

SENATE BILL 774

E4

9lr1304
CF HB 1001

By: **Senators Smith, Carter, Hester, Lee, McCray, Nathan–Pulliam, Waldstreicher, and Washington**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 15, 2019

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; altering a certain reporting requirement; requiring the
6 Governor’s Office of Crime Control and Prevention to submit a certain report to the
7 General Assembly in a certain manner; prohibiting a certain correctional unit from
8 placing a minor in certain restrictive housing unless a certain managing official
9 makes a certain finding; requiring a minor placed in restrictive housing to be
10 provided certain privileges and conditions, subject to a certain exception; requiring
11 a certain managing official or designee to make a certain record under certain
12 circumstances; altering a certain definition; defining certain terms; making
13 conforming changes; and generally relating to restrictive housing.

14 BY repealing and reenacting, with amendments,
15 Article – Correctional Services
16 Section 9–614
17 Annotated Code of Maryland
18 (2017 Replacement Volume and 2018 Supplement)

19 BY adding to
20 Article – Correctional Services
21 Section 9–614.1
22 Annotated Code of Maryland

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.



(2017 Replacement Volume and 2018 Supplement)

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

Article – Correctional Services

9–614.

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

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

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

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

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

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

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

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

(iv) the definition of “serious mental illness” used by the [Department] **CORRECTIONAL UNIT** in making the report;

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

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

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

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

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

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

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

17 **9-614.1.**

18 (A) IN THIS SECTION, "RESTRICTIVE HOUSING" HAS THE MEANING STATED
19 IN § 9-614 OF THIS SUBTITLE.

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

22 (C) A MINOR MAY NOT BE PLACED IN RESTRICTIVE HOUSING UNLESS THE
23 MANAGING OFFICIAL OF THE FACILITY FINDS BY CLEAR AND CONVINCING EVIDENCE
24 THAT THE MINOR POSES AN IMMEDIATE ~~AND~~ OR SUBSTANTIAL RISK:

25 (1) OF PHYSICAL HARM TO THE MINOR, OTHER INMATES, OR STAFF;
26 OR

27 (2) TO THE SECURITY OF THE FACILITY.

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

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

31 (2) THE SAME STANDARD OF ACCESS THAT IS PROVIDED TO INMATES
32 NOT IN RESTRICTIVE HOUSING TO:

- 1 (I) PHONE CALLS;
- 2 (II) VISITS;
- 3 (III) MAIL;
- 4 (IV) FOOD;
- 5 (V) WATER;
- 6 (VI) SHOWERS;
- 7 (VII) SANITARY SUPPLIES;
- 8 (VIII) PROPERTY, INCLUDING CLOTHING AND BEDDING; AND
- 9 (IX) MEDICAL, MENTAL, AND DENTAL HEALTH CARE; AND

10 (3) ~~MAXIMIZED~~ UNLESS IT WOULD POSE A RISK OF PHYSICAL HARM
 11 TO THE MINOR OR ANOTHER, ACCESS TO RECREATION, EDUCATION, AND
 12 PROGRAMMING.

13 (E) IF A PRIVILEGE OR CONDITION DESCRIBED IN SUBSECTION (D) OF THIS
 14 SECTION IS NOT PROVIDED TO THE MINOR, THE MANAGING OFFICIAL OR THE
 15 MANAGING OFFICIAL’S DESIGNEE SHALL RECORD THE REASON IN THE MINOR’S
 16 FILE.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.