

# HOUSE BILL 851

E4

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By: **Delegate Ruth**

Introduced and read first time: January 29, 2021

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Corrections – Restrictive Housing – Serious Mental Illness**

3 FOR the purpose of prohibiting the placement of an inmate with a certain serious mental  
4 illness in certain restrictive housing, with certain exceptions; prohibiting the  
5 placement of a certain inmate in restrictive housing for more than a certain period  
6 of time; requiring the managing official of a correctional facility to require a certain  
7 wellness check of a certain individual under certain circumstances; requiring the  
8 removal of a certain individual from restrictive housing under certain circumstances;  
9 requiring the managing official of a correctional facility to create and maintain a  
10 certain record; requiring the Department of Public Safety and Correctional Services  
11 to make certain reports to the General Assembly on or before certain dates; defining  
12 certain terms; providing for the application of this Act; and generally relating to  
13 restrictive housing.

14 BY repealing and reenacting, without amendments,  
15 Article – Correctional Services  
16 Section 9–614(a)  
17 Annotated Code of Maryland  
18 (2017 Replacement Volume and 2020 Supplement)

19 BY adding to  
20 Article – Correctional Services  
21 Section 9–614.2  
22 Annotated Code of Maryland  
23 (2017 Replacement Volume and 2020 Supplement)

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

26 **Article – Correctional Services**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 9-614.

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

3 (2) "Correctional unit" has the meaning stated in § 2-401 of this article.

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

7 (ii) "Restrictive housing" includes administrative segregation and  
8 disciplinary segregation.

9 **9-614.2.**

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

12 **(2) "RESTRICTIVE HOUSING" HAS THE MEANING STATED IN § 9-614**  
13 **OF THIS SUBTITLE.**

14 **(3) "SERIOUS MENTAL ILLNESS" MEANS THE CONDITION OF AN**  
15 **INDIVIDUAL WITH A DIAGNOSIS RECOGNIZED BY THE AMERICAN PSYCHIATRIC**  
16 **ASSOCIATION WHO DEMONSTRATES:**

17 **(I) HIGH SYMPTOM SEVERITY OR THE NEED FOR SPECIALIZED**  
18 **CARE; AND**

19 **(II) A SIGNIFICANT FUNCTIONAL IMPAIRMENT.**

20 **(4) "SIGNIFICANT FUNCTIONAL IMPAIRMENT" INCLUDES AN**  
21 **IMPAIRMENT EVIDENCED BY:**

22 **(I) SELF-HARMING BEHAVIORS;**

23 **(II) SERIOUS DEFECTS IN ADAPTIVE FUNCTIONING THAT**  
24 **HAMPER CONFORMING TO INSTITUTIONAL RULES OR ENGAGEMENT IN ACTIVITIES;**

25 **(III) A PATTERN OF DYSFUNCTIONAL, BIZARRE, OR DISRUPTIVE**  
26 **SOCIAL INTERACTIONS; OR**

27 **(IV) OTHER BEHAVIORS IDENTIFIED BY HEALTH CARE**  
28 **PROFESSIONALS THAT REPRESENT A SIGNIFICANT FUNCTIONAL IMPAIRMENT.**

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

3           **(C) (1) AN INCARCERATED INDIVIDUAL WITH A SERIOUS MENTAL**  
4 **ILLNESS MAY NOT BE PLACED IN RESTRICTIVE HOUSING, EXCEPT IN LIMITED**  
5 **EXIGENT CIRCUMSTANCES IN WHICH THE INDIVIDUAL PRESENTS AN IMMEDIATE**  
6 **AND ONGOING THREAT OF IMMINENT HARM TO THE INDIVIDUAL OR OTHERS.**

7           **(2) AN INDIVIDUAL PLACED IN RESTRICTIVE HOUSING IN**  
8 **ACCORDANCE WITH THIS SUBSECTION MAY NOT REMAIN IN RESTRICTIVE HOUSING**  
9 **FOR MORE THAN 15 DAYS.**

10           **(D) (1) THE MANAGING OFFICIAL OF THE FACILITY SHALL REQUIRE A**  
11 **DAILY WELLNESS CHECK OF AN INDIVIDUAL PLACED IN RESTRICTIVE HOUSING IN**  
12 **ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION TO BE CONDUCTED BY**  
13 **CERTIFIED HEALTHCARE AND CUSTODY STAFF.**

14           **(2) THE DAILY WELLNESS CHECK SHALL INCLUDE A DETERMINATION**  
15 **AS TO WHETHER THE INDIVIDUAL CONTINUES TO PRESENT AN IMMEDIATE AND**  
16 **ONGOING THREAT OF IMMINENT HARM TO THE INDIVIDUAL OR OTHERS.**

17           **(E) AN INDIVIDUAL PLACED IN RESTRICTIVE HOUSING IN ACCORDANCE**  
18 **WITH SUBSECTION (C) OF THIS SECTION SHALL BE REMOVED FROM RESTRICTIVE**  
19 **HOUSING IMMEDIATELY ON A DETERMINATION THAT THE INDIVIDUAL NO LONGER**  
20 **PRESENTS AN IMMEDIATE AND ONGOING THREAT OF IMMINENT HARM TO THE**  
21 **INDIVIDUAL OR OTHERS.**

22           **(F) THE MANAGING OFFICIAL OF THE FACILITY SHALL REQUIRE THAT A**  
23 **DAILY RECORD BE CREATED AND MAINTAINED DOCUMENTING THE CIRCUMSTANCES**  
24 **WARRANTING THE APPLICATION OF SUBSECTION (C) OF THIS SECTION AND THE**  
25 **ONGOING CIRCUMSTANCES DEMONSTRATING THAT THE PLACEMENT IN**  
26 **RESTRICTIVE HOUSING REMAINS APPROPRIATE.**

27           SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Public  
28 Safety and Correctional Services shall provide an interim report on or before January 1,  
29 2022, and a final report on or before January 1, 2023, to the General Assembly, in  
30 accordance with § 2-1257 of the State Government Article, on:

31           (1) steps the Department has taken to improve conditions of confinement  
32 in restrictive housing, including opportunities for incarcerated individuals to receive  
33 confidential medical and mental health services and access to mail and telephone,  
34 congregate programming, daily outdoor or indoor recreation time, and out-of-cell time  
35 generally;

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1                   (2)     the number of incarcerated individuals with serious mental illness who  
2 are placed in restrictive housing on an annual basis, broken down by individual facility;  
3 and

4                   (3)     the average length of placement in restrictive housing.

5                   SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2021.