

HOUSE BILL 297

O3, E3, J3

2lr0500
CF SB 3

By: **Delegate Rosenberg**

Introduced and read first time: January 19, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Facilities – Disabilities, Juveniles, Behavioral Health, and Health Care – Safety**
3 **Plans**

4 FOR the purpose of requiring that certain regulations adopted by the Department of
5 Juvenile Services governing juvenile care facilities and juvenile detention facilities
6 include a requirement for the establishment, implementation, and revision of certain
7 safety plans; requiring certain State residential centers and private group homes to
8 establish, implement, and revise certain safety plans; requiring certain regulations
9 adopted by the Behavioral Health Administration to include a revision for certain
10 safety plans at a certain regular interval; requiring the Maryland Department of
11 Health to require that certain health care facilities establish and implement certain
12 safety plans and, under certain circumstances, a certain community relations plan;
13 requiring that certain health care facilities revise certain safety plans and, if
14 applicable, certain community relations plans at a certain regular interval; and
15 generally relating to the establishment, implementation, and revision of safety
16 plans.

17 BY repealing and reenacting, with amendments,
18 Article – Health – General
19 Section 7–501, 7–610, 7.5–402, and 19–1C–01
20 Annotated Code of Maryland
21 (2019 Replacement Volume and 2021 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Human Services
24 Section 9–234 and 9–237
25 Annotated Code of Maryland
26 (2019 Replacement Volume and 2021 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Health – General

1
2 7–501.

3 (a) There are State residential centers for individuals with an intellectual
4 disability in the Developmental Disabilities Administration.

5 (b) The Deputy Secretary shall appoint an administrative head for each State
6 residential center.

7 **(C) EACH STATE RESIDENTIAL CENTER SHALL:**

8 **(1) ESTABLISH AND IMPLEMENT A SAFETY PLAN FOR THE SAFETY OF**
9 **THE INDIVIDUALS SERVED BY THE STATE RESIDENTIAL CENTER; AND**

10 **(2) REVISE THE SAFETY PLAN EVERY 5 YEARS.**

11 7–610.

12 (a) An applicant for certificate of approval shall submit an application to the
13 Department on the form that the Secretary requires.

14 (b) The application shall:

15 (1) Be signed and verified by the applicant; and

16 (2) Provide the information that the Secretary requires, including:

17 (i) The name and address of the applicant;

18 (ii) The street address of the property where the private group home
19 is to be located or, if no address, a description which identifies the property;

20 (iii) If the applicant does not own the property, the name of the
21 owner;

22 (iv) A statement that the applicant will comply with the laws, rules,
23 and regulations that relate to the establishing and operating of private group homes under
24 this subtitle;

25 (v) A statement that the applicant has sufficient resources to
26 establish a private group home, or that those resources are available to the applicant; [and]

27 (vi) A statement that the applicant's facilities meet the federal
28 regulation requirements on program accessibility (45 C.F.R. §§ 84.21 through 84.23); AND

1 **(VII) A STATEMENT THAT THE APPLICANT WILL ESTABLISH AND**
2 **IMPLEMENT A SAFETY PLAN FOR THE SAFETY OF INDIVIDUALS SERVED BY THE**
3 **PRIVATE GROUP HOME.**

4 7.5-402.

5 (a) Regulations adopted under this subtitle shall include:

6 (1) The requirements for licensure of a behavioral health program,
7 including a requirement that the behavioral health program [establish]:

8 **(I) ESTABLISH** and implement a safety plan for the safety of the
9 individuals served by the behavioral health program; **AND**

10 **(II) REVISE THE SAFETY PLAN EVERY 5 YEARS;**

11 (2) The process for a behavioral health program to apply for a license;

12 (3) A description of the behavioral health programs that are required to be
13 licensed;

14 (4) Any requirements for the governance of a behavioral health program,
15 including:

16 (i) A provision prohibiting a conflict of interest between the
17 interests of the provider and those of the individual receiving services;

18 (ii) A provision authorizing a behavioral health program licensed as
19 an outpatient mental health center to satisfy any regulatory requirement that the medical
20 director be on site through the use of telehealth by the director; and

21 (iii) A provision authorizing a psychiatric nurse practitioner to serve
22 as a medical director of an outpatient mental health center accredited in accordance with
23 COMAR 10.63.03.05, including through telehealth;

24 (5) Provisions for inspections of a behavioral health program, including
25 inspection and copying of the records of a behavioral health program in accordance with
26 State and federal law; and

27 (6) Provisions for denials, sanctions, suspensions, and revocations of
28 licenses, including imposition of civil monetary penalties, and notice and an opportunity to
29 be heard.

30 (b) (1) The Secretary may require a behavioral health program to be granted
31 accreditation by an accreditation organization approved by the Secretary under Title 19,

1 Subtitle 23 of this article as a condition of licensure under regulations adopted under this
2 subtitle.

3 (2) By becoming licensed in accordance with paragraph (1) of this
4 subsection, a program agrees to comply with all applicable standards of the accreditation
5 organization.

6 (3) If a behavioral health program is required to be granted accreditation
7 as a condition of licensure under paragraph (1) of this subsection and the accreditation
8 organization requires the behavioral health program to adopt a community relations plan,
9 the behavioral health program shall submit the community relations plan to the
10 Administration.

11 (c) Regulations adopted under this subtitle may include provisions setting
12 reasonable fees for applying for a license and for the issuance and renewal of licenses.

13 (d) The Administration may authorize a behavioral health program to satisfy the
14 safety plan requirement under subsection (a)(1) of this section by implementing a safety
15 plan established for the behavioral health program for another purpose.

16 19-1C-01.

17 (a) Before the Department approves the operation of a facility under this title,
18 including by granting a license to the facility, the Department shall require the facility to
19 establish and implement:

20 (1) A safety plan for the safety of the individuals served by the facility; and

21 (2) A community relations plan, if the facility is:

22 (i) Accredited by an accreditation organization, as defined in §
23 19-2301 of this title; and

24 (ii) Required by the accreditation organization to establish and
25 implement a community relations plan.

26 (b) The Department may authorize a facility to satisfy the requirement under:

27 (1) Subsection (a)(1) of this section by implementing a safety plan
28 established for the facility for another purpose, including an emergency plan; and

29 (2) Subsection (a)(2) of this section by implementing the community
30 relations plan required by the accreditation organization.

31 **(C) A FACILITY IN OPERATION ON OR BEFORE SEPTEMBER 30, 2021, SHALL**
32 **SUBMIT A SAFETY PLAN AND, IF APPLICABLE, A COMMUNITY RELATIONS PLAN ON**
33 **OR BEFORE OCTOBER 1, 2023, IN ACCORDANCE WITH THIS SECTION.**

1 (3) to provide access to required services for children.

2 (c) The standards shall include provisions establishing:

3 (1) a policy that eliminates the unnecessary use of detention and that
4 prioritizes diversion and appropriate nonsecure alternatives;

5 (2) criteria for the placement of a child in a particular juvenile detention
6 facility;

7 (3) population limits for each juvenile detention facility that may not be
8 exceeded except in emergency circumstances;

9 (4) a requirement that staffing ratios and levels of services be maintained
10 during emergencies;

11 (5) specifications for the architectural structure of a juvenile detention
12 facility;

13 (6) staff qualifications and training, including training in recognizing and
14 reporting child abuse and neglect;

15 (7) the ratio of staff to children in a juvenile detention facility;

16 (8) the rights of children in a juvenile detention facility, including the right
17 to privacy, visitors, telephone use, and mail delivery;

18 (9) prohibitions against the use of excessive force against a child;

19 (10) internal auditing and monitoring of programs and facilities in the
20 juvenile services system; [and]

21 (11) prohibitions against the use of physical restraints on an individual
22 known to be in the third trimester of pregnancy or during labor, delivery, or postpartum
23 recovery, including during all transports, unless a facility superintendent or the facility
24 superintendent's designee determines that a physical restraint is necessary to protect the
25 individual from harming herself or others or to prevent the individual's escape from
26 custody; AND

27 **(12) A POLICY CONCERNING A SAFETY PLAN FOR THE SAFETY OF**
28 **JUVENILES DETAINED IN A FACILITY, INCLUDING:**

29 **(I) THE MEANS TO IMPLEMENT THE SAFETY PLAN; AND**

30 **(II) A REQUIREMENT THAT THE SAFETY PLAN BE REVISED**
31 **EVERY 5 YEARS.**

1 (d) The standards shall be consistent with this title and Title 3, Subtitle 8A of the
2 Courts Article.

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