

SENATE BILL 702

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CF HB 647

By: **Senators Love, Benson, Hettleman, and Muse**

Introduced and read first time: January 26, 2025

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services – Restrictive Housing**

3 FOR the purpose of altering a certain definition of restrictive housing; limiting the amount
4 of time that an individual may be placed in restrictive housing; requiring all
5 restrictive housing units to create the least restrictive environment necessary for
6 certain purposes; prohibiting the placement of a certain member of a vulnerable
7 population in restrictive housing for any period of time; requiring the Correctional
8 Ombudsman to review the status of the implementation of this Act at certain times
9 and to include a summary of the results of those reviews in certain annual reports;
10 and generally relating to restrictive housing.

11 BY repealing and reenacting, without amendments,
12 Article – Correctional Services
13 Section 9–601.1 and 9–614.1
14 Annotated Code of Maryland
15 (2017 Replacement Volume and 2024 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Correctional Services
18 Section 9–614(a)
19 Annotated Code of Maryland
20 (2017 Replacement Volume and 2024 Supplement)

21 BY adding to
22 Article – Correctional Services
23 Section 10–1001 through 10–1003 to be under the new subtitle “Subtitle 10.
24 Restrictive Housing”
25 Annotated Code of Maryland
26 (2017 Replacement Volume and 2024 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Correctional Services**

4 9–601.1.

5 (a) In this section, “restrictive housing” has the meaning stated in § 9–614 of this
6 subtitle.

7 (b) Except as provided in this section, a pregnant incarcerated individual may not
8 be involuntarily placed in restrictive housing, including involuntary medical isolation or
9 infirmary.

10 (c) (1) A pregnant incarcerated individual may be involuntarily placed in
11 restrictive housing if the managing official of the correctional facility, in consultation with
12 the person overseeing women’s health and services in the facility, makes an individualized
13 and written determination that restrictive housing is required as a temporary response to:

14 (i) behavior that poses:

15 1. a serious and immediate risk of physical harm to the
16 incarcerated individual or another; or

17 2. an immediate and credible flight risk that cannot be
18 reasonably prevented by other means; or

19 (ii) a situation that poses a risk of spreading a communicable disease
20 that cannot be reasonably mitigated by other means.

21 (2) A managing official who makes a determination described in paragraph
22 (1) of this subsection shall document the reason why other less restrictive housing is not
23 possible.

24 (3) The determination described in paragraph (1) of this subsection shall
25 be reviewed and affirmed at least every 24 hours in writing with a copy provided to the
26 incarcerated individual.

27 (d) An individual placed in restrictive housing under this section shall be:

28 (1) medically assessed every 8 hours;

29 (2) housed only in the least restrictive setting consistent with the health
30 and safety of the individual; and

31 (3) given an intensive treatment plan developed and approved by the
32 person overseeing women’s health and services in the facility.

1 (e) (1) A pregnant incarcerated individual who is deemed to need infirmary
2 care shall be admitted to the infirmary on order of a primary care nurse practitioner or
3 obstetrician.

4 (2) If the incarcerated individual is overdue in the pregnancy, the
5 incarcerated individual shall be housed in the infirmary as an admitted patient until labor
6 begins or until the obstetrical consultant has made other housing and care
7 recommendations.

8 (3) A pregnant incarcerated individual who has been placed in the
9 infirmary shall be provided:

10 (i) access to regular outside recreation consistent with the general
11 population;

12 (ii) access to visits, mail, and telephone consistent with general
13 population privileges; and

14 (iii) the ability to continue to participate in work detail,
15 programming, and classes.

16 (f) (1) Within 48 hours after confirmation by a health care professional that
17 an incarcerated individual is pregnant, the incarcerated individual shall be notified in
18 writing of the restrictions on a pregnant incarcerated individual being placed in restrictive
19 housing provided in this section.

20 (2) The Secretary shall establish a process through which an incarcerated
21 individual may report a violation of this section.

22 (g) The managing official of a correctional facility who authorized the placement
23 of a pregnant incarcerated individual in restrictive housing shall submit within 30 days of
24 the placement a report in writing to the Commissioner of Correction, the Commissioner of
25 Pretrial Detention and Services, and the person overseeing women's health and services in
26 the facility that describes the facts and circumstances surrounding the placement,
27 including:

28 (1) the reasoning for the determination to place the incarcerated individual
29 in restrictive housing;

30 (2) details of the placement, including the names of those who conducted
31 medical assessments of the incarcerated individual, dates and times of placement, and the
32 date, if applicable, the incarcerated individual was released from restrictive housing; and

33 (3) any physical or mental effects on the incarcerated individual or fetus
34 resulting from the placement observed or reported by the person overseeing women's health
35 and services in the facility.

1 9–614.

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

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

4 (3) (i) “Restrictive housing” means a form of physical separation that
5 has not been requested by the incarcerated individual in which the incarcerated individual
6 is placed in a locked room or cell for [approximately 22] 17 hours or more out of a 24–hour
7 period **OTHER THAN:**

8 **1. DURING A FACILITY–WIDE EMERGENCY; OR**

9 **2. FOR THE PURPOSE OF PROVIDING MEDICAL OR**
10 **MENTAL HEALTH TREATMENT WITHIN A CLINICAL AREA OF THE FACILITY.**

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

13 9–614.1.

14 (a) In this section, “restrictive housing” has the meaning stated in § 9–614 of this
15 subtitle.

16 (b) This section applies to a facility operated by a correctional unit, as defined in
17 § 2–401 of this article.

18 (c) A minor may not be placed in restrictive housing unless the managing official
19 of the facility finds by clear and convincing evidence that there is an immediate and
20 substantial risk:

21 (1) of physical harm to the minor, other incarcerated individuals, or staff;
22 or

23 (2) to the security of the facility.

24 (d) A minor placed in restrictive housing shall be provided:

25 (1) daily physical and mental health assessments to determine whether the
26 minor may be released from restrictive housing;

27 (2) the same standard of access that is provided to incarcerated individuals
28 not in restrictive housing to:

29 (i) phone calls;

- 1 (ii) visits;
- 2 (iii) mail;
- 3 (iv) food;
- 4 (v) water;
- 5 (vi) showers;
- 6 (vii) sanitary supplies;
- 7 (viii) property, including clothing and bedding; and
- 8 (ix) medical, mental, and dental health care; and

9 (3) unless it would pose a risk of physical harm to the minor or another,
10 maximized access to recreation, education, and programming.

11 (e) If a privilege or condition described in subsection (d) of this section is not
12 provided to the minor, the managing official or the managing official's designee shall record
13 the reason in the minor's file.

14 **SUBTITLE 10. RESTRICTIVE HOUSING.**

15 **10-1001.**

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (B) "MEMBER OF A VULNERABLE POPULATION" MEANS AN INCARCERATED
19 INDIVIDUAL WHO:

20 (1) IS 21 YEARS OLD OR YOUNGER;

21 (2) IS AT LEAST 55 YEARS OLD;

22 (3) HAS A DISABILITY BASED ON A MENTAL ILLNESS, HAS A HISTORY
23 OF PSYCHIATRIC HOSPITALIZATION, OR HAS RECENTLY EXHIBITED CONDUCT,
24 INCLUDING SERIOUS SELF-MUTILATION, INDICATING THE NEED FOR FURTHER
25 OBSERVATION OR EVALUATION TO DETERMINE THE PRESENCE OF SERIOUS MENTAL
26 ILLNESS;

27 (4) HAS A DEVELOPMENTAL DISABILITY;

1 **(5) HAS A SERIOUS MEDICAL CONDITION THAT CANNOT EFFECTIVELY**
2 **BE TREATED IN RESTRICTIVE HOUSING;**

3 **(6) IS PREGNANT, IS FEWER THAN 45 DAYS POSTPARTUM, IS CARING**
4 **FOR A CHILD IN THE FACILITY UNDER § 9-601(I) OF THIS ARTICLE, OR HAS**
5 **RECENTLY SUFFERED A MISCARRIAGE OR TERMINATED A PREGNANCY;**

6 **(7) HAS A SIGNIFICANT AUDITORY OR VISUAL IMPAIRMENT; OR**

7 **(8) IS PERCEIVED TO BE LESBIAN, GAY, BISEXUAL, TRANSGENDER, OR**
8 **INTERSEX.**

9 **(C) "PROHIBITED ACT" INCLUDES:**

10 **(1) CAUSING OR ATTEMPTING TO CAUSE SERIOUS PHYSICAL INJURY**
11 **TO OR THE DEATH OF ANOTHER PERSON;**

12 **(2) MAKING AN IMMINENT THREAT OF SERIOUS PHYSICAL INJURY OR**
13 **DEATH TO ANOTHER PERSON WHEN:**

14 **(I) THE INDIVIDUAL MAKING THE THREAT HAS A HISTORY OF**
15 **CAUSING PHYSICAL INJURY OR DEATH; AND**

16 **(II) THE COMMISSIONER OF CORRECTION REASONABLY**
17 **DETERMINES THAT THERE IS A STRONG LIKELIHOOD THAT THE PERSON WILL CARRY**
18 **OUT A THREAT OF SERIOUS PHYSICAL INJURY OR DEATH;**

19 **(3) COMPELLING OR ATTEMPTING TO COMPEL ANOTHER PERSON, BY**
20 **FORCE OR THREAT OF FORCE, TO ENGAGE IN A SEXUAL ACT;**

21 **(4) EXTORTING ANOTHER, BY FORCE OR THREAT OF FORCE, FOR**
22 **PROPERTY OR MONEY;**

23 **(5) COERCING ANOTHER, BY FORCE OR THREAT OF FORCE, TO**
24 **VIOLATE A RULE;**

25 **(6) LEADING, ORGANIZING, INCITING, OR ATTEMPTING TO CAUSE A**
26 **RIOT, AN INSURRECTION, OR ANY OTHER SIMILARLY SERIOUS DISTURBANCE THAT**
27 **RESULTS IN THE TAKING OF A HOSTAGE, MAJOR PROPERTY DAMAGE, OR PHYSICAL**
28 **HARM TO ANOTHER PERSON;**

1 **(7) PROCURING DEADLY WEAPONS OR OTHER DANGEROUS**
2 **CONTRABAND THAT POSE A SERIOUS THREAT TO THE SECURITY OF THE**
3 **INSTITUTION; AND**

4 **(8) ESCAPING, ATTEMPTING TO ESCAPE, OR FACILITATING AN**
5 **ESCAPE FROM A CORRECTIONAL FACILITY OR ESCAPING OR ATTEMPTING TO**
6 **ESCAPE WHILE UNDER SUPERVISION OUTSIDE A CORRECTIONAL FACILITY.**

7 **(D) “RESTRICTIVE HOUSING” HAS THE MEANING STATED IN § 9–614 OF THIS**
8 **ARTICLE.**

9 **10–1002.**

10 **(A) (1) AN INDIVIDUAL MAY NOT BE KEPT IN RESTRICTIVE HOUSING FOR:**

11 **(I) LONGER THAN IS NECESSARY;**

12 **(II) LONGER THAN 15 CONSECUTIVE DAYS; AND**

13 **(III) MORE THAN 20 TOTAL DAYS IN ANY 60–DAY PERIOD.**

14 **(2) IF PLACEMENT OF AN INDIVIDUAL IN RESTRICTIVE HOUSING**
15 **WOULD VIOLATE PARAGRAPH (1)(III) OF THIS SUBSECTION, BUT THE DEPARTMENT**
16 **HAS FOUND THAT THE INDIVIDUAL HAS COMMITTED A PROHIBITED ACT, THE**
17 **DEPARTMENT MAY PLACE THE INDIVIDUAL IN RESTRICTIVE HOUSING UNTIL THE**
18 **INDIVIDUAL CAN BE PLACED IN A RESIDENTIAL MENTAL HEALTH UNIT OR FOR 48**
19 **HOURS, WHICHEVER IS OF SHORTER DURATION.**

20 **(B) ALL RESTRICTIVE HOUSING UNITS SHALL CREATE THE LEAST**
21 **RESTRICTIVE ENVIRONMENT NECESSARY FOR THE SAFETY OF ALL INCARCERATED**
22 **INDIVIDUALS AND STAFF AND FOR THE SECURITY OF THE FACILITY.**

23 **10–1003.**

24 **NOTWITHSTANDING THE PROVISIONS OF §§ 9–601.1 AND 9–614.1 OF THIS**
25 **ARTICLE, A MEMBER OF A VULNERABLE POPULATION MAY NOT BE PLACED IN**
26 **RESTRICTIVE HOUSING FOR ANY PERIOD OF TIME.**

27 **SECTION 2. AND BE IT FURTHER ENACTED, That:**

28 **(a) On or before October 1, 2027, and October 1, 2029, the Correctional**
29 **Ombudsman shall review the status of the implementation of this Act.**

1 (b) In conducting the reviews required under subsection (a) of this section, the
2 Correctional Ombudsman may:

3 (1) make unannounced visits to correctional facilities;

4 (2) review daily logs; and

5 (3) administer anonymous surveys.

6 (c) The Correctional Ombudsman shall include a summary of the results of the
7 reviews required under subsection (a) of this section in the annual reports required under
8 § 9–4006 of the State Government Article to be submitted on or before December 31, 2027,
9 and December 31, 2029, respectively.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2025.