

HOUSE BILL 1256

E3

7lr2715
CF SB 982

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

Introduced and read first time: February 10, 2017

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2017

CHAPTER _____

1 AN ACT concerning

2 ~~Juveniles – Strip Search – Limitations~~
3 Department of Juvenile Services – Implementation of Task Force
4 Recommendations – Report

5 FOR the purpose of requiring ~~that the Department of Juvenile Services adopt regulations~~
6 ~~applicable to certain facilities that prohibit the strip search of a child except under~~
7 ~~certain circumstances; authorizing the strip search of a child at a facility under~~
8 ~~certain circumstances; requiring facility staff to exhaust certain alternatives before~~
9 ~~the strip search of a child; authorizing the strip search of a child on admission to a~~
10 ~~certain facility under certain circumstances; requiring that a certain authorization~~
11 ~~for a strip search of a child be made in writing and include certain information;~~
12 ~~requiring the Department to make a certain report; and generally relating to juvenile~~
13 ~~strip searches~~ the Department of Juvenile Services to report on the status of the
14 implementation of certain recommendations of the Task Force to Study the
15 Restraint, Searches, and Needs of Children in the Juvenile Justice System;
16 specifying certain recommendations on which the Department must report;
17 requiring the Department to submit a certain report to the Governor and the General
18 Assembly on or before a certain date; providing for the termination of this Act; and
19 generally relating to the Task Force to Study the Restraint, Searches, and Needs of
20 Children in the Juvenile Justice System and the Department of Juvenile Services.

21 ~~BY repealing and reenacting, without amendments,~~
22 ~~Article – Human Services~~
23 ~~Section 9-227(a) and (b)(3)~~
24 ~~Annotated Code of Maryland~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~(2007 Volume and 2016 Supplement)~~

2 ~~BY repealing and reenacting, with amendments,~~

3 ~~Article — Human Services~~

4 ~~Section 9-227(b)(2) and 9-237~~

5 ~~Annotated Code of Maryland~~

6 ~~(2007 Volume and 2016 Supplement)~~

7 ~~BY adding to~~

8 ~~Article — Human Services~~

9 ~~Section 9-247~~

10 ~~Annotated Code of Maryland~~

11 ~~(2007 Volume and 2016 Supplement)~~

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

14 (a) The Department of Juvenile Services shall provide a progress report on the
15 status of the implementation of the recommendations of the Task Force to Study the
16 Restraint, Searches, and Needs of Children in the Juvenile Justice System that was
17 established by Chapter 655 of the Acts of the General Assembly of 2016.

18 (b) The Department shall report on:

19 (1) changes to Department policies and procedures regarding the use of:

20 (i) visual body searches; and

21 (ii) mechanical restraints during transportation; and

22 (2) the collection of data related to the use of visual body searches,
23 including:

24 (i) the number of searches conducted;

25 (ii) the circumstances leading to the searches;

26 (iii) whether contraband was recovered as a result of the searches;
27 and

28 (iv) the types of contraband recovered.

29 (c) On or before December 1, 2017, the Department of Juvenile Services shall
30 report to the Governor and, in accordance with § 2-1246 of the State Government Article,
31 the General Assembly on the implementation of the recommendations of the Task Force to
32 Study the Restraint, Searches, and Needs of Children in the Juvenile Justice System
33 specified in subsection (b) of this section.

~~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) EXCEPT AS PROVIDED IN § 9-247 OF THIS ARTICLE, PROHIBIT THE STRIP SEARCH OF A CHILD; 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) to protect the public;~~

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

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

2 ~~(e) The standards shall include provisions establishing:~~

3 ~~(1) a policy that eliminates the unnecessary use of detention and that~~
4 ~~prioritizes diversion and appropriate nonsecure alternatives;~~

5 ~~(2) criteria for the placement of a child in a particular juvenile detention~~
6 ~~facility;~~

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

9 ~~(4) a requirement that staffing ratios and levels of services be maintained~~
10 ~~during emergencies;~~

11 ~~(5) specifications for the architectural structure of a juvenile detention~~
12 ~~facility;~~

13 ~~(6) staff qualifications and training, including training in recognizing and~~
14 ~~reporting child abuse and neglect;~~

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

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

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

19 ~~(10) internal auditing and monitoring of programs and facilities in the~~
20 ~~juvenile services system; [and]~~

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

27 ~~(12) EXCEPT AS PROVIDED IN § 9-247 OF THIS ARTICLE, PROHIBITIONS~~
28 ~~AGAINST THE STRIP SEARCH OF A CHILD.~~

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

31 ~~9-247.~~

1 ~~(A) A CHILD IN ANY FACILITY MAY BE STRIP SEARCHED IF:~~

2 ~~(1) THERE IS REASONABLE AND ARTICULABLE BELIEF THAT THE~~
3 ~~CHILD IS CONCEALING DRUGS OR AN OBJECT THAT CAN BE USED AS A WEAPON OR~~
4 ~~TO ESCAPE; AND~~

5 ~~(2) THE SEARCH IS AUTHORIZED BY THE FACILITY SUPERINTENDENT,~~
6 ~~THE FACILITY ADMINISTRATOR, OR A DESIGNEE OF EITHER.~~

7 ~~(B) BEFORE A CHILD IS STRIP SEARCHED AT A FACILITY, FACILITY STAFF~~
8 ~~SHALL EXHAUST ALL OTHER AVAILABLE ALTERNATIVES, INCLUDING:~~

9 ~~(1) ORALLY INTERVIEWING THE CHILD;~~

10 ~~(2) CONDUCTING A PAT-DOWN SEARCH; OR~~

11 ~~(3) USING A HANDHELD METAL DETECTOR WAND.~~

12 ~~(C) (1) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTIONS (A)~~
13 ~~AND (B) OF THIS SECTION AND EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~
14 ~~SUBSECTION, A CHILD MAY BE STRIP SEARCHED ON ADMISSION TO A DETENTION~~
15 ~~FACILITY OR A HARDWARE SECURE FACILITY.~~

16 ~~(2) A CHILD MAY NOT BE STRIP SEARCHED ON ADMISSION IF THE~~
17 ~~CHILD IS BEING TRANSFERRED FROM A DETENTION FACILITY OR A HARDWARE~~
18 ~~SECURE FACILITY TO ANOTHER DETENTION FACILITY OR HARDWARE SECURE~~
19 ~~FACILITY AND THE CHILD WAS UNDER THE DIRECT AND CONTINUOUS SUPERVISION~~
20 ~~OF FACILITY STAFF DURING THE TRANSFER.~~

21 ~~(D) AN AUTHORIZATION FOR A STRIP SEARCH OF A CHILD UNDER~~
22 ~~SUBSECTION (A) OF THIS SECTION BY A FACILITY SUPERVISOR, FACILITY~~
23 ~~ADMINISTRATOR, OR A DESIGNEE OF EITHER, SHALL BE MADE IN WRITING AND~~
24 ~~INCLUDE:~~

25 ~~(1) THE NAME, GENDER, RACE, AND AGE OF THE CHILD;~~

26 ~~(2) THE DATE, TIME, AND LOCATION OF THE STRIP SEARCH;~~

27 ~~(3) THE NAME AND GENDER OF ANY PERSON CONDUCTING OR~~
28 ~~ASSISTING IN THE STRIP SEARCH;~~

29 ~~(4) THE NAME AND POSITION OF THE AUTHORIZING OFFICIAL;~~

1 ~~(5) A DETAILED STATEMENT OF THE REASONABLE AND ARTICULABLE~~
2 ~~BELIEF FOR THE STRIP SEARCH; AND~~

3 ~~(6) A DETAILED DESCRIPTION OF EACH ITEM RECOVERED FROM THE~~
4 ~~CHILD, INCLUDING FROM WHERE THE ITEM WAS RECOVERED.~~

5 ~~(E) ON OR BEFORE SEPTEMBER 30 EACH YEAR, THE DEPARTMENT SHALL~~
6 ~~REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE~~
7 ~~GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON EACH STRIP SEARCH~~
8 ~~CONDUCTED WITHIN THE DEPARTMENT'S FACILITIES, INCLUDING THE~~
9 ~~INFORMATION REQUIRED UNDER SUBSECTION (D) OF THIS SECTION, EXCEPT FOR~~
10 ~~THE NAME OF ANY CHILD, FACILITY STAFF, OR FACILITY OFFICIAL.~~

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 ~~October~~ June 1, 2017. It shall remain effective for a period of 1 year and 1 month and, at
13 the end of June 30, 2018, with no further action required by the General Assembly, this Act
14 shall be abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.