

# HOUSE BILL 1001

E4

(9lr1537)

## ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegates J. Lewis, Acevero, Atterbeary, D. Barnes, Barron, Bridges, Charkoudian, Conaway, Crutchfield, D.M. Davis, W. Fisher, Glenn, Guyton, Healey, Hornberger, Ivey, Jalisi, Kelly, R. Lewis, Lierman, Lopez, Love, Moon, Mosby, Queen, Rosenberg, Shetty, Smith, Solomon, Sydnor, Turner, R. Watson, and Wilkins**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Correctional Services – Restrictive Housing – Reporting by Correctional Units**  
3 **and Requirements Relating to Minors**

4 FOR the purpose of expanding the entities required to submit a certain report relating to  
5 restrictive housing; ~~repealing a requirement that certain data be submitted to the~~  
6 ~~General Assembly altering a certain reporting requirement;~~ requiring the Governor's  
7 Office of Crime Control and Prevention to ~~compile and summarize certain~~  
8 ~~information and submit a certain summary to the General Assembly~~ submit a certain  
9 report to the General Assembly in a certain manner; prohibiting a certain correctional  
10 unit from placing a minor in certain restrictive housing unless a certain managing  
11 official makes a certain finding; requiring a minor placed in restrictive housing to be

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#### 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.

*Italics indicate opposite chamber/conference committee amendments.*



1 provided certain privileges and conditions, *subject to a certain exception*; requiring a  
 2 certain managing official or designee to make a certain record under certain  
 3 circumstances; ~~authorizing a certain aggrieved minor to take certain actions under~~  
 4 ~~certain circumstances~~; altering a certain definition; defining certain terms; making  
 5 conforming changes; and generally relating to restrictive housing.

6 BY repealing and reenacting, with amendments,  
 7 Article – Correctional Services  
 8 Section 9–614  
 9 Annotated Code of Maryland  
 10 (2017 Replacement Volume and 2018 Supplement)

11 BY adding to  
 12 Article – Correctional Services  
 13 Section 9–614.1  
 14 Annotated Code of Maryland  
 15 (2017 Replacement Volume and 2018 Supplement)

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

18 **Article – Correctional Services**

19 9–614.

20 (a) (1) In this section[, “restrictive] **THE FOLLOWING WORDS HAVE THE**  
 21 **MEANINGS INDICATED.**

22 **(2) “CORRECTIONAL UNIT” HAS THE MEANING STATED IN § 2–401 OF**  
 23 **THIS ARTICLE.**

24 **(3) (I) “RESTRICTIVE housing” means a form of physical separation**  
 25 **THAT HAS NOT BEEN REQUESTED BY THE INMATE** in which the inmate is placed in a  
 26 locked room or cell for approximately 22 hours or more out of a  
 27 24-hour period.

28 **[(2)] (II) “Restrictive housing” includes administrative segregation and**  
 29 **disciplinary segregation.**

30 (b) (1) On or before December 31 each year, [the Department] **EACH**  
 31 **CORRECTIONAL UNIT** shall submit data to the Governor’s Office of Crime Control and  
 32 Prevention ~~and the General Assembly, in accordance with § 2–1246 of the State~~  
 33 ~~Government Article,~~ showing, by correctional [facility] **UNIT:**

34 (i) the total population of the correctional [facility] **UNIT;**

1 (ii) the number of inmates who have been placed in restrictive  
2 housing during the preceding year by age, race, gender, classification of housing, and the  
3 basis for the inmate's placement in restrictive housing;

4 (iii) the number of inmates with serious mental illness that were  
5 placed in restrictive housing during the preceding year;

6 (iv) the definition of "serious mental illness" used by the  
7 [Department] CORRECTIONAL UNIT in making the report;

8 (v) the number of inmates known to be pregnant when placed in  
9 restrictive housing during the preceding year;

10 (vi) the average and median lengths of stay in restrictive housing of  
11 the inmates placed in restrictive housing during the preceding year;

12 (vii) the number of incidents of death, self-harm, and attempts at  
13 self-harm by inmates in restrictive housing during the preceding year;

14 (viii) the number of inmates released from restrictive housing directly  
15 into the community during the preceding year;

16 (ix) any other data the [Department] CORRECTIONAL UNIT  
17 considers relevant to the use of restrictive housing by correctional facilities in the State;  
18 and

19 (x) any changes to written policies or procedures at each correctional  
20 [facility] UNIT relating to the use and conditions of restrictive housing, including steps to  
21 reduce reliance on restrictive housing.

22 (2) The Governor's Office of Crime Control and Prevention shall *make the*  
23 *information submitted in accordance with paragraph (1) of this subsection available on its*  
24 *[Web site] WEBSITE AND, WHEN THE INFORMATION HAS BEEN RECEIVED FROM EVERY*  
25 *CORRECTIONAL UNIT IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION,*  
26 *PROMPTLY SUBMIT THE INFORMATION IN A REPORT TO THE GENERAL ASSEMBLY, IN*  
27 *ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE.* ~~make;~~

28 ~~(I) COMPILE AND SUMMARIZE the information submitted in~~  
29 ~~accordance with paragraph (1) of this subsection;~~

30 ~~(II) SUBMIT THE SUMMARY TO THE GENERAL ASSEMBLY, IN~~  
31 ~~ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE; AND~~

32 ~~(III) MAKE THE SUMMARY available on its [Web site] WEBSITE.~~

1           **(A) IN THIS SECTION, “RESTRICTIVE HOUSING” HAS THE MEANING STATED**  
2 **IN § 9-614 OF THIS SUBTITLE.**

3           **(B) THIS SECTION APPLIES TO A FACILITY OPERATED BY A CORRECTIONAL**  
4 **UNIT, AS DEFINED IN § 2-401 OF THIS ARTICLE.**

5           **(C) A MINOR MAY NOT BE PLACED IN RESTRICTIVE HOUSING UNLESS THE**  
6 **MANAGING OFFICIAL OF THE FACILITY FINDS BY CLEAR AND CONVINCING EVIDENCE**  
7 **THAT ~~THE MINOR POSES~~ THERE IS AN IMMEDIATE AND SUBSTANTIAL RISK:**

8                   **(1) OF PHYSICAL HARM TO THE MINOR, OTHER INMATES, OR STAFF;**  
9 **OR**

10                   **(2) TO THE SECURITY OF THE FACILITY.**

11           **(D) A MINOR PLACED IN RESTRICTIVE HOUSING SHALL BE PROVIDED:**

12                   **(1) DAILY PHYSICAL AND MENTAL HEALTH ASSESSMENTS TO**  
13 **DETERMINE WHETHER THE MINOR MAY BE RELEASED FROM RESTRICTIVE HOUSING;**

14                   **(2) THE SAME STANDARD OF ACCESS THAT IS PROVIDED TO INMATES**  
15 **NOT IN RESTRICTIVE HOUSING TO:**

16                           **(I) PHONE CALLS;**

17                           **(II) VISITS;**

18                           **(III) MAIL;**

19                           **(IV) FOOD;**

20                           **(V) WATER;**

21                           **(VI) SHOWERS;**

22                           **(VII) SANITARY SUPPLIES;**

23                           **(VIII) PROPERTY, INCLUDING CLOTHING AND BEDDING; AND**

24                           **(IX) MEDICAL, MENTAL, AND DENTAL HEALTH CARE; AND**

1                   **(3) UNLESS IT WOULD POSE A RISK OF PHYSICAL HARM TO THE MINOR**  
2 **OR ANOTHER,** MAXIMIZED ACCESS TO RECREATION, EDUCATION, AND  
3 PROGRAMMING.

4           **(E) IF A PRIVILEGE OR CONDITION DESCRIBED IN SUBSECTION (D) OF THIS**  
5 **SECTION IS NOT PROVIDED TO THE MINOR, THE MANAGING OFFICIAL OR THE**  
6 **MANAGING OFFICIAL’S DESIGNEE SHALL RECORD THE REASON IN THE MINOR’S**  
7 **FILE.**

8           ~~**(F) IF A CORRECTIONAL UNIT FAILS TO SATISFY A PROVISION OF THIS**~~  
9 ~~**SECTION, AN AGGRIEVED MINOR MAY:**~~

10                   ~~**(1) SEEK REDRESS BY MEANS OF ANY APPROPRIATE LEGAL REMEDY;**~~  
11 ~~**AND**~~

12                   ~~**(2) RECOVER COURT COSTS.**~~

13           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2019.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.