

Chapter 487

(Senate Bill 982)

AN ACT concerning

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

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

~~BY repealing and reenacting, without amendments,
Article – Human Services
Section 9-227(a) and (b)(3)
Annotated Code of Maryland
(2007 Volume and 2016 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article – Human Services
Section 9-227(b)(2) and 9-237
Annotated Code of Maryland
(2007 Volume and 2016 Supplement)~~

~~BY adding to
Article – Human Services
Section 9-247
Annotated Code of Maryland
(2007 Volume and 2016 Supplement)~~

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

(a) (1) The Department of Juvenile Services shall prepare a progress report on the status of the implementation of the recommendations of the Task Force to Study the Restraint, Searches, and Needs of Children in the Juvenile Justice System that was established by Chapter 655 of the Acts of the General Assembly of 2016.

(2) In preparing the report required under this section, the Department shall compile information on:

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

1. visual body searches; and
2. mechanical restraints during transportation;

(ii) the collection of data related to the use of visual body searches, including:

1. the number of searches conducted;
2. the circumstances leading to the searches;
3. a detailed description of each item recovered from the child, including from where the item was recovered;
4. the gender, race, and age of each child; and
5. the date, time, and location of the search whether contraband was removed as a result of the searches; and
4. the type of contraband recovered;

(iii) the collection of data related to the use of mechanical restraints during transportation, including:

1. the number of times mechanical restraints are used during transportation;
2. the travel date, start and end times, and address of the original destination; and
3. the gender, race, and age of each child.

1. the number of times youth are transported in mechanical restraints;

- A. from a staff-secure placement;
- B. while being released on an earned home pass; or
- C. while being released back to the community; and

2. an evaluation of the potential for creating a nonsecure transportation unit, including both the fiscal and operational impact; and

(iv) the ages, race, and gender of youth in each facility operated by the Department.

(b) On or before December 1, 2017, the Department of Juvenile Services shall submit to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly the report on the implementation of the recommendations of the Task Force and the information specified in paragraph (a)(2) 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~~

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

~~(c) The standards shall include provisions establishing:~~

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

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

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

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

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

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

~~(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;~~

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

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

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

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

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

~~9-247.~~

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

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

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

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

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

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

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

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

~~(2) A CHILD MAY NOT BE STRIP SEARCHED ON ADMISSION IF THE CHILD IS BEING TRANSFERRED FROM A DETENTION FACILITY OR A HARDWARE~~

~~SECURE FACILITY TO ANOTHER DETENTION FACILITY OR HARDWARE SECURE FACILITY AND THE CHILD WAS UNDER THE DIRECT AND CONTINUOUS SUPERVISION OF FACILITY STAFF DURING THE TRANSFER.~~

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

- ~~(1) THE NAME, GENDER, RACE, AND AGE OF THE CHILD;~~
- ~~(2) THE DATE, TIME, AND LOCATION OF THE STRIP SEARCH;~~
- ~~(3) THE NAME AND GENDER OF ANY PERSON CONDUCTING OR ASSISTING IN THE STRIP SEARCH;~~
- ~~(4) THE NAME AND POSITION OF THE AUTHORIZING OFFICIAL;~~
- ~~(5) A DETAILED STATEMENT OF THE REASONABLE AND ARTICULABLE BELIEF FOR THE STRIP SEARCH; AND~~
- ~~(6) A DETAILED DESCRIPTION OF EACH ITEM RECOVERED FROM THE CHILD, INCLUDING FROM WHERE THE ITEM WAS RECOVERED.~~

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

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

Approved by the Governor, May 4, 2017.