

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 855
Judiciary

(Delegates Bartlett and J. Lewis)

Juvenile Law - Restrictive Housing - Limitations

This bill limits the circumstances under which a minor may be placed in restrictive housing within a facility operated by a correctional unit. The bill alters the criteria for these placements, the duration of these placements, and services a minor must receive while in restrictive housing. The bill establishes procedures a facility must follow when a minor's placement in restrictive housing expires.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations.

Local Effect: The bill is not expected to materially affect local government finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: The bill prohibits a minor from being placed in restrictive housing solely for the purposes of discipline, punishment, administrative convenience, retaliation, or staffing shortages. A minor may be placed in restrictive housing as a temporary measure if:

- the managing official of the facility finds by clear and convincing evidence that there is an immediate and substantial risk (1) of physical harm to the minor, other incarcerated individuals, or staff or (2) to the security of the facility;
- there are no other reasonable means to eliminate the risk;

- restrictive housing is used only to the extent necessary to eliminate the identified risk;
- restrictive housing occurs under the least restrictive conditions practicable and consistent with the rationale for the minor's placement in restrictive housing;
- facility staff promptly notifies the minor of the rationale for the minor's placement in restrictive housing; and
- facility staff develops a plan that will allow the minor to leave restrictive housing and return to the general population as soon as possible.

A health care or mental health care provider must conduct a mental health screening of a minor placed in restrictive housing within one hour of the minor's placement. Following this mental health screening, the correctional facility must provide the minor with any necessary mental health services.

A minor placed in restrictive housing must be housed in restrictive housing for the shortest amount of time necessary, not to exceed six hours. At the end of this time, a correctional facility must (1) return the minor to the general population; (2) transport the minor to a mental health facility if recommended by a mental health professional; (3) transfer the minor to the medical unit in the facility; or (4) provide special individualized programming outside of restrictive housing, as specified.

A minor may be placed in restrictive housing at the minor's request. A minor may revoke their request at any time; if the minor revokes their request, they must be immediately returned to the general population.

A minor placed in restrictive housing must be provided the same standard of access that is provided to incarcerated individuals not in restrictive housing to specified items (*e.g.*, phone calls, visits, food, showers, and sanitary supplies) and medical care, mental health care, and dental health care. Unless it would pose a risk of physical harm to the minor or another, the minor must also have maximized access to recreation, education, and programming. If any of these privileges or conditions is not provided to the minor, the managing official or the managing official's designee must record the reason in the minor's file.

Definitions

The bill does not alter any relevant statutory definitions, which are discussed below in the Current Law section of this fiscal and policy note.

Current Law:

Placement of Minors in Restrictive Housing

A minor may not be placed in restrictive housing unless the managing official of the facility finds by clear and convincing evidence that there is an immediate and substantial risk (1) of physical harm to the minor, other incarcerated individuals, or staff or (2) to the security of the facility.

A minor placed in restrictive housing must be provided:

- daily physical and mental health assessments to determine whether the minor may be released from restrictive housing;
- the same standard of access that is provided to incarcerated individuals not in restrictive housing to specified items (*e.g.*, phone calls, visits, food, showers, and sanitary supplies) and medical care, mental health care, and dental health care; and
- unless it would pose a risk of physical harm to the minor or another, maximized access to recreation, education, and programming.

If any of these privileges or conditions is not provided to the minor, the managing official or the managing official's designee must record the reason in the minor's file.

Definitions

A "correctional unit" means a unit of the State or local government that is directly responsible for the care, custody, and control of individuals committed to the custody of the unit for the commission or alleged commission of a crime or an act that would be a crime if committed by an adult. "Correctional unit" includes (1) the Department of Public Safety and Correctional Services (DPSCS); (2) the Department of Juvenile Services (DJS); and (3) offices of a county sheriff or a local government unit responsible for operating a local correctional facility or county detention center.

"Restrictive housing" means a form of physical separation that has not been requested by the incarcerated individual in which the incarcerated individual is placed in a locked room or cell for approximately 22 hours or more out of a 24-hour period. Restrictive housing includes administrative segregation and disciplinary segregation.

"Administrative segregation" means a form of physical separation of an inmate from the general population determined by the classification process or authorized personnel when the continued presence of an inmate in the general population would pose a serious threat to (1) life; (2) property; (3) self; (4) staff or other inmates; (5) the security or orderly functioning of the facility; or (6) the well-being of society.

“Disciplinary detention” means a form of physical separation in which an inmate found guilty at a disciplinary hearing is confined apart from the general population for a designated period of time.

State Expenditures: DPSCS advises that the bill will have no fiscal or operational impact on the department and Division of Pretrial, Detention and Services (DPDS). The Youth Detention (YDC), overseen by DPDS, does not have a restrictive housing unit and does not utilize restrictive housing for the juveniles housed at YDC. Instead, DPDS utilizes a Behavior Modification Housing Program. Juveniles are not removed from their cells for program implementation.

DJS can implement the bill with existing budgeted resources.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Baltimore, Frederick, and Montgomery counties; Governor’s Office of Crime Prevention and Policy; Judiciary (Administrative Office of the Courts); Department of Juvenile Services; Department of Public Safety and Correctional Services; Department of Legislative Services

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