

**Department of Legislative Services**  
Maryland General Assembly  
2003 Session

**FISCAL AND POLICY NOTE**

House Bill 895 (Delegate Hubbard)  
Health and Government Operations

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**Mental Health - Individuals in Facilities - Use of Restraints and Seclusions**

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This bill makes changes to when and how a mentally ill person may be secluded or restrained within a facility. It also establishes a task force to review restraint policies, propose regulations, and report its recommendations and findings.

The bill takes effect July 1, 2003. The task force terminates July 31, 2004.

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**Fiscal Summary**

**State Effect:** The provisions relating to seclusion and restraint would not directly affect governmental finances. Any expense reimbursements for task force members and staffing costs are assumed to be minimal and absorbable within existing budgeted resources.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The bill repeals the provision that restraints or locked door seclusions may be used only when a mentally ill individual in a facility presents a danger to the life or safety of the individual or others. Instead, these measures can only be used when the individual's behavior places the individual or others at immediate risk of violence or injury if no intervention occurs. It also repeals the provision that allows the use of

restraints or locked door seclusions to prevent serious disruption to the therapeutic environment.

It also requires that each individual at a facility must be free from physical restraints or holds that place the individual face down and put pressure on the individual's back, obstruct the individual's airways or impair breathing, obstruct a staff member's view of the individual's face, or restricts the individual's ability to communicate.

This bill also establishes a nine-member Task Force On the Use of Restraint and Seclusion in Mental Health Facilities and Programs. The Mental Hygiene Administration (MHA) will provide staff to the task force, which must report its findings and recommendations to the Governor and the General Assembly by June 30, 2004.

**Current Law:** Each mentally ill individual who receives services in a facility must:

- receive appropriate and humane treatment and services in a manner that restricts the individual's personal liberty only to the extent necessary and consistent with the person's treatment needs and applicable legal requirements;
- receive treatment in accordance with the individual rehabilitation plan or the individual treatment plan;
- be free from restraints or locked door seclusions except for those that are used only during an emergency where the individual presents a danger to the life or safety of the individual or of others or used only to prevent serious disruption to the therapeutic environment;
- be free from mental abuse; and
- be protected from abuse or harm.

**Background:** The Centers for Medicare and Medicaid (CMS) defines physical restraint as any manual method or physical or mechanical device, material, or equipment attached or adjacent to the patient's body that the person cannot remove and that restricts movement or normal access to one's body. CMS defines seclusion as the involuntary confinement of a person in a room or area.

MHA advises that in calendar 2002 there were 770 seclusions and 537 restraints of mentally ill individuals at State-run psychiatric facilities, excluding the Clifton T. Perkins Hospital Center, the State's maximum-security forensic psychiatric hospital, and

Regional Institutions for Children and Adolescents. The data do not represent the number individuals secluded or restrained because some people may be secluded or restrained multiple times.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland State Department of Education, Department of Health and Mental Hygiene, Department of Legislative Services

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Analysis by: Lisa A. Daigle

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510