

HOUSE BILL 1029

E4

9lr2544

By: **Delegate J. Lewis**

Introduced and read first time: February 8, 2019

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services – Restrictive Housing – Limitations**
3 **(Restrictive Housing Reform Act of 2019)**

4 FOR the purpose of requiring the managing official of a correctional facility to ensure that
5 each inmate in restrictive housing receives a certain notice and is provided a certain
6 review process, appeal information, and copies of certain documents, files, and
7 records under certain circumstances; requiring that an inmate be provided with a
8 certain evaluation and certain techniques and opportunities before placement in
9 restrictive housing; providing for levels of sanctions for certain infractions by an
10 inmate; restricting the number of consecutive and total days of restrictive housing
11 in a certain period for certain inmates; prohibiting the placement of an inmate in
12 restrictive housing for certain reasons; requiring the provision of certain
13 assessments and access to certain conditions and programs to an inmate in
14 restrictive housing; prohibiting a certain notation to be placed in an inmate's file
15 under certain circumstances; defining certain terms; requiring the Department of
16 Public Safety and Correctional Services to make a certain report to the General
17 Assembly on or before a certain date; and generally relating to the restrictive housing
18 of inmates.

19 BY repealing and reenacting, without amendments,
20 Article – Correctional Services
21 Section 9–614(a)
22 Annotated Code of Maryland
23 (2017 Replacement Volume and 2018 Supplement)

24 BY adding to
25 Article – Correctional Services
26 Section 9–614.1
27 Annotated Code of Maryland
28 (2017 Replacement Volume and 2018 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 – Correctional Services**

4 9–614.

5 (a) (1) In this section, “restrictive housing” means a form of physical
6 separation in which the inmate is placed in a locked room or cell for approximately 22 hours
7 or more out of a 24–hour period.

8 (2) “Restrictive housing” includes administrative segregation and
9 disciplinary segregation.

10 **9–614.1.**

11 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
12 INDICATED.

13 (2) “ADMINISTRATIVE INFRACTION” MEANS AN ACT COMMITTED
14 INSIDE A CORRECTIONAL FACILITY THAT DOES NOT CONSTITUTE A VIOLATION OF
15 MARYLAND LAW.

16 (3) “ADMINISTRATIVE SEGREGATION” MEANS A NONPUNITIVE FORM
17 OF RESTRICTIVE HOUSING THAT REMOVES AN INDIVIDUAL FROM THE GENERAL
18 POPULATION OF THE CORRECTIONAL FACILITY FOR:

19 (I) INVESTIGATIVE, PROTECTIVE, OR PREVENTIVE REASONS
20 RESULTING FROM A SUBSTANTIAL AND IMMEDIATE THREAT; OR

21 (II) TRANSITIONAL REASONS, INCLUDING A PENDING
22 TRANSFER, PENDING CLASSIFICATION, OR OTHER TEMPORARY ADMINISTRATIVE
23 MATTER.

24 (4) “MULTIDISCIPLINARY STAFF COMMITTEE” MEANS A COMMITTEE
25 COMPOSED OF STAFF AT A FACILITY AT WHICH AN INMATE IS INCARCERATED WHO
26 ARE RESPONSIBLE FOR REVIEWING THE INITIAL PLACEMENT OF THE INMATE IN
27 RESTRICTIVE HOUSING AND ANY EXTENSIONS OF TIME SERVED IN RESTRICTIVE
28 HOUSING, WHICH INCLUDES:

29 (I) AT LEAST ONE LICENSED MENTAL HEALTH PROFESSIONAL;

30 (II) AT LEAST ONE MEDICAL PROFESSIONAL; AND

1 (III) AT LEAST ONE MEMBER OF THE MANAGEMENT OF THE
2 FACILITY.

3 (5) "PROTECTIVE CUSTODY" MEANS CUSTODIAL CONDITIONS
4 PROVIDED TO AN INMATE AT THE REQUEST OF THE INMATE OR THROUGH A STAFF
5 DETERMINATION THAT THE INMATE REQUIRES PROTECTION.

6 (6) "RESTRICTIVE HOUSING" HAS THE MEANING STATED IN § 9-614
7 OF THIS SUBTITLE.

8 (B) THE MANAGING OFFICIAL OF A CORRECTIONAL FACILITY SHALL
9 ENSURE THAT EACH INMATE PLACED IN RESTRICTIVE HOUSING:

10 (1) RECEIVES WRITTEN NOTICE DETAILING THE BASIS FOR
11 PLACEMENT OR CONTINUED PLACEMENT IN RESTRICTIVE HOUSING NOT LATER
12 THAN 6 HOURS AFTER THE BEGINNING OF THE PLACEMENT; AND

13 (2) IS PROVIDED:

14 (I) A TIMELY, THOROUGH, AND CONTINUOUS REVIEW PROCESS
15 THAT OCCURS WITHIN 3 DAYS AFTER THE PLACEMENT IN RESTRICTIVE HOUSING
16 AND EVERY 3 DAYS AFTER PLACEMENT TO CONFIRM THE CONTINUED EXISTENCE OF
17 THE BASIS FOR THE PLACEMENT;

18 (II) A WRITTEN PROCESS TO APPEAL THE INITIAL PLACEMENT
19 OR CONTINUED PLACEMENT OF THE INMATE IN RESTRICTIVE HOUSING; AND

20 (III) COPIES OF ALL DOCUMENTS, FILES, AND RECORDS
21 RELATING TO THE INMATE'S PLACEMENT IN RESTRICTIVE HOUSING, UNLESS A
22 DOCUMENT, FILE, OR RECORD CONTAINS CONTRABAND, CLASSIFIED INFORMATION,
23 OR SENSITIVE SECURITY-RELATED INFORMATION.

24 (C) BEFORE PLACEMENT IN RESTRICTIVE HOUSING, AN INMATE SHALL BE
25 PROVIDED:

26 (1) A COMPREHENSIVE MENTAL HEALTH EVALUATION BY A
27 MULTIDISCIPLINARY STAFF COMMITTEE, WHICH SHALL CONDUCT A
28 COMPREHENSIVE, FACE-TO-FACE, OUT-OF-CELL MENTAL HEALTH EVALUATION OF
29 THE INMATE IN A CONFIDENTIAL SESSION; AND

30 (2) DE-ESCALATION TECHNIQUES AND OPPORTUNITIES.

31 (D) (1) AN INMATE WHO HAS BEEN FOUND GUILTY OF AN

1 ADMINISTRATIVE INFRACTION IS SUBJECT TO:

2 (I) FOR A FIRST INFRACTION, NOT MORE THAN A VERBAL
3 WARNING;

4 (II) FOR A SECOND INFRACTION, NOT MORE THAN AN INCIDENT
5 REPORT; AND

6 (III) FOR A THIRD OR SUBSEQUENT INFRACTION, NOT MORE
7 THAN AN ALTERNATIVE DISCIPLINARY SANCTION.

8 (2) AN INMATE WHO HAS BEEN FOUND GUILTY OF A SUBSTANTIVE
9 INFRACTION IS SUBJECT TO:

10 (I) FOR A FIRST INFRACTION, NOT MORE THAN 15
11 CONSECUTIVE DAYS IN RESTRICTIVE HOUSING;

12 (II) FOR A SECOND INFRACTION, NOT MORE THAN 30 DAYS IN
13 RESTRICTIVE HOUSING; AND

14 (III) FOR A THIRD OR SUBSEQUENT INFRACTION, NOT MORE
15 THAN 45 DAYS IN RESTRICTIVE HOUSING.

16 (3) UNLESS THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE
17 INMATE POSES AN IMMEDIATE AND SUBSTANTIAL RISK OF PHYSICAL HARM TO THE
18 SECURITY OF THE FACILITY, TO THE INMATE, OR TO OTHERS, AN INMATE MAY NOT
19 BE SUBJECT TO MORE THAN 15 CONSECUTIVE DAYS OR A TOTAL OF 90 DAYS IN
20 RESTRICTIVE HOUSING IN A 1-YEAR PERIOD.

21 (E) AN INMATE MAY NOT BE PLACED IN RESTRICTIVE HOUSING FOR:

22 (1) NONDISCIPLINARY REASONS; OR

23 (2) REFUSING MEDICAL TREATMENT, UNLESS THE INMATE'S
24 PLACEMENT IN RESTRICTIVE HOUSING:

25 (I) IS TEMPORARY;

26 (II) HAS BEEN ORDERED BY A MEDICAL PROFESSIONAL; AND

27 (III) IS IN A CLINICALLY DESIGNATED AND SUPERVISED AREA.

28 (F) AN INMATE IN RESTRICTIVE HOUSING SHALL BE PROVIDED:

1 **(1) WEEKLY COMPREHENSIVE PHYSICAL AND MENTAL HEALTH**
2 **ASSESSMENTS BY THE MULTIDISCIPLINARY STAFF COMMITTEE TO DETERMINE IF**
3 **THE INMATE MAY BE RELEASED FROM RESTRICTIVE HOUSING;**

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

6 **(I) BASIC NECESSITIES, INCLUDING:**

7 **1. FOOD;**

8 **2. WATER;**

9 **3. SHOWERS;**

10 **4. CLOTHING AND BEDDING;**

11 **5. SANITARY CONDITIONS; AND**

12 **6. MEDICAL CARE, INCLUDING APPROPRIATE**
13 **PREVENTIVE AND EMERGENCY CARE; AND**

14 **(II) ACCESS TO CASE MANAGEMENT, CLERGY, AND MENTAL**
15 **HEALTH PROFESSIONALS; AND**

16 **(3) MAXIMIZED ACCESS TO RECREATION, EDUCATION, AND**
17 **PROGRAMMING, INCLUDING:**

18 **(I) STEP-DOWN PROGRAMMING;**

19 **(II) SMALL GROUP RESOCIALIZATION;**

20 **(III) INCREASED OUT-OF-CELL TIME; AND**

21 **(IV) SMALL GROUP INTERACTION OPPORTUNITIES.**

22 **(G) PLACEMENT OF AN INMATE IN ADMINISTRATIVE SEGREGATION OR**
23 **PROTECTIVE CUSTODY MAY NOT BE NOTED IN THE INMATE'S FILE IF THE NOTATION**
24 **WOULD SERVE TO INTERRUPT THE INMATE'S PROGRAMMING ELIGIBILITY, PAROLE**
25 **CONSIDERATIONS, SECURITY STATUS CHANGES, OR OTHER OPPORTUNITIES.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1, 2021,

1 the Department of Public Safety and Correctional Services shall report to the General
2 Assembly, in accordance with § 2-1246 of the State Government Article, on the steps the
3 Department has taken to:

4 (1) improve conditions of confinement in restrictive housing by allowing
5 opportunities for out-of-cell time and congregate activity, providing inmates in restrictive
6 housing daily outdoor recreation time, and creating more opportunities for productive
7 in-cell activities;

8 (2) limit the number of violations that are eligible for disciplinary
9 segregation sanctions;

10 (3) eliminate segregation sanctions for minor violations;

11 (4) create de-escalation spaces and establish a system that allows inmates
12 in segregation to access these spaces for meaningful amounts of time;

13 (5) create individualized plans for each inmate entering restrictive
14 housing, with the goal of returning the inmate to the general population;

15 (6) set clear time limits on the length of each phase in the step-down
16 program to ensure that an inmate in the program is able to progress through the phases
17 and reenter a less restrictive housing unit; and

18 (7) amend policies to specify that disciplinary segregation is a sanction of
19 last resort.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2019.