

HOUSE BILL 385

E5

3lr1202

By: **Delegate Bartlett**

Introduced and read first time: January 26, 2023

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services – Restrictive Housing – Limitations**
3 **(Maryland Mandela Act)**

4 FOR the purpose of requiring hearing officers and personnel involved with the supervision
5 and care of individuals placed in restrictive housing to undergo certain training;
6 establishing guidelines and procedures for the placement of incarcerated individuals
7 in certain types of restrictive housing or disciplinary segregation; requiring each
8 correctional facility to create a monthly report containing certain information about
9 individuals placed in restrictive housing and to publish the report on the facility's
10 website; and generally relating to restrictive housing.

11 BY adding to
12 Article – Correctional Services
13 Section 9–614.3 and 9–614.4
14 Annotated Code of Maryland
15 (2017 Replacement Volume and 2022 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article – Correctional Services
18 Section 9–614(a)(1)
19 Annotated Code of Maryland
20 (2017 Replacement Volume and 2022 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Correctional Services
23 Section 9–614(a)(3)
24 Annotated Code of Maryland
25 (2017 Replacement Volume and 2022 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Correctional Services**

2 **9–614.3.**

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

5 (B) (1) ALL PERSONNEL INVOLVED IN THE SUPERVISION AND CARE OF
6 INDIVIDUALS PLACED IN RESTRICTIVE HOUSING SHALL COMPLETE AT LEAST 40
7 HOURS OF TRAINING, INCLUDING TRAINING ON TRAUMA–INFORMED CARE, BEFORE
8 BEING ASSIGNED TO A RESTRICTIVE HOUSING UNIT, AND SHALL RECEIVE AT LEAST
9 8 HOURS OF ADDITIONAL TRAINING ANNUALLY.

10 (2) A HEARING OFFICER SHALL COMPLETE AT LEAST 40 HOURS OF
11 TRAINING, INCLUDING TRAINING ON TRAUMA–INFORMED CARE, THE PHYSICAL AND
12 PSYCHOLOGICAL EFFECTS OF RESTRICTIVE HOUSING, PROCEDURAL AND DUE
13 PROCESS RIGHTS OF INCARCERATED INDIVIDUALS, AND RESTORATIVE JUSTICE
14 REMEDIES, PRIOR TO PRESIDING OVER ANY HEARINGS, AND SHALL RECEIVE AT
15 LEAST 8 HOURS OF ADDITIONAL TRAINING ANNUALLY.

16 (C) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT OVERTIME
17 COMPENSATION FOR PERSONNEL AND HEARING OFFICERS REQUIRED TO ATTEND
18 TRAINING UNDER THIS SECTION.

19 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
20 as follows:

21 **Article – Correctional Services**

22 **9–614.**

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

24 (3) (i) “Restrictive housing” means [a form of physical separation that
25 has not been requested by the inmate in which the inmate is placed in a locked room or cell
26 for approximately 22 hours or more out of a 24–hour period] **ANY FORM OF HOUSING
27 THAT SEPARATES INCARCERATED INDIVIDUALS FROM THE GENERAL PRISON
28 POPULATION OR THAT IMPOSES RESTRICTIONS ON PROGRAMS, SERVICES,
29 INTERACTIONS WITH OTHER INCARCERATED INDIVIDUALS, OR OTHER CONDITIONS
30 OF CONFINEMENT.**

31 (ii) “Restrictive housing” includes:

32 1. administrative segregation [and];

1 2. disciplinary segregation; AND

2 3. RESIDENTIAL REHABILITATION UNITS, IF SEPARATE
3 HOUSING IS USED FOR THERAPY, TREATMENT, AND REHABILITATIVE
4 PROGRAMMING.

5 (III) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II)3 OF THIS
6 PARAGRAPH, “RESTRICTIVE HOUSING” DOES NOT INCLUDE A RESIDENTIAL
7 REHABILITATION UNIT.

8 9-614.4.

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

11 (2) “ADMINISTRATIVE SEGREGATION” MEANS A NONPUNITIVE FORM
12 OF RESTRICTIVE HOUSING THAT REMOVES AN INDIVIDUAL FROM THE GENERAL
13 POPULATION OF THE CORRECTIONAL FACILITY FOR:

14 (I) INVESTIGATIVE, PROTECTIVE, OR PREVENTIVE REASONS
15 RESULTING FROM A SUBSTANTIAL AND IMMEDIATE THREAT; OR

16 (II) TRANSITIONAL REASONS, INCLUDING A PENDING
17 TRANSFER, PENDING CLASSIFICATION, OR OTHER TEMPORARY ADMINISTRATIVE
18 MATTER.

19 (3) “DISCIPLINARY SEGREGATION” MEANS A FORM OF PHYSICAL
20 SEPARATION IMPOSED IN RESPONSE TO AN INDIVIDUAL BEING FOUND GUILTY BY A
21 HEARING OFFICER OF VIOLATING DEPARTMENT RULES, INSTITUTIONAL RULES, OR
22 BOTH.

23 (4) “PROTECTIVE CUSTODY” MEANS CUSTODIAL CONDITIONS
24 PROVIDED TO AN INCARCERATED INDIVIDUAL AT THE REQUEST OF THE
25 INCARCERATED INDIVIDUAL OR THROUGH A STAFF DETERMINATION THAT THE
26 INCARCERATED INDIVIDUAL REQUIRES PROTECTION.

27 (5) “RESIDENTIAL REHABILITATION UNIT” MEANS SEPARATE
28 HOUSING USED FOR THERAPY, TREATMENT, AND REHABILITATIVE PROGRAMMING
29 AS AN ALTERNATIVE TO RESTRICTIVE HOUSING FOR INCARCERATED INDIVIDUALS
30 OR FOR INCARCERATED INDIVIDUALS WHO REQUIRE SEPARATE HOUSING
31 FOLLOWING THEIR PLACEMENT IN RESTRICTIVE HOUSING.

1 **(6) “RESTRICTIVE HOUSING” HAS THE MEANING STATED IN § 9-614**
2 **OF THIS SUBTITLE.**

3 **(7) “SERIOUS MENTAL ILLNESS” MEANS A MENTAL DISORDER THAT:**

4 **(I) IS MANIFEST IN AN INDIVIDUAL AT LEAST 18 YEARS OLD;**

5 **(II) IS DIAGNOSED, ACCORDING TO A CURRENT DIAGNOSTIC**
6 **CLASSIFICATION SYSTEM RECOGNIZED BY THE SECRETARY, AS:**

7 **1. SCHIZOPHRENIC DISORDER;**

8 **2. MAJOR AFFECTIVE DISORDER;**

9 **3. ANOTHER PSYCHOTIC DISORDER; OR**

10 **4. BORDERLINE OR SCHIZOTYPAL PERSONALITY**
11 **DISORDER, EXCLUDING AN ABNORMALITY THAT MANIFESTS ONLY AS REPEATED**
12 **CRIMINAL OR OTHERWISE ANTISOCIAL CONDUCT;**

13 **(III) IS CHARACTERIZED BY IMPAIRED FUNCTION ON A**
14 **CONTINUING OR INTERMITTENT BASIS FOR AT LEAST 2 YEARS; AND**

15 **(IV) INCLUDES AT LEAST THREE OF THE FOLLOWING:**

16 **1. INABILITY TO MAINTAIN EMPLOYMENT;**

17 **2. SOCIAL BEHAVIOR THAT RESULTS IN INTERVENTIONS**
18 **BY THE MENTAL HEALTH SYSTEM;**

19 **3. INABILITY TO PROCURE FINANCIAL ASSISTANCE TO**
20 **SUPPORT LIVING IN THE COMMUNITY DUE TO COGNITIVE DISORGANIZATION;**

21 **4. SEVERE INABILITY TO ESTABLISH OR MAINTAIN A**
22 **PERSONAL SUPPORT SYSTEM; OR**

23 **5. NEED FOR ASSISTANCE WITH BASIC LIVING SKILLS.**

24 **(8) “VULNERABLE INDIVIDUAL” MEANS AN INDIVIDUAL WHO:**

25 **(I) IS UNDER THE AGE OF 26 YEARS OR AT LEAST 55 YEARS OLD;**

26 **(II) HAS A DEVELOPMENTAL DISABILITY;**

1 (III) HAS BEEN IDENTIFIED AS HAVING A SERIOUS MENTAL
2 ILLNESS;

3 (IV) HAS A SERIOUS MEDICAL CONDITION THAT CANNOT
4 EFFECTIVELY BE TREATED IN ISOLATED CONFINEMENT;

5 (V) IS PREGNANT, IS IN THE POSTPARTUM PERIOD, OR HAS
6 RECENTLY SUFFERED A MISCARRIAGE OR TERMINATED A PREGNANCY;

7 (VI) HAS A SIGNIFICANT AUDITORY OR VISUAL IMPAIRMENT; OR

8 (VII) IDENTIFIES AS OR IS PERCEIVED AS LESBIAN, GAY,
9 BISEXUAL, TRANSGENDER, GENDER NONCONFORMING, OR INTERSEX.

10 (B) A VULNERABLE INDIVIDUAL MAY NOT BE PLACED IN RESTRICTIVE
11 HOUSING.

12 (C) AN INDIVIDUAL MAY NOT BE PLACED IN RESTRICTIVE HOUSING BASED
13 SOLELY ON:

14 (1) CONFIDENTIAL INFORMATION CONSIDERED BY THE FACILITY
15 STAFF, BUT NOT PROVIDED TO THE INCARCERATED INDIVIDUAL OR INCLUDED IN
16 REQUIRED RECORDS;

17 (2) GANG OR ENEMY AFFILIATION; OR

18 (3) PROTECTION OF THE INDIVIDUAL FROM THE REST OF THE
19 DETAINED POPULATION OR A LIKELY ABUSER.

20 (D) THE MANAGING OFFICIAL OF A CORRECTIONAL FACILITY SHALL
21 ENSURE THAT EACH INCARCERATED INDIVIDUAL PLACED IN RESTRICTIVE HOUSING
22 IS PROVIDED THE FOLLOWING INFORMATION, IN A LANGUAGE OR MANNER THE
23 INDIVIDUAL CAN UNDERSTAND, WITHIN 24 HOURS OF THE INDIVIDUAL'S
24 PLACEMENT IN RESTRICTIVE HOUSING:

25 (1) NOTICE OF THE FACTS AND CIRCUMSTANCES THAT LED TO
26 PLACING THE INDIVIDUAL IN RESTRICTIVE HOUSING;

27 (2) A STATEMENT THAT A LESS RESTRICTIVE INTERVENTION WOULD
28 BE INSUFFICIENT TO REDUCE RISK;

29 (3) THE PROCEDURES THAT THE FACILITY WILL EMPLOY TO MONITOR

1 THE INDIVIDUAL;

2 (4) THE DATE AND TIME OF THE INDIVIDUAL'S NEXT COURT DATE OR
3 ADMINISTRATIVE HEARING DATE, IF APPLICABLE;

4 (5) COPIES OF ALL DOCUMENTS, FILES, AND RECORDS RELATING TO
5 THE INDIVIDUAL'S PLACEMENT IN RESTRICTIVE HOUSING, UNLESS A DOCUMENT,
6 FILE, OR RECORD CONTAINS CONTRABAND, CLASSIFIED INFORMATION, OR
7 SENSITIVE SECURITY INFORMATION; AND

8 (6) AN EXPLANATION OF THE PROCESS TO APPEAL THE INITIAL
9 PLACEMENT OR CONTINUED PLACEMENT OF THE INCARCERATED INDIVIDUAL IN
10 RESTRICTIVE HOUSING UNDER SUBSECTION (E) OF THIS SECTION.

11 (E) (1) AN INCARCERATED INDIVIDUAL SHALL BE PROVIDED THE
12 OPPORTUNITY TO CONTEST THE RESTRICTIVE HOUSING PLACEMENT IN AN
13 ADMINISTRATIVE HEARING WITHIN 72 HOURS OF THE INITIAL PLACEMENT AND
14 EVERY 15 DAYS THEREAFTER, IN THE ABSENCE OF EXCEPTIONAL CIRCUMSTANCES,
15 UNAVOIDABLE DELAYS, OR REASONABLE POSTPONEMENTS.

16 (2) THE INCARCERATED INDIVIDUAL SHALL HAVE THE RIGHT TO
17 APPEAR AND BE REPRESENTED BY AN ATTORNEY OR ADVOCATE OF THE
18 INDIVIDUAL'S CHOOSING AND AT THE INDIVIDUAL'S OWN EXPENSE AT ALL
19 HEARINGS CONDUCTED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

20 (3) IF AN INDIVIDUAL IS PLACED IN RESTRICTIVE HOUSING DUE TO
21 EMERGENCY CIRCUMSTANCES, A REVIEW HEARING SHALL BE CONDUCTED AS SOON
22 AS POSSIBLE AFTER THE INITIAL PLACEMENT.

23 (F) (1) IF AN INDIVIDUAL IN RESTRICTIVE HOUSING DISPUTES A
24 DECISION MADE BY A FACILITY STAFF MEMBER OR FACILITY MEDICAL
25 PROFESSIONAL REGARDING THE INDIVIDUAL'S STATUS AS A VULNERABLE
26 INDIVIDUAL, THE INDIVIDUAL MAY REQUEST AND RECEIVE A SECONDARY REVIEW
27 OF THE DETERMINATION BY THE MANAGING OFFICIAL OR CHIEF PHYSICIAN, AS
28 APPROPRIATE.

29 (2) AN INCARCERATED INDIVIDUAL MAY NOT BE PLACED OR
30 RETAINED IN RESTRICTIVE HOUSING IF, FOLLOWING A SECONDARY REVIEW UNDER
31 PARAGRAPH (1) OF THIS SUBSECTION, THE MANAGING OFFICIAL OR CHIEF
32 PHYSICIAN DETERMINES THAT THE INDIVIDUAL NO LONGER MEETS THE STANDARD
33 FOR CONFINEMENT.

34 (G) (1) AN INCARCERATED INDIVIDUAL MAY NOT BE SUBJECT TO

1 ADMINISTRATIVE SEGREGATION FOR MORE THAN 15 DAYS IN A 365-DAY PERIOD.

2 (2) (I) AN INCARCERATED INDIVIDUAL MAY NOT BE PLACED IN
3 RESTRICTIVE HOUSING FOR MORE THAN 3 CONSECUTIVE DAYS UNLESS THE
4 COMMISSIONER OF CORRECTION OR THE COMMISSIONER'S DESIGNEE ISSUES A
5 WRITTEN DECISION, FOLLOWING AN EVIDENTIARY HEARING, THAT STATES BASED
6 ON SPECIFIC OBJECTIVE CRITERIA THAT:

7 1. THE INCARCERATED INDIVIDUAL:

8 A. COMMITTED AN ACT CAUSING SERIOUS INJURY TO OR
9 DEATH OF ANOTHER;

10 B. COMMITTED SEXUAL ASSAULT;

11 C. COMMITTED EXTORTION;

12 D. COERCED OR ATTEMPTED TO COERCE ANOTHER TO
13 VIOLATE RULES OF THE FACILITY;

14 E. LED OR INCITED A RIOT; OR

15 F. PROCURED DEADLY WEAPONS OR OTHER
16 CONTRABAND THAT POSE A SERIOUS THREAT TO SECURITY; AND

17 2. THE ACT WAS SO HEINOUS OR DESTRUCTIVE THAT
18 PLACEMENT IN THE GENERAL POPULATION WOULD CREATE A SIGNIFICANT RISK OF
19 IMMINENT SERIOUS PHYSICAL INJURY.

20 (II) AN INCARCERATED INDIVIDUAL MAY NOT BE PLACED IN
21 RESTRICTIVE HOUSING FOR MORE THAN 60 DAYS IN A 365-DAY PERIOD.

22 (H) (1) AN INCARCERATED INDIVIDUAL WHO HAS BEEN FOUND GUILTY
23 OF AN INFRACTION THAT IS INCLUDED IN ANY INFRACTION CATEGORY OTHER THAN
24 THE MOST SERIOUS CATEGORY MAY NOT BE SUBJECT TO MORE THAN A VERBAL
25 WARNING FOR A FIRST INFRACTION.

26 (2) (I) AN INDIVIDUAL MAY BE SUBJECT TO DISCIPLINARY
27 SEGREGATION ONLY IF THE INDIVIDUAL IS FOUND GUILTY OF AN INFRACTION THAT
28 IS INCLUDED IN THE MOST SERIOUS INFRACTION CATEGORY.

29 (II) FOR A FIRST INFRACTION INCLUDED IN THE MOST SERIOUS
30 INFRACTION CATEGORY, AN INDIVIDUAL MAY NOT BE SUBJECT TO MORE THAN 15

1 DAYS OF DISCIPLINARY SEGREGATION EVERY 90 DAYS.

2 (III) FOR A SECOND INFRACTION INCLUDED IN THE MOST
3 SERIOUS INFRACTION CATEGORY, AN INDIVIDUAL MAY NOT BE SUBJECT TO MORE
4 THAN 30 DAYS OF DISCIPLINARY SEGREGATION EVERY 90 DAYS.

5 (IV) IF AN INDIVIDUAL WAS HELD IN ADMINISTRATIVE
6 SEGREGATION FOR AN INVESTIGATIVE, PROTECTIVE, OR PREVENTIVE REASON
7 DURING THE INVESTIGATION OF AN INFRACTION INCLUDED IN THE MOST SERIOUS
8 INFRACTION CATEGORY ALLEGEDLY COMMITTED BY THE INDIVIDUAL, THE
9 CUMULATIVE TIME THAT THE INDIVIDUAL MAY BE HELD IN BOTH ADMINISTRATIVE
10 AND DISCIPLINARY SEGREGATION MAY NOT EXCEED 15 DAYS FOR A FIRST
11 INFRACTION AND 30 DAYS FOR A SECOND INFRACTION.

12 (I) (1) AN INCARCERATED INDIVIDUAL IN RESTRICTIVE HOUSING SHALL
13 BE PROVIDED WITH WEEKLY COMPREHENSIVE PHYSICAL AND MENTAL HEALTH
14 ASSESSMENTS BY A MULTIDISCIPLINARY STAFF COMMITTEE CONSISTING OF:

15 (I) AT LEAST ONE LICENSED MENTAL HEALTH PROFESSIONAL;

16 (II) AT LEAST ONE MEDICAL PROFESSIONAL; AND

17 (III) AT LEAST ONE MEMBER OF THE MANAGEMENT OF THE
18 FACILITY.

19 (2) AN INCARCERATED INDIVIDUAL IN RESTRICTIVE HOUSING SHALL
20 BE PROVIDED WITH THE SAME SERVICES AND ACCESS THAT IS PROVIDED TO
21 INCARCERATED INDIVIDUALS NOT IN RESTRICTIVE HOUSING, INCLUDING:

22 (I) NO LIMITATIONS ON SERVICES, TREATMENTS, OR BASIC
23 NEEDS SUCH AS FOOD, CLOTHING, AND BEDDING;

24 (II) NO IMPOSITION OF ANY CHANGE IN DIET AS A FORM OF
25 PUNISHMENT;

26 (III) ACCESS TO CASE MANAGEMENT, CLERGY, AND MENTAL
27 HEALTH PROFESSIONALS; AND

28 (IV) MAXIMIZED ACCESS TO RECREATION, EDUCATION, READING
29 MATERIALS, AND PROGRAMMING.

30 (3) AN INCARCERATED INDIVIDUAL SHALL BE OFFERED
31 PROGRAMMING LED BY PROGRAM OR THERAPEUTIC STAFF COMPARABLE TO THE

1 PROGRAMMING OFFERED TO INCARCERATED INDIVIDUALS NOT IN RESTRICTIVE
2 HOUSING.

3 (4) (I) AN INCARCERATED INDIVIDUAL IN RESTRICTIVE HOUSING
4 SHALL BE OFFERED AT LEAST 4 HOURS OF OUT-OF-CELL PROGRAMMING PER DAY,
5 INCLUDING AT LEAST 1 HOUR FOR RECREATION.

6 (II) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF
7 THIS SUBPARAGRAPH, OUT-OF-CELL TIME MAY INCLUDE PEER-LED PROGRAMS,
8 TIME IN A DAY ROOM OR RECREATION AREA WITH OTHER INDIVIDUALS,
9 CONGREGATE MEALS, VOLUNTEER PROGRAMS, OR OTHER CONGREGATE
10 ACTIVITIES.

11 2. IF THE FACILITY ADMINISTRATOR OR MEDICAL OR
12 MENTAL HEALTH PROFESSIONAL DETERMINES THAT AN INDIVIDUAL POSES AN
13 EXTRAORDINARY AND UNACCEPTABLE RISK OF IMMINENT PHYSICAL HARM TO THE
14 SAFETY OR SECURITY OF OTHER INCARCERATED INDIVIDUALS OR STAFF, THE
15 FACILITY SHALL PROVIDE THE INDIVIDUAL WITH THE REQUIRED OUT-OF-CELL
16 TIME IN AN APPROPRIATE MANNER THAT PROVIDES ACCESS TO STAFF-BASED
17 PROGRAMMING AND CONTACT WITH PERSONS OTHER THAN CORRECTIONAL
18 FACILITY STAFF.

19 3. A FACILITY SHALL DOCUMENT ANY PROGRAM
20 RESTRICTIONS IT IMPOSES IN WRITING, INCLUDING THE BASIS FOR LIMITING
21 ACCESS TO CONGREGATE PROGRAMMING AND A DESCRIPTION OF WHY THE
22 INDIVIDUAL CURRENTLY POSES AN EXTRAORDINARY AND UNACCEPTABLE RISK OF
23 IMMINENT PHYSICAL HARM TO THE SAFETY OR SECURITY OF INCARCERATED
24 PERSONS OR STAFF AND PROVIDE A COPY TO THE INCARCERATED INDIVIDUAL.

25 (III) A FACILITY MAY NOT CONDUCT OUT-OF-CELL
26 PROGRAMMING OPPORTUNITIES IN A SMALLER CAGE OR THERAPY MODULE.

27 (IV) TIME SPENT ON HOUSEKEEPING OR IN PAID EMPLOYMENT
28 MAY NOT BE CONSIDERED OUT-OF-CELL PROGRAMMING.

29 (J) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
30 FACILITY SHALL CONDUCT AN EXTERNAL VISUAL CHECK ON AN INDIVIDUAL
31 INVOLUNTARILY PLACED IN RESTRICTIVE HOUSING AT LEAST TWICE PER SHIFT.

32 (2) IF AN INDIVIDUAL INVOLUNTARILY PLACED IN RESTRICTIVE
33 HOUSING IS DEMONSTRATING UNUSUAL BEHAVIOR OR HAS INDICATED SUICIDALITY
34 OR SELF-HARM, THE FACILITY SHALL MONITOR THE INDIVIDUAL EVERY 15
35 MINUTES, OR MORE FREQUENTLY IF RECOMMENDED BY A MEDICAL OR MENTAL

1 HEALTH PROFESSIONAL.

2 (3) AN INDIVIDUAL INVOLUNTARILY PLACED IN RESTRICTIVE
3 HOUSING SHALL BE ASSESSED BY A MEDICAL OR MENTAL HEALTH PROFESSIONAL
4 WITHIN 24 HOURS OF PLACEMENT AND BY A MENTAL HEALTH PROFESSIONAL EVERY
5 48 HOURS THEREAFTER.

6 (K) RESTRAINTS MAY NOT BE USED ON AN INCARCERATED INDIVIDUAL
7 PLACED IN RESTRICTIVE HOUSING, IN THE PROCESS OF BEING PLACED IN OR
8 RELEASED FROM RESTRICTIVE HOUSING, OR BEING MOVED OR TRANSPORTED TO
9 OR FROM RESTRICTIVE HOUSING FOR THE PURPOSES OF RECREATION, PROGRAMS,
10 OR OTHER SERVICES, UNLESS THE FACILITY HAS DOCUMENTED THAT SUCH
11 RESTRAINTS ARE REQUIRED DUE TO AN EXTRAORDINARY AND UNACCEPTABLE RISK
12 OF IMMINENT PHYSICAL HARM TO THE SAFETY OR SECURITY OF INCARCERATED
13 INDIVIDUALS OR STAFF.

14 (L) (1) AN INCARCERATED INDIVIDUAL MAY BE PLACED IN SEGREGATED
15 HOUSING FOR MEDICAL PURPOSES, SUBJECT TO THE FOLLOWING LIMITATIONS:

16 (I) THE INDIVIDUAL IS KEPT IN THE SEGREGATED HOUSING
17 FOR THE SHORTEST AMOUNT OF TIME REQUIRED TO REDUCE THE RISK OF
18 INFECTION;

19 (II) THE PLACEMENT IS IN ACCORDANCE WITH STATE AND
20 FEDERAL PUBLIC HEALTH GUIDANCE; AND

21 (III) A LICENSED PHYSICIAN OR NURSE PRACTITIONER HAS
22 PROVIDED WRITTEN APPROVAL OF THE PLACEMENT.

23 (2) AN INCARCERATED INDIVIDUAL PLACED IN SEGREGATED
24 HOUSING FOR MEDICAL PURPOSES SHALL BE ALLOWED TO PARTICIPATE IN
25 PROGRAMS AND SERVICES, SUBJECT TO CONSIDERATIONS OF THE HEALTH AND
26 SECURITY OF THE INDIVIDUAL, OTHER INCARCERATED INDIVIDUALS, FACILITY
27 STAFF, VISITORS, AND THE PUBLIC.

28 (M) (1) IF AN INCARCERATED INDIVIDUAL FEARS FOR THE INDIVIDUAL'S
29 SAFETY, THE FACILITY SHALL TRANSFER THE INDIVIDUAL TO MORE APPROPRIATE
30 HOUSING OTHER THAN RESTRICTIVE HOUSING, INCLUDING A SINGLE CELL, A
31 DIFFERENT SECTION OF THE FACILITY, OR A SENSITIVE NEEDS YARD.

32 (2) AN INDIVIDUAL PLACED IN ALTERNATIVE HOUSING UNDER
33 PARAGRAPH (1) OF THIS SUBSECTION SHALL BE GRANTED FULL ACCESS TO
34 OUT-OF-CELL TIME, PROGRAMMING, AND OTHER SERVICES AVAILABLE TO THE

1 REST OF THE DETAINED POPULATION.

2 (N) THE DECISION TO REMOVE ANY PERSONAL ITEMS FROM AN
3 INCARCERATED INDIVIDUAL PLACED IN RESTRICTIVE HOUSING OR RESTRICT THE
4 INDIVIDUAL'S ACCESS TO PROGRAMS OR SERVICES WHILE IN RESTRICTIVE HOUSING
5 SHALL BE MADE BY THE MANAGING OFFICIAL OR DESIGNEE OF THE MANAGING
6 OFFICIAL BEFORE THE INCARCERATED INDIVIDUAL'S MOVE TO RESTRICTIVE
7 HOUSING OR AS SOON AS POSSIBLE AFTER.

8 (O) PLACEMENT OF AN INCARCERATED INDIVIDUAL IN ADMINISTRATIVE
9 SEGREGATION OR PROTECTIVE CUSTODY MAY NOT BE NOTED IN THE
10 INCARCERATED INDIVIDUAL'S BASE FILE OR INSTITUTIONAL RECORD IF THE
11 NOTATION WOULD SERVE TO INTERRUPT THE INCARCERATED INDIVIDUAL'S
12 PROGRAMMING ELIGIBILITY, PAROLE CONSIDERATIONS, SECURITY STATUS
13 CHANGES, OR OTHER OPPORTUNITIES.

14 (P) (1) EACH CORRECTIONAL FACILITY SHALL CREATE A MONTHLY
15 REPORT STATING THE TOTAL NUMBER OF INDIVIDUALS HELD IN RESTRICTIVE
16 HOUSING IN THE PRECEDING MONTH, THE LENGTH OF TIME THOSE INDIVIDUALS
17 HAVE BEEN HELD IN RESTRICTIVE HOUSING, AND DEMOGRAPHIC INFORMATION
18 FOR THOSE INDIVIDUALS, INCLUDING AGE, RACE, AND GENDER.

19 (2) A CORRECTIONAL FACILITY SHALL POST THE REPORTS
20 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE CORRECTIONAL
21 FACILITY'S WEBSITE.

22 (Q) ON OR BEFORE DECEMBER 1 EACH YEAR, THE DEPARTMENT SHALL
23 REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE
24 STATE GOVERNMENT ARTICLE, ON THE STEPS THE DEPARTMENT HAS TAKEN TO:

25 (1) IMPROVE THE CONDITIONS OF CONFINEMENT IN RESTRICTIVE
26 HOUSING BY ALLOWING OPPORTUNITIES FOR OUT-OF-CELL TIME AND
27 CONGREGATE ACTIVITY, PROVIDING INCARCERATED INDIVIDUALS IN RESTRICTIVE
28 HOUSING DAILY OUTDOOR RECREATION TIME, AND CREATING MORE
29 OPPORTUNITIES FOR PRODUCTIVE IN-CELL ACTIVITIES;

30 (2) LIMIT THE NUMBER OF VIOLATIONS THAT ARE ELIGIBLE FOR
31 DISCIPLINARY SANCTIONS;

32 (3) ELIMINATE RESTRICTIVE HOUSING SANCTIONS FOR MINOR
33 VIOLATIONS;

34 (4) CREATE DE-ESCALATION SPACES AND ESTABLISH A SYSTEM THAT

1 **ALLOWS INCARCERATED INDIVIDUALS IN RESTRICTIVE HOUSING TO ACCESS THOSE**
2 **SPACES FOR MEANINGFUL PERIODS OF TIME;**

3 **(5) CREATE, IN COORDINATION WITH EACH INCARCERATED**
4 **INDIVIDUAL ENTERING RESTRICTIVE HOUSING, STRATEGIES DESIGNED TO RETURN**
5 **THE INDIVIDUAL TO THE GENERAL POPULATION IN THE LEAST AMOUNT OF TIME;**
6 **AND**

7 **(6) AMEND POLICIES TO SPECIFY THAT DISCIPLINARY SEGREGATION**
8 **IS A SANCTION OF LAST RESORT.**

9 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
10 effect January 1, 2024.

11 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section
12 3 of this Act, this Act shall take effect October 1, 2023.