

SENATE BILL 982

E3

7lr2738

CF 7lr2715

By: **Senators Muse, Benson, Madaleno, Robinson, and Young**

Introduced and read first time: February 3, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Juveniles – Strip Search – Limitations**

3 FOR the purpose of requiring that the Department of Juvenile Services adopt regulations
4 applicable to certain facilities that prohibit the strip search of a child except under
5 certain circumstances; permitting the strip search of a child at a facility under
6 certain circumstances; requiring facility staff to exhaust certain alternatives before
7 the strip search of a child; authorizing the strip search of a child on admission to a
8 certain facility under certain circumstances; requiring that a certain authorization
9 for a strip search of a child be made in writing and include certain information;
10 requiring the Department to make a certain report; and generally relating to juvenile
11 strip searches.

12 BY repealing and reenacting, without amendments,

13 Article – Human Services

14 Section 9–227(a) and (b)(3)

15 Annotated Code of Maryland

16 (2007 Volume and 2016 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – Human Services

19 Section 9–227(b)(2) and 9–237

20 Annotated Code of Maryland

21 (2007 Volume and 2016 Supplement)

22 BY adding to

23 Article – Human Services

24 Section 9–247

25 Annotated Code of Maryland

26 (2007 Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Human Services**

4 9–227.

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

7 (b) The Department shall:

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

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

12 (ii) prohibit abuse of a child; and

13 (III) EXCEPT AS PROVIDED IN § 9–247 OF THIS ARTICLE,
14 **PROHIBIT THE STRIP SEARCH OF A CHILD; AND**

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

17 (i) medical and mental health assessment services;

18 (ii) alcohol abuse and drug abuse assessment services;

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

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

23 9–237.

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

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

29 (1) to protect the public;

- (2) to provide a safe, humane, and caring environment for children; and
- (3) to provide access to required services for children.

(c) The standards shall include provisions establishing:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 9-247.

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

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

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

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

10 (1) ORALLY INTERVIEWING THE CHILD;

11 (2) CONDUCTING A PAT DOWN SEARCH; OR

12 (3) USING A HANDHELD METAL DETECTOR WAND.

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

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

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

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

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

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

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

**(5) A DETAILED STATEMENT OF THE REASONABLE AND ARTICULABLE
FOR THE STRIP SEARCH; AND**

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

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