centers.

Studies have shown that confining an individual in a cell for 22 hours or more per day is a harmful practice that can cause depression, trauma, paranoia, anxiety, suicidal ideations, and exacerbate existing mental illness. DRM’s investigations in state correctional facilities have revealed that individuals with serious mental illness are placed in restrictive housing at much higher rates and for much longer than persons without serious mental illness. In FY 2022, DPSCS reported that 38.5% of incarcerated individuals with serious mental illness were placed in restrictive housing at some point during the year.¹ Some individuals were placed in restrictive housing multiple times. DRM’s experience and complaints received indicate that restrictive housing is similarly widespread among youth with disabilities in detention centers.

In DRM’s experience, very little, if any, mental health services are provided to individuals in restrictive housing units to mitigate its harmful effects. At least for individuals in state prisons, health care records indicate that some individuals may not receive any structured out of cell services or programming for months at a time. Mental health treatment in segregation is typically limited to psychiatric medication or occasional work

¹ DPSCS FY 22 Report on Restrictive Housing, available online at https://goccp.maryland.gov/wp-content/uploads/MSAR10904_FY-22-Restrictive-Housing-Report.pdf.

sheets that must be completed alone in cell. The quality of mental health care in these units is grossly inadequate.

In addition to prohibiting the use of restrictive housing in all cases except where there are no other reasonable means to eliminate the risk of harm, it is essential that detention center staff are well-trained and have adequate resources available to use trauma-informed de-escalation techniques with youth in detention. Facilities that house juveniles should maintain clear policies and procedures around safe, trauma-informed, and developmentally sensitive behavioral management. In the event that a detention center determines there is no other reasonable means to eliminate the risk of harm to the minor or others or to the security of the facility, as soon as the youth is determined to no longer be of risk to self or others, isolation should be terminated. It is essential that notification to the youth under (d)(1)(v) be developmentally and linguistically appropriate. The communication should provide information about why restrictive housing is being used, what specifically is involved in the restriction, and what criteria will be used to end the restrictive housing. This information should be communicated to the correctional staff as well.

The mental health screening done pursuant to (d)(2) should include specific consideration of risks for suicide, trauma, and other underlying medical or mental health conditions. DRM recommends that there be consultation with appropriate medical and mental health professionals when indicated to minimize risk of harm to the youth. An individualized behavioral management plan should be developed for any youth for whom restrictive housing interventions are used more than once in 6 months. Any restrictive housing placement of 4 hours or longer should be considered a reportable event and thoroughly documented. The individualized programming provided for in (d)(4)(iv) should be made available, if needed, regardless of whether the youth is returned to the general population, moved to a mental health facility, or transferred to the medical unit at the facility. Currently that provision reads as individualized programming is only available if the youth is not returned to general population or transferred to a medical facility.

Finally, use of restrictive housing should be tracked to include monitoring for racial disparities and disproportionate use among juvenile detainees with disabilities, including mental health and developmental disabilities. Staff training around use of restrictive housing must include steps to mitigate disproportionate use for racial minorities and youth with disabilities.

The widespread use of restrictive housing in Maryland correctional facilities must change. Given the widespread use of restrictive housing and the well-understood negative health impacts of these practices on youth, DRM urges this committee to issue a favorable report on House Bill 885. Should you have any further questions, please contact Luciene Parsley, Litigation Director at Disability Rights Maryland, at 443-692-2494 or lucienep@disabilityrightsmd.org.