



**Testimony for the House Judiciary Committee
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YANET AMANUEL
PUBLIC POLICY ADVOCATE

**HB 742 Corrections - Restrictive Housing - Serious Mental Illness -
Assessments**

FAVORABLE

AMERICAN CIVIL
LIBERTIES UNION
OF MARYLAND

MAIN OFFICE
& MAILING ADDRESS
3600 CLIPPER MILL ROAD
SUITE 350
BALTIMORE, MD 21211
T/410-889-8555
or 240-274-5295
F/410-366-7838

FIELD OFFICE
6930 CARROLL AVENUE
SUITE 610
TAKOMA PARK, MD 20912
T/240-274-5295

WWW.ACLU-MD.ORG

OFFICERS AND DIRECTORS
JOHN HENDERSON
PRESIDENT

DANA VICKERS SHELLEY
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

The ACLU of Maryland supports HB 742, which seeks to prohibit, with some exceptions, the confinement of seriously mentally ill prisoners in restrictive housing. The bill also stipulates that prisoners with mental health illnesses in restrictive housing will receive frequent monitoring of their mental health status and needs, including daily physical and mental health assessments to make sure their mental health does not worsen.

Maryland has years of data showing an overuse and misuse of restrictive housing

In 2010, DPSCS and the Vera Institute of Justice conducted a collaborative study that found that Maryland placed 8.5% of inmates in restrictive housing, compared with the national average of 4-5%.¹

In 2015, DPSCS reported to the Senate Judicial Proceedings Committee that Maryland's use of restrictive housing remained at about 8%.² The letter also revealed that the average length of stay in administrative segregation was 130 days. The average length of stay in disciplinary segregation was 124 days.³ Mentally ill inmates fared worse—they are placed in restrictive housing at a rate of 15.5% (twice that of the general population), and spend on average 228 days in administrative segregation and 224 days in disciplinary segregation.⁴ According to the U.N. Special Rapporteur on Torture, the mentally ill should never be placed in isolation.⁵

Overuse of restrictive housing is unsafe

Normal human contact is essential for ensuring successful re-entry and reducing recidivism rates. Prolonged isolation does not facilitate rehabilitation and can create or exacerbate pre-existing mental illnesses and other social,

¹ See attached excerpt of the Report of the Vera Institute of Justice—Segregation Reduction Project.

² Letter from Stephen T. Moyer, Secretary of the Department of Public Safety and Correctional Services to Hon. Bobby A. Zirkin, Re: Use of Segregated Confinement in Maryland's correctional facilities (dated Oct. 1, 2015).

³ *Id.*

⁴ *Id.*

⁵ Interim Report of the Special Rapporteur of the Human Rights Council on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. A/66/268 (August 5, 2011), par. 78.

mental and emotional problems. People held in restrictive housing are subject to conditions of extreme social and sensory deprivation. Deleterious effects of segregated confinement include perceptual distortions and hallucinations;⁶ revenge fantasies, rage, and irrational anger;⁷ and lower levels of brain function, including a decline in EEG activity after only seven days in solitary confinement.⁸ Significantly, people released directly from solitary confinement into the community have higher recidivism rates.⁹

Inmates with serious mental illness should be evaluated frequently so they can be properly cared for

The state is obligated to provide inmates with adequate medical care and failure to do so may amount to a constitutional violation under the Eighth Amendment to the U.S. Constitution. *Estelle v. Gamble*, 429 U.S. 97, 103 (1976). This is true regardless of the agency or personnel providing the care. *West v. Atkins*, 487 U.S. 42, 57-58 (1988); *Richardson v. McKnight*, 521 U.S. 399 (1997). Moreover, due to the harmful effects of solitary confinement—daily assessments of inmates with mental illnesses is critical. Serious delays in access to medical personnel can constitute an eighth amendment violation.¹⁰

For the forgoing reasons the ACLU of Maryland urges a favorable report on HB 742.

⁶Craig Haney, *Mental Health Issues in Long-Term Solitary and “Supermax” Confinement*, 49 CRIME & DELINQ. 124, 130 (2003); see generally Richard Korn, *The Effects of Confinement in the High Security Unit at Lexington*, 15 Soc. Just. 8 (1988).

⁷ Holly A. Miller & Glenn R. Young, *Prison Segregation: Administrative Detention Remedy or Mental health Problem?*, 7 CRIM. BEHAV. & MENTAL HEALTH 85, 91 (1997); see generally HANS TOCH, *MOAIC OF DESPAIR: HUMAN BREAKDOWN IN PRISON* (1992).

⁸ Paul Gendreau, N.L. Freedman, G.J.S. Wilde & G.D. Scott, *Changes in EEG Alpha Frequency and Evoked Response Latency During Solitary Confinement*, 79 J. OF ABNORMAL PSYCHOL. 54, 57-58 (1972).

⁹ See David Lovell, “Patterns of Disturbed Behavior in a Supermax Population,” *Criminal Justice and Behavior* 35 (2008): 9852; David Lovell, L. Clark Johnson, and Kevin C. Cain, “Recidivism of Supermax Prisoners in Washington State,” *CRIME AND DELINQUENCY* 53 (2007): 633-656; and David Lovell and Clark Johnson, “Felony and Violent Recidivism Among Supermax Inmates in Washington State: A Pilot Study” (University of Washington, 2004).

¹⁰ *Estelle v. Gamble*, 429 U.S. at 104; *Weyant v. Okst*, 101 F.3d 845, 856-57 (2nd Cir. 1996) (delay of hours in getting medical attention for diabetic in insulin shock); *Natale v. Camden County Correctional Facility*, 318 F.3d 575 (3rd Cir. 2003) (delay of 21 hours in providing insulin to diabetic); *Wallin v. Norman*, 317 F.3d 558 (6th Cir. 2003) (delay of one week in treating urinary tract infection, and one day in treating leg injury); *Murphy v. Walker*, 51 F.3d 714, 719 (7th Cir. 1995) (two-month delay in getting prisoner with head injury to a doctor).

