

HOUSE BILL 1255

E3

7lr2716

By: **Delegates Jalisi, Haynes, and Proctor**

Introduced and read first time: February 10, 2017

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juveniles – Mechanical Restraints**

3 FOR the purpose of requiring the Department of Juvenile Services to adopt regulations
4 applicable to certain facilities that specify policies for the use of mechanical
5 restraints on children; authorizing the transport of a child to or from a detention
6 facility or hardware secure facility in mechanical restraints, except under certain
7 circumstances and subject to certain conditions; prohibiting a child from being
8 transported to or from a staff secure program in mechanical restraints, except under
9 certain circumstances; requiring certain written documentation to be placed in a
10 child's case file when a child is transported in mechanical restraints; requiring the
11 Department to report to the Governor and the General Assembly annually, on or
12 before a certain date, on the transport of children in mechanical restraints;
13 specifying the requirements of the report; defining certain terms; and generally
14 relating to juveniles and mechanical restraints.

15 BY repealing and reenacting, without amendments,

16 Article – Human Services
17 Section 9–227(a) and (b)(3)
18 Annotated Code of Maryland
19 (2007 Volume and 2016 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article – Human Services
22 Section 9–227(b)(2) and 9–237
23 Annotated Code of Maryland
24 (2007 Volume and 2016 Supplement)

25 BY adding to

26 Article – Human Services
27 Section 9–247
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2007 Volume and 2016 Supplement)

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

Article – Human Services

9–227.

(a) Each facility described in § 9–226 of this subtitle shall operate under the control and general management of the Department.

(b) The Department shall:

(2) adopt regulations applicable to residential facilities it operates that:

(i) prohibit the use of locked door seclusion and restraints as punishment and describe the circumstances under which locked door seclusion and restraints may be used; [and]

(ii) prohibit abuse of a child; and

(III) SPECIFY POLICIES, IN ACCORDANCE WITH § 9–247 OF THIS SUBTITLE, FOR THE USE OF MECHANICAL RESTRAINTS, AS DEFINED IN § 9–247 OF THIS SUBTITLE; AND

(3) adopt regulations that require each State residential program to provide:

(i) medical and mental health assessment services;

(ii) alcohol abuse and drug abuse assessment services;

(iii) either alcohol abuse and drug abuse referral services or an alcohol abuse and drug abuse treatment program that has been certified in accordance with the requirements of Title 8 of the Health – General Article; and

(iv) a safe, humane, and caring environment.

9–237.

(a) The Department shall adopt regulations that set standards for juvenile detention facilities operated by the Department and by private agencies under contract with the Department.

(b) The standards shall reflect the following central purposes of juvenile detention:

1 (1) to protect the public;

2 (2) to provide a safe, humane, and caring environment for children; and

3 (3) to provide access to required services for children.

4 (c) The standards shall include provisions establishing:

5 (1) a policy that eliminates the unnecessary use of detention and that
6 prioritizes diversion and appropriate nonsecure alternatives;

7 (2) criteria for the placement of a child in a particular juvenile detention
8 facility;

9 (3) population limits for each juvenile detention facility that may not be
10 exceeded except in emergency circumstances;

11 (4) a requirement that staffing ratios and levels of services be maintained
12 during emergencies;

13 (5) specifications for the architectural structure of a juvenile detention
14 facility;

15 (6) staff qualifications and training, including training in recognizing and
16 reporting child abuse and neglect;

17 (7) the ratio of staff to children in a juvenile detention facility;

18 (8) the rights of children in a juvenile detention facility, including the right
19 to privacy, visitors, telephone use, and mail delivery;

20 (9) prohibitions against the use of excessive force against a child;

21 (10) internal auditing and monitoring of programs and facilities in the
22 juvenile services system; [and]

23 (11) prohibitions against the use of physical restraints on an individual
24 known to be in the third trimester of pregnancy or during labor, delivery, or postpartum
25 recovery, including during all transports, unless a facility superintendent or the facility
26 superintendent's designee determines that a physical restraint is necessary to protect the
27 individual from harming herself or others or to prevent the individual's escape from
28 custody; AND

29 **(12) POLICIES, IN ACCORDANCE WITH § 9-247 OF THIS SUBTITLE, FOR**
30 **THE USE OF MECHANICAL RESTRAINTS, AS DEFINED IN § 9-247 OF THIS SUBTITLE.**

1 (d) The standards shall be consistent with this title and Title 3, Subtitle 8A of the
2 Courts Article.

3 **9-247.**

4 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (2) "DETENTION" HAS THE MEANING STATED IN § 3-8A-01 OF THE
7 COURTS ARTICLE.

8 (3) "HARDWARE SECURE FACILITY" MEANS A FACILITY THAT IS
9 SECURELY LOCKED OR FENCED TO PREVENT ESCAPE.

10 (4) (I) "MECHANICAL RESTRAINT" MEANS A DEVICE USED TO
11 LIMIT THE MOVEMENT OF A CHILD'S HANDS, LEGS, OR BODY.

12 (II) "MECHANICAL RESTRAINT" INCLUDES:

- 13 1. HANDCUFFS OR WRISTLETS;
- 14 2. A LEG IRON, A LEG CUFF, OR AN ANKLET;
- 15 3. A WAIST CHAIN;
- 16 4. A SECURITY BLACK BOX; AND
- 17 5. A KEY LOCK.

18 (5) "STAFF SECURE PROGRAM" MEANS A PROGRAM THAT IS SECURED
19 BY STAFF.

20 (B) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS
21 SECTION, AND SUBJECT TO THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION,
22 A CHILD MAY BE TRANSPORTED TO OR FROM A DETENTION FACILITY OR HARDWARE
23 SECURE FACILITY IN MECHANICAL RESTRAINTS.

24 (C) A CHILD MAY NOT BE TRANSPORTED IN MECHANICAL RESTRAINTS FOR
25 AN EARNED HOME PASS OR FOR RELEASE TO THE COMMUNITY.

26 (D) (1) A CHILD MAY NOT REMAIN IN MECHANICAL RESTRAINTS FOR
27 MORE THAN 8 HOURS.

1 **(2) A CHILD SHALL BE RELEASED FROM MECHANICAL RESTRAINTS**
2 **FOR A PERIOD OF 5 MINUTES FOR EVERY 4 HOURS THAT A CHILD IS IN MECHANICAL**
3 **RESTRAINTS.**

4 **(E) A CHILD MAY NOT BE TRANSPORTED TO OR FROM A STAFF SECURE**
5 **PROGRAM IN MECHANICAL RESTRAINTS UNLESS:**

6 **(1) THERE IS A REASONABLE, ARTICULABLE BELIEF THAT THE CHILD,**
7 **DURING TRANSPORT, WILL FLEE OR POSE AN IMMINENT DANGER TO THE CHILD OR**
8 **OTHERS; AND**

9 **(2) THE USE OF MECHANICAL RESTRAINTS IS AUTHORIZED BY THE**
10 **PROGRAM SUPERINTENDENT, THE PROGRAM ADMINISTRATOR, OR A DESIGNEE OF**
11 **EITHER.**

12 **(F) WHEN A CHILD IS TRANSPORTED IN MECHANICAL RESTRAINTS,**
13 **WRITTEN DOCUMENTATION OF THE FOLLOWING INFORMATION SHALL BE PLACED**
14 **IN THE CHILD'S CASE FILE:**

15 **(1) THE NAME, GENDER, RACE, AND AGE OF THE CHILD;**

16 **(2) THE TRAVEL DATE, START AND END TIMES, AND ADDRESS OF**
17 **ORIGIN AND DESTINATION; AND**

18 **(3) IF THE CHILD IS TRANSPORTED TO OR FROM A STAFF SECURE**
19 **PROGRAM:**

20 **(I) THE NAME AND POSITION OF THE AUTHORIZING OFFICIAL;**
21 **AND**

22 **(II) A DETAILED STATEMENT OF THE REASONABLE,**
23 **ARTICULABLE BELIEF FOR THE USE OF MECHANICAL RESTRAINTS.**

24 **(G) (1) ON OR BEFORE SEPTEMBER 30 ANNUALLY, THE DEPARTMENT**
25 **SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE**
26 **STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON EACH TRANSPORT OF**
27 **A CHILD IN MECHANICAL RESTRAINTS.**

28 **(2) THE REPORT SHALL INCLUDE THE INFORMATION REQUIRED**
29 **UNDER SUBSECTION (F) OF THIS SECTION, EXCEPT FOR THE NAMES OF THE CHILD,**
30 **FACILITY OR PROGRAM STAFF, AND AUTHORIZING OFFICIAL.**

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2017.