

HOUSE BILL 742

E4

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By: **Delegates J. Lewis, Acevero, Anderson, Bagnall, D. Barnes, Bridges, Conaway, Crutchfield, D.M. Davis, Feldmark, W. Fisher, Guyton, Hettleman, Ivey, Korman, R. Lewis, Lierman, Lopez, Love, Moon, Mosby, Palakovich Carr, Shetty, Stewart, Valentino-Smith, and Williams**

Introduced and read first time: January 30, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Corrections – Restrictive Housing – Serious Mental Illness – Assessments**
3 **(Restrictive Housing Reform Act)**

4 FOR the purpose of prohibiting the placement of an inmate with a certain serious mental
5 illness in certain restrictive housing, with certain exceptions; prohibiting, under
6 certain circumstances, the placement of a certain inmate in restrictive housing for
7 more than a certain period of time; requiring a certain inmate to be provided with
8 certain assessments; requiring the managing official of a correctional facility to
9 require certain steps be taken before and during an inmate’s placement in restrictive
10 housing; defining certain terms; requiring the Department of Public Safety and
11 Correctional Services to make a certain report to the General Assembly on or before
12 a certain date; and generally relating to restrictive housing.

13 BY repealing and reenacting, without amendments,
14 Article – Correctional Services
15 Section 9–614(a)
16 Annotated Code of Maryland
17 (2017 Replacement Volume and 2019 Supplement)

18 BY adding to
19 Article – Correctional Services
20 Section 9–614.2
21 Annotated Code of Maryland
22 (2017 Replacement Volume and 2019 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Correctional Services

1
2 9–614.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) “Correctional unit” has the meaning stated in § 2–401 of this article.

5 (3) (i) “Restrictive housing” means a form of physical separation that
6 has not been requested by the inmate in which the inmate is placed in a locked room or cell
7 for approximately 22 hours or more out of a 24–hour period.

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

10 **9–614.2.**

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

13 (2) **“RESTRICTIVE HOUSING” HAS THE MEANING STATED IN § 9–614**
14 **OF THIS SUBTITLE.**

15 (3) **“SERIOUS MENTAL ILLNESS” INCLUDES ANY CONDITION,**
16 **REGARDLESS OF DIAGNOSIS, INDICATING A HIGH LEVEL OF MENTAL HEALTH NEEDS**
17 **BASED ON HIGH SYMPTOM SEVERITY OR HIGH RESOURCE DEMANDS AND**
18 **DEMONSTRATING A SIGNIFICANT FUNCTIONAL IMPAIRMENT IN AN INDIVIDUAL’S**
19 **ABILITY TO FUNCTION WITHIN A CORRECTIONAL FACILITY, AS EVIDENCED BY:**

20 (I) **ENGAGING IN DELIBERATE SELF–HARMING BEHAVIORS,**
21 **INCLUDING:**

22 1. **CUTTING;**

23 2. **SELF–MUTILATION;**

24 3. **INGESTION OR INSERTION OF A FOREIGN BODY;**

25 4. **HEAD–BANGING;**

26 5. **DRUG OVERDOSES;**

27 6. **HANGING;**

1 7. BITING; OR

2 8. JUMPING FROM HEIGHTS WITH INTENT TO CAUSE
3 SELF-HARM;

4 (II) DEMONSTRATED DIFFICULTY MAINTAINING ACTIVITIES OF
5 DAILY LIVING, INCLUDING:

6 1. EATING;

7 2. MAINTAINING PERSONAL HYGIENE; OR

8 3. PARTICIPATING IN RECREATION; OR

9 (III) A PERVASIVE PATTERN OF DYSFUNCTIONAL, BIZARRE, OR
10 DISRUPTIVE SOCIAL INTERACTION AS A CONSEQUENCE OF AN UNDERLYING MENTAL
11 DISORDER.

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

14 (C) AN INMATE WITH A SERIOUS MENTAL ILLNESS MAY NOT BE PLACED IN
15 RESTRICTIVE HOUSING, EXCEPT:

16 (1) IN LIMITED EXIGENT CIRCUMSTANCES WHEN REASONABLE
17 ALTERNATIVES ARE NOT AVAILABLE AND THERE IS AN ACTUAL THREAT OF
18 IMMINENT HARM; OR

19 (2) IF MEDICALLY NECESSARY, AS DETERMINED BY A MEDICAL
20 PROFESSIONAL AND THE INMATE IS PLACED IN A CLINICALLY DESIGNATED AND
21 SUPERVISED AREA.

22 (D) ABSENT COMPELLING CIRCUMSTANCES, AN INMATE WITH A SERIOUS
23 MENTAL ILLNESS MAY NOT BE PLACED IN RESTRICTIVE HOUSING FOR MORE THAN
24 15 DAYS.

25 (E) AN INMATE WITH A SERIOUS MENTAL ILLNESS WHO IS PLACED IN
26 RESTRICTIVE HOUSING SHALL BE PROVIDED DAILY PHYSICAL AND MENTAL HEALTH
27 ASSESSMENTS TO DETERMINE WHETHER THE INMATE MAY BE RELEASED FROM
28 RESTRICTIVE HOUSING.

29 (F) THE MANAGING OFFICIAL OF A CORRECTIONAL FACILITY SHALL
30 REQUIRE THAT:

1 **(1) BEFORE PLACEMENT IN RESTRICTIVE HOUSING, EACH INMATE BE**
2 **PROVIDED DE-ESCALATION TECHNIQUES AND OPPORTUNITIES;**

3 **(2) EACH INMATE WHO IS PLACED IN RESTRICTIVE HOUSING BE**
4 **ASSESSED NOT LATER THAN 4 HOURS AFTER THE BEGINNING OF PLACEMENT AND**
5 **EVERY FOLLOWING 24 HOURS; AND**

6 **(3) EACH ASSESSMENT THAT SERVES AS A BASIS FOR CONTINUED**
7 **PLACEMENT IN RESTRICTIVE HOUSING BE DOCUMENTED.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1, 2021,
9 the Department of Public Safety and Correctional Services shall report to the General
10 Assembly, in accordance with § 2-1257 of the State Government Article, on steps the
11 Department has taken to improve conditions of confinement in restrictive housing by
12 allowing opportunities for inmates to have access to out-of-cell time, congregate activity,
13 daily outdoor recreation time, and productive in-cell activities.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2020.