

SENATE BILL 827

E3, E4

5lr3347
CF 5lr2437

By: **Senators Love, Benson, Hettleman, and Muse**
Introduced and read first time: January 28, 2025
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law – Confinement and Restrictive Housing – Limitations**

3 FOR the purpose of limiting the circumstances under which an incarcerated minor may be
4 involuntarily placed in restrictive housing; authorizing a correctional facility to place
5 a minor in restrictive housing at the minor's request; establishing certain
6 requirements for detaining, confining, or transporting a child; requiring the
7 Department of Juvenile Services to notify a sentencing court within a certain period
8 of time of a child reaching 18 years of age and requiring the sentencing court to hold
9 a hearing and enter an order transferring the child to certain other facilities on the
10 child reaching a certain age; and generally relating to the placement of minors in
11 restrictive housing and the confinement of juveniles.

12 BY repealing and reenacting, with amendments,
13 Article – Correctional Services
14 Section 9–614.1
15 Annotated Code of Maryland
16 (2017 Replacement Volume and 2024 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Courts and Judicial Proceedings
19 Section 3–8A–16
20 Annotated Code of Maryland
21 (2020 Replacement Volume and 2024 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Criminal Procedure
24 Section 4–202(h)
25 Annotated Code of Maryland
26 (2018 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 9–614.1.

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

7 (b) This section applies to a facility operated by a correctional unit, as defined in
8 § 2–401 of this article.

9 (c) **A MINOR MAY NOT BE PLACED IN RESTRICTIVE HOUSING SOLELY FOR**
10 **THE PURPOSES OF DISCIPLINE, PUNISHMENT, ADMINISTRATIVE CONVENIENCE,**
11 **RETALIATION, OR STAFFING SHORTAGES.**

12 (D) (1) A minor may [not] be placed in restrictive housing [unless] **AS A**
13 **TEMPORARY MEASURE IF:**

14 (I) the managing official of the facility finds by clear and convincing
15 evidence that there is an immediate and substantial risk:

16 [(1)] 1. of physical harm to the minor, other incarcerated
17 individuals, or staff; or

18 [(2)] 2. to the security of the facility;

19 (II) **THERE ARE NO OTHER REASONABLE MEANS TO ELIMINATE**
20 **THE RISK;**

21 (III) **RESTRICTIVE HOUSING IS USED ONLY TO THE EXTENT**
22 **NECESSARY TO ELIMINATE THE IDENTIFIED RISK;**

23 (IV) **RESTRICTIVE HOUSING OCCURS UNDER THE LEAST**
24 **RESTRICTIVE CONDITIONS PRACTICABLE AND CONSISTENT WITH THE RATIONALE**
25 **FOR THE MINOR’S PLACEMENT IN RESTRICTIVE HOUSING;**

26 (V) **FACILITY STAFF PROMPTLY NOTIFIES THE MINOR OF THE**
27 **RATIONALE FOR THE MINOR’S PLACEMENT IN RESTRICTIVE HOUSING; AND**

28 (VI) **FACILITY STAFF DEVELOPS A PLAN THAT WILL ALLOW THE**
29 **MINOR TO LEAVE RESTRICTIVE HOUSING AND RETURN TO THE GENERAL**
30 **POPULATION AS SOON AS POSSIBLE.**

1 **(2) (I) A HEALTH CARE OR MENTAL HEALTH CARE PROVIDER**
2 **SHALL CONDUCT A MENTAL HEALTH SCREENING OF A MINOR PLACED IN**
3 **RESTRICTIVE HOUSING UNDER THIS SUBSECTION WITHIN 1 HOUR OF THE MINOR'S**
4 **PLACEMENT.**

5 **(II) FOLLOWING THE MENTAL HEALTH SCREENING CONDUCTED**
6 **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE CORRECTIONAL FACILITY**
7 **SHALL PROVIDE THE MINOR WITH ANY NECESSARY MENTAL HEALTH SERVICES.**

8 **(3) A MINOR PLACED IN RESTRICTIVE HOUSING UNDER THIS**
9 **SUBSECTION SHALL BE HOUSED IN RESTRICTIVE HOUSING FOR THE SHORTEST**
10 **AMOUNT OF TIME NECESSARY, NOT TO EXCEED 6 HOURS.**

11 **(4) AT THE END OF THE TIME PERIOD DESCRIBED UNDER**
12 **PARAGRAPH (3) OF THIS SUBSECTION, A CORRECTIONAL FACILITY SHALL:**

13 **(I) RETURN THE MINOR TO THE GENERAL POPULATION;**

14 **(II) TRANSPORT THE MINOR TO A MENTAL HEALTH FACILITY IF**
15 **RECOMMENDED BY A MENTAL HEALTH PROFESSIONAL;**

16 **(III) TRANSFER THE MINOR TO THE MEDICAL UNIT IN THE**
17 **FACILITY; OR**

18 **(IV) PROVIDE SPECIAL INDIVIDUALIZED PROGRAMMING**
19 **OUTSIDE OF RESTRICTIVE HOUSING THAT MAY INCLUDE:**

20 **1. IN-PERSON SUPERVISION BY AND INTERACTION WITH**
21 **STAFF MEMBERS;**

22 **2. IN-PERSON PROVISION OF EDUCATIONAL SERVICES;**

23 **3. INVOLVEMENT OF THE MINOR IN OTHER ASPECTS OF**
24 **THE FACILITY'S PROGRAMMING, UNLESS THE INVOLVEMENT THREATENS THE**
25 **SAFETY OF THE MINOR OR STAFF OR THE SECURITY OF THE FACILITY;**

26 **4. DEVELOPMENT OF AN INDIVIDUALIZED PLAN TO**
27 **IMPROVE THE MINOR'S BEHAVIOR, CREATED IN CONSULTATION WITH THE MINOR,**
28 **MENTAL HEALTH CARE OR HEALTH CARE STAFF, AND THE MINOR'S FAMILY**
29 **MEMBERS, THAT IDENTIFIES THE CAUSES AND PURPOSES OF THE NEGATIVE**
30 **BEHAVIOR AND ESTABLISHES CONCRETE GOALS THAT THE MINOR CAN WORK**
31 **TOWARD IN ORDER TO BE REMOVED FROM SPECIAL PROGRAMMING; AND**

1 **5. DAILY REVIEW WITH THE MINOR OF THE MINOR'S**
 2 **PROGRESS TOWARD GOALS OUTLINED IN THE INDIVIDUALIZED PLAN.**

3 **(E) (1) A MINOR MAY BE PLACED IN RESTRICTIVE HOUSING AT THE**
 4 **MINOR'S REQUEST.**

5 **(2) A MINOR PLACED IN RESTRICTIVE HOUSING UNDER THIS**
 6 **SUBSECTION MAY REVOKE A REQUEST TO BE PLACED IN RESTRICTIVE HOUSING AT**
 7 **ANY TIME AND, IF REVOKED, THE MINOR SHALL BE IMMEDIATELY RETURNED TO THE**
 8 **GENERAL POPULATION.**

9 **[(d)] (F)** A minor placed in restrictive housing shall be provided:

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

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

14 (i) phone calls;

15 (ii) visits;

16 (iii) mail;

17 (iv) food;

18 (v) water;

19 (vi) showers;

20 (vii) sanitary supplies;

21 (viii) property, including clothing and bedding; and

22 (ix) medical, mental, and dental health care; and

23 **[(3)] (2)** unless it would pose a risk of physical harm to the minor or
 24 another, maximized access to recreation, education, and programming.

25 **[(e)] (G)** If a privilege or condition described in subsection **[(d)] (F)** of this section
 26 is not provided to the minor, the managing official or the managing official's designee shall
 27 record the reason in the minor's file.

1 3-8A-16.

2 [(a) The official in charge of a jail or other facility for the detention of adult
3 offenders or persons charged with crime shall inform the court or the intake officer
4 immediately when a person, who is or appears to be under the age of 18 years, is received
5 at the facility and shall deliver him to the court upon request or transfer him to the facility
6 designated by the intake officer or the court, unless the court has waived its jurisdiction
7 with respect to the person and he is being proceeded against as an adult.

8 (b) When a case is transferred to another court for criminal prosecution, the child
9 shall promptly be transferred to the appropriate officer or adult detention facility in
10 accordance with the law governing the detention of persons charged with crime.]

11 **(A) A CHILD, INCLUDING ONE SUBJECT TO ADULT CRIMINAL COURT**
12 **JURISDICTION, WHO HAS BEEN CONVICTED OF A CRIME OR IS AWAITING TRIAL ON**
13 **CRIMINAL CHARGES, MAY NOT BE DETAINED OR CONFINED IN ANY INSTITUTION IN**
14 **WHICH THE CHILD HAS CONTACT WITH OR COMES WITHIN SIGHT OR SOUND OF AN**
15 **INCARCERATED ADULT.**

16 **(B) A CHILD WHO HAS BEEN CONVICTED OF OR IS AWAITING TRIAL FOR AN**
17 **OFFENSE UNDER ADULT JURISDICTION MAY NOT BE HELD IN CUSTODY IN AN ADULT**
18 **CORRECTIONAL FACILITY.**

19 **(C) (1) THE DEPARTMENT SHALL NOTIFY THE SENTENCING COURT AND**
20 **THE STATE'S ATTORNEY WITHIN 180 DAYS, OR AS SOON AS OTHERWISE**
21 **PRACTICABLE, BEFORE A CHILD WHO IS IN THE CUSTODY OF THE DEPARTMENT**
22 **REACHES 18 YEARS OF AGE.**

23 **(2) ON THE SENTENCING COURT'S RECEIPT OF A NOTIFICATION**
24 **UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE SENTENCING COURT SHALL SET**
25 **THE MATTER FOR A HEARING BEFORE THE CHILD REACHES 18 YEARS OF AGE AND**
26 **SHALL ENTER AN ORDER TRANSFERRING THE CHILD, ON THE CHILD REACHING 18**
27 **YEARS OF AGE, TO AN ADULT CORRECTIONAL FACILITY, FACILITY FOR YOUTHFUL**
28 **OFFENDERS, IF APPLICABLE, OR ANY DISPOSITION THE COURT CONSIDERS**
29 **APPROPRIATE THAT DOES NOT VIOLATE THIS SECTION.**

30 **(3) THE SENTENCING COURT MAY NOT REMAND A PERSON WHO HAS**
31 **REACHED 18 YEARS OF AGE TO A JUVENILE FACILITY OR PLACE THE PERSON WITH**
32 **OTHER JUVENILES.**

33 **[(c)] (D) A child may not be transported together with adults who have been**
34 **charged with or convicted of a crime [unless the court has waived its jurisdiction and the**
35 **child is being proceeded against as an adult].**

Article – Criminal Procedure

1
2 4–202.

3 (h) [(1)] Pending a determination under this section to transfer its jurisdiction,
4 the court shall order the child to be held in a secure juvenile facility unless[:

5 (i) the child is released on bail, recognizance, or other conditions of
6 pretrial release[;

7 (ii) there is not available capacity in a secure juvenile facility, as
8 determined by the Department of Juvenile Services; or

9 (iii) the court finds that detention in a secure juvenile facility would
10 pose a risk of harm to the child or others.

11 (2) If the court makes a finding under paragraph (1)(iii) of this subsection
12 that detention in a secure juvenile facility would pose a risk of harm to the child or others,
13 the court shall state the reasons for the finding on the record].

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2025.