

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 786
Judiciary

(Delegate J. Lewis, *et al.*)

Judicial Proceedings

Correctional Services - Restrictive Housing - Limitations

This bill requires, to the extent reasonably possible, the Department of Public Safety and Correctional Services (DPSCS) to adhere to the standards of the American Corrections Association for restrictive housing in State correctional facilities.

Fiscal Summary

State Effect: None. The bill codifies existing practice.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: DPSCS is authorized to adopt regulations for the operation and maintenance of State correctional facilities, including regulations concerning the discipline and conduct of inmates, including the character of punishments for violations of discipline.

By regulation, the managing official of a correctional facility must maintain a written policy and procedure governing the placement, removal, supervision, and rights of an inmate assigned to “administrative segregation,” “disciplinary detention,” medical isolation, and protective custody status, which includes provisions for (1) identification of persons authorized to place and remove an inmate from special confinement; (2) designation of circumstances and conditions warranting assignment and release; (3) specification of timeframes, method, and persons authorized to review status; (4) access

to services, programs, and activities consistent with the inmate's status; and (5) maintenance of supervision records of specified activities and occurrences.

“Administrative segregation” means a form of physical separation of an inmate from the general population determined by the classification process or authorized personnel when the continued presence of an inmate in the general population would pose a serious threat to (1) life; (2) property; (3) self; (4) staff or other inmates; (5) the security or orderly functioning of the facility; or (6) the well-being of society. “Disciplinary detention” means a form of physical separation in which an inmate found guilty at a disciplinary hearing is confined apart from the general population for a designated period of time.

There are also DPSCS regulations concerning inmate discipline. An inmate who commits a rule violation is subject to the inmate disciplinary process of the department. Sanctions for inmate rule violations include (1) placement of an inmate on disciplinary segregation; (2) revocation of good conduct and special projects credits; (3) suspension of inmate privileges; or (4) restitution for lost, stolen, altered, damaged, or destroyed property of the State, a person, or an entity. Rule violations are categorized according to the severity of the offense. When staff believe a rule violation has occurred, an investigation is initiated within one calendar day of the alleged violation, and a shift supervisor determines whether the violation merits a hearing, informal disposition, or reduction to an incident report. Staff serves a notice of inmate rule violation and disciplinary hearing on the inmate, and a shift commander may isolate the inmate if the inmate poses a threat to security.

Following a hearing, and upon a determination of guilt, a hearing officer may permit the defendant inmate or, if represented, the defendant inmate's representative and, if assigned, the facility representative, to argue for appropriate sanctions. The hearing officer also (1) determines and imposes appropriate sanctions in regard to disciplinary segregation time and loss of diminution credits according to an adjustment history sentencing matrix and (2) informs the hearing participants of the sanction imposed and the period and effective date of the sanction.

Background: Chapters 596 and 597 of 2016 require DPSCS, by December 31 of each year, to submit specified information relating to inmates in “restrictive housing” to the Governor's Office of Crime Control and Prevention and the General Assembly.

In the [report](#) released in December 2017, DPSCS reports that, during fiscal 2017, there were 14,578 placements on restrictive housing. This includes 4,346 placements on administrative segregation and 10,232 placements on disciplinary segregation. Some inmates were placed on restrictive housing more than once during the reporting period. There were no pregnant inmates placed on restrictive housing during the reporting period. There were 216 inmates diagnosed with a “serious mental illness” placed on restrictive housing. **Exhibit 1** shows the average and median length of stay in restrictive housing placements during fiscal 2017.

Exhibit 1
Restrictive Housing Placements
Length of Stay (in Days)
Fiscal 2017

	<u>Average</u>	<u>Median</u>
Restrictive Housing	45.8	31
Administrative Segregation	51.5	35
Disciplinary Segregation	43.5	30

Source: Department of Public Safety and Correctional Services

In 2015, DPSCS partnered with the National Institute of Corrections (NIC) for technical assistance to reform the segregation practices in the State. As a result, DPSCS established a Structured Housing unit at the North Branch Correctional Institution that provides for an incentive-based plan to allow the most violent and dangerous inmates to slowly assimilate back into general population. Additionally, DPSCS established a progressive housing unit specific to the seriously mentally ill population. The specialized unit addresses the needs of inmates with serious mental illnesses to enhance the inmate's ability to transition back to the general population. The partnership with NIC also led to the creation of Crisis De-escalation Teams throughout the department. The goal of the team is to increase facility safety and reduce the use of force incidents involving an inmate in crisis by using the correctional-based de-escalation training.

DPSCS recently submitted changes to its Inmate Disciplinary Process in regulations. The regulations unify and correct discrepancies in the inmate disciplinary process across the Division of Correction, Patuxent Institution, and the Division of Pretrial and Detention Services. DPSCS reports that the change is anticipated to result in a significant reduction in the number of days an offender may be placed in disciplinary segregation.

Since 2016, the Restrictive Housing Ad-Hoc Standards Committee of the American Correctional Association (ACA) has been meeting to review and update [recommendations](#) regarding restrictive housing. To date, ACA has adopted restrictive housing standards for field testing purposes only.

Additional Comments: DPSCS advises that the department is currently accredited by ACA. In order to maintain accreditation, DPSCS must adhere to ACA standards.

Additional Information

Prior Introductions: None.

Cross File: SB 539 (Senator Lee, *et al.*) – Judicial Proceedings.

Information Source(s): cities of Bowie and Takoma Park; Maryland Department of Health; Department of Public Safety and Correctional Services; American Correctional Association; Department of Legislative Services

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