

HOUSE BILL 67

E5
HB 131/21 – JUD

(PRE-FILED)

2lr0786

By: **Delegate J. Lewis**

Requested: October 18, 2021

Introduced and read first time: January 12, 2022

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services – Step-Down Programs – Cause of Action**

3 FOR the purpose of providing for a certain step-down program that the Commissioner of
4 Correction is required to provide to a certain inmate in a certain manner; authorizing
5 a certain civil action for damages; and generally relating to programs for inmates.

6 BY repealing and reenacting, without amendments,

7 Article – Correctional Services

8 Section 9–614(a)

9 Annotated Code of Maryland

10 (2017 Replacement Volume and 2021 Supplement)

11 BY adding to

12 Article – Correctional Services

13 Section 9–614.2

14 Annotated Code of Maryland

15 (2017 Replacement Volume and 2021 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 the following words have the meanings indicated.

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

22 (3) (i) “Restrictive housing” means a form of physical separation that

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 has not been requested by the inmate in which the inmate is placed in a locked room or cell
2 for approximately 22 hours or more out of a 24-hour period.

3 (ii) "Restrictive housing" includes administrative segregation and
4 disciplinary segregation.

5 **9-614.2.**

6 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (2) "MULTIDISCIPLINARY TREATMENT TEAM" MEANS AN
9 INTEGRATED TEAM THAT MEETS TO DEVELOP AND PROVIDE NECESSARY HEALTH
10 AND BEHAVIORAL HEALTH CARE SERVICES AND INDIVIDUALIZED TREATMENT THAT
11 ADDRESSES THE NEEDS OF AN INMATE IN RESTRICTIVE HOUSING OR IN A
12 STEP-DOWN PROGRAM.

13 (3) "STEP-DOWN PROGRAM" MEANS A SYSTEM OF REVIEW WITH
14 ESTABLISHED CRITERIA THAT PREPARES AN INMATE FOR TRANSITION TO THE
15 GENERAL POPULATION OR THE COMMUNITY.

16 (B) BEFORE THE TRANSFER OF AN INMATE PLACED IN RESTRICTIVE
17 HOUSING TO THE GENERAL POPULATION OR THE DIRECT RELEASE OF AN INMATE
18 FROM A FACILITY TO THE COMMUNITY, THE COMMISSIONER OF CORRECTION SHALL
19 PROVIDE TO THE INMATE A STEP-DOWN PROGRAM.

20 (C) (1) A STEP-DOWN PROGRAM SHALL BE INDIVIDUALIZED TO THE
21 NEEDS OF THE INMATE AND INVOLVE A COORDINATED, MULTIDISCIPLINARY
22 TREATMENT TEAM APPROACH.

23 (2) A MULTIDISCIPLINARY TREATMENT TEAM MAY INCLUDE
24 PSYCHOLOGISTS, PSYCHIATRIC PRACTITIONERS, LICENSED SOCIAL WORKERS,
25 LICENSED MENTAL HEALTH COUNSELORS, REGISTERED NURSES, ACTIVITY
26 THERAPISTS, AND CORRECTIONAL STAFF.

27 (3) IF AN INMATE NEEDS CHRONIC CARE OR OTHER SIGNIFICANT
28 MEDICAL ACCOMMODATION TO PARTICIPATE IN THE PROGRAM, THE
29 MULTIDISCIPLINARY TREATMENT TEAM SHALL INCLUDE APPROPRIATE MEDICAL
30 PERSONNEL.

31 (D) A STEP-DOWN PROGRAM SHALL INCLUDE:

32 (1) A PRE-SCREENING EVALUATION;

1 **(2) MONTHLY EVALUATIONS USING A MULTIDISCIPLINARY**
2 **TREATMENT TEAM APPROACH TO DETERMINE THE INMATE’S COMPLIANCE WITH**
3 **PROGRAM REQUIREMENTS;**

4 **(3) SUBJECT TO MONTHLY EVALUATIONS:**

5 **(I) GRADUALLY INCREASED OUT-OF-CELL TIME;**

6 **(II) GRADUALLY INCREASED GROUP INTERACTION;**

7 **(III) GRADUALLY INCREASED EDUCATION AND PROGRAMMING**
8 **OPPORTUNITIES; AND**

9 **(IV) GRADUALLY INCREASED PRIVILEGES;**

10 **(4) A STEP-DOWN TRANSITION COMPLIANCE REVIEW; AND**

11 **(5) A POSTSCREENING EVALUATION.**

12 **(E) AN INMATE WITH LESS THAN 180 DAYS UNTIL RELEASE TO THE**
13 **COMMUNITY MAY NOT BE DENIED ACCESS TO A STEP-DOWN PROGRAM UNLESS THE**
14 **WARDEN OR THE WARDEN’S DESIGNEE MAKES AN INDIVIDUALIZED DETERMINATION**
15 **CERTIFIED IN WRITING AND BASED ON CLEAR AND CONVINCING EVIDENCE THAT**
16 **THE INMATE POSES:**

17 **(1) A GRAVE RISK OF HARM TO OTHERS OR THE SECURITY OF THE**
18 **FACILITY AND ALL OTHER LESS RESTRICTIVE OPTIONS HAVE BEEN EXHAUSTED; OR**

19 **(2) AN IMMEDIATE AND CREDIBLE FLIGHT RISK THAT CANNOT BE**
20 **REASONABLY PREVENTED BY OTHER MEANS.**

21 **(F) THE COMMISSIONER OF CORRECTION SHALL DOCUMENT IN WRITING**
22 **THE JUSTIFICATION FOR AN INMATE BEING TRANSFERRED DIRECTLY FROM**
23 **RESTRICTIVE HOUSING TO THE GENERAL POPULATION OR RELEASED DIRECTLY**
24 **FROM INCARCERATION TO THE COMMUNITY WITHOUT HAVING PARTICIPATED IN A**
25 **STEP-DOWN PROGRAM.**

26 **(G) A FORMER INMATE WHO HAS SUFFERED A SPECIFIC AND DIRECT INJURY**
27 **FROM A DENIAL OF THE RIGHT TO ACCESS A STEP-DOWN PROGRAM UNDER THIS**
28 **SECTION MAY BRING A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION FOR**
29 **DAMAGES, INCLUDING COSTS AND REASONABLE ATTORNEY’S FEES.**

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2022.