



## Department of Public Safety and Correctional Services

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**BILL: HOUSE BILL 740**

**POSITION: OPPOSITION**

**EXPLANATION:** This bill requires the Commissioner of Correction to provide inmates in restrictive housing with transitional processes, establish requirements of a transitional process, prohibit an inmate from being placed within restrictive housing within a certain number of days before release except under certain circumstances, requiring a certain inmate to receive a certain placement authorization, requiring an inmate to sign an acknowledgement of receipt, requiring the Commissioner to document certain actions, and requiring an inmate to receive a copy of a release plan and notification.

### COMMENTS:

- The Department's Division of Correction (DOC) operates approximately 17 State correctional facilities, which house offenders sentenced to incarceration for 18 months and longer. The Department also runs the Baltimore City Pretrial Complex, under the Division of Pretrial Detention and Services (DPDS), which houses pretrial detainees and inmates sentenced to incarceration for 18 months and less.
- For those inmates/detainees committed to the DPDS, it is the Commissioner of the DPDS that maintains said jurisdiction. The bill places onus with the Commissioner of Correction, who does not have authority for those inmates in DPDS.
- In January 2020, DPSCS signed a Memorandum of Understanding (MOU) with the American Correctional Association (ACA) to accredit all of our correctional facilities. Accreditation will require adherence to the newly released performance based standards manual, *Performance-Based Standards and Expected Practices for Adult Correctional Institutions* (5<sup>th</sup> ed.). This includes the newly created comprehensive best practices concerning restrictive housing developed as the result of five years of comprehensive national research and community input.
- Inmates who pose a direct and clear threat to the safety of individuals or a clear threat to the safe and secure operation of the facility are separated from general population and placed in restrictive housing units/cells for periods of time 22 hours per day or greater, a national practice recognized and defined by the ACA.

- ACA in their publication, *Performance-Based Standards and Expected Practices for Adult Correctional Institutions* (5<sup>th</sup> ed.), recommends a step down process for inmates who are returning to a general population from restrictive housing.
- The ACA recommendation for restrictive housing includes a multi-disciplinary approach to include:
  - Pre-screening evaluation,
  - Monthly evaluations using a multidisciplinary approach to determine the inmate's compliance with program requirements,
  - Utilization of monthly evaluations to gradually increase out-of-cell time, gradually increasing group interaction, gradually increasing education and programming opportunities, and gradually increasing privileges.
  - A step down review compliance review.
  - Post-screening evaluation.
- The Department begins Reentry Planning the moment the inmate enters a DOC facility; and within 180 days, the release process begins regardless of the inmate's housing status. The Department incorporates many of the best practices identified by the ACA.
- A comprehensive case plan is developed utilizing information from the assessment that was conducted at intake. The case plan is a tool used to identify each criminogenic factor the inmate may have as a stressor or risk that leads to criminal activity.
- The Department works to mitigate those stressors and risks through the establishment of an individualized case plan containing programmatic recommendations intended to address those needs including:
  - Substance abuse treatment,
  - Mental health counseling,
  - Cognitive behavioral programming,
  - Basic education,
  - College education,
  - Vocational training,
  - Employment readiness training,
  - Parenting,
  - Communication,
  - Financial literacy, and
  - Life skills.

- In the development of an inmate's individualized case plan, his or her case manager takes into account the time remaining to serve, the inmate's risk of recidivism, and the inmate's programmatic needs to shape the course of the inmate's incarceration, ensuring an inmate is granted access to needed resources prior to his or her scheduled release date.
- Additional reentry planning by way of the application for government entitlements and personal identification documents begins when an inmate is within 120 days of release including:
  - Applications for duplicate copies of birth certificates,
  - Social Security cards,
  - Official government issued MVA ID card, and
  - A DD214 for the veteran population.
- Inmates who were receiving Supplemental Security Income prior to being incarcerated through the Social Security Administration are provided assistance with reapplying for those benefits so they are restarted upon release.
- Case Management, Social Workers and Reentry and Transition Unit staff assist inmates who may be homeless with finding alternative housing options.
- Medical and mental health staff engage in reentry planning by way of the preparation of Continuity of Care documents and bridge orders to provide the inmate with a supply of any medication he or she may be taking upon release.
- Continuity of Care documents and bridge orders may also contain referrals to community healthcare providers for our inmate population diagnosed with various chronic conditions.
- The Department also has in place a local reentry initiative in collaboration with eight local jurisdictions for the transition of inmates under DOC custody to the local jurisdiction to which the inmate is returning. The Department is seeing to extend this reentry initiative throughout the State as it represents the best practices and national trends in successful reentry.
- HB 740 would require 180 days prior to direct release of an inmate into the community who have placed on restrictive housing be provided transitional programming. To provide both resocialization programming and regular mental health counseling as outlined in the bill, would require additional staffing, including social workers and professional counselors at an estimated cost of over \$3M. Additionally,

the Department would need employ the services of a consult to develop a resocialization program that includes appropriate security and safety protocols, delivery environment, and associated matrix at an estimated cost of \$250,000.

- HB 740 also will require that any inmate placed on restrictive housing within 180 days of release to the community be provided a release plan tailored to the specific needs of the inmate complete with notification of applicable and available services.
  - The normal flow of release would be for an individual to reach pre-release facility status. Restrictive housing does not occur within the prerelease system. All individuals in restricting housing would require housing in one of the 11 maintaining facilities. This will require a significant replication of services throughout the Department.
  - To comply with this provision would require additional resources and dedicated staff to provide comprehensive prerelease planning at an estimated cost of \$3M.
  - Additional correctional officers would also be required to escort to and from the restrictive housing, ensuring the safety and security of the staff, facility and the inmates. The estimated cost of \$6.5M.
- **Total costs to comply with the provisions of HB 740 are estimated at \$13.6M.**
- The Department must consider the safety of all inmates, employees, and citizens of the State when making decisions about restrictive housing. The decision to place an inmate in substantial resocialization programming in a group setting based on the inmate being in a direct release status and within a certain number of days prior to release undermines the operations of the Department.
- The Department's policies, practices, and procedures continue to change and evolve as science and evidence based national best practices change and improve over time. This bill would create a statutory mandate on an area in the criminal justice system that is similarly subject to change. It is imperative the Department's operations have the ability to remain nimble based on the ever-changing framework of the criminal justice arena.

**CONCLUSION:** The Department of Public Safety and Correctional Services respectfully requests an **UNFAVORABLE** vote from the Committee on House Bill 740.