

Chapter 543

(House Bill 67)

AN ACT concerning

Correctional Services – ~~Step-Down Programs – Cause of Action~~ Restrictive Housing – Direct Release

FOR the purpose of ~~providing for a certain step-down program that the Commissioner of Correction is required to provide to a certain inmate in a certain manner; authorizing a certain civil action for damages; and generally relating to programs for inmates prohibiting the Commissioner of Correction from prohibiting an inmate placed in restrictive housing from having access to a reentry specialist or case manager within a certain period before the direct release of the inmate from a correctional facility to the community; and generally relating to restrictive housing of inmates.~~

BY repealing and reenacting, without amendments,
Article – Correctional Services
Section 9–614(a)
Annotated Code of Maryland
(2017 Replacement Volume and 2021 Supplement)

BY adding to
Article – Correctional Services
Section 9–614.2
Annotated Code of Maryland
(2017 Replacement Volume and 2021 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 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.

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

9-614.2.

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

(B) TO THE EXTENT POSSIBLE, THE COMMISSIONER OF CORRECTION MAY NOT PROHIBIT AN INMATE PLACED IN RESTRICTIVE HOUSING FROM HAVING ACCESS TO A REENTRY SPECIALIST OR CASE MANAGER WITHIN 180 DAYS BEFORE THE DIRECT RELEASE OF THE INMATE FROM A CORRECTIONAL FACILITY TO THE COMMUNITY.

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

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

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

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

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

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

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

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

~~(1) A PRE-SCREENING EVALUATION;~~

~~(2) MONTHLY EVALUATIONS USING A MULTIDISCIPLINARY TREATMENT TEAM APPROACH TO DETERMINE THE INMATE'S COMPLIANCE WITH PROGRAM REQUIREMENTS;~~

~~(3) SUBJECT TO MONTHLY EVALUATIONS:~~

~~(I) GRADUALLY INCREASED OUT-OF-CELL TIME;~~

~~(II) GRADUALLY INCREASED GROUP INTERACTION;~~

~~(III) GRADUALLY INCREASED EDUCATION AND PROGRAMMING OPPORTUNITIES; AND~~

~~(IV) GRADUALLY INCREASED PRIVILEGES;~~

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

~~(5) A POSTSCREENING EVALUATION.~~

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

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

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

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

~~(G) A FORMER INMATE WHO HAS SUFFERED A SPECIFIC AND DIRECT INJURY FROM A DENIAL OF THE RIGHT TO ACCESS A STEP-DOWN PROGRAM UNDER THIS~~

~~SECTION MAY BRING A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION FOR DAMAGES, INCLUDING COSTS AND REASONABLE ATTORNEY'S FEES.~~

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

Enacted under Article II, § 17(c) of the Maryland Constitution, May 29, 2022.