

Testimony-SB 977-Support-UULMMD - Google Docs.pdf

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Unitarian Universalist Legislative Ministry of Maryland

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Testimony in Support of SB 977 - Correctional Services -Step Down Programs – Cause of Action

TO: Senator William C. Smith, Chair and Members of the Judicial Proceedings Committee

FROM: Karen “Candy” Clark, Lead Advocate, Criminal Justice Reform
Unitarian Universalist Legislative Ministry of Maryland.

DATE: March 30, 2022

The Unitarian Universalist Legislative Ministry of Maryland (UULM-MD) asks for a favorable vote on SB 977 instead of its cross-filed bill, HB 67, which has been amended to remove key portions that would increase out-of-cell time and normalize the offender's conditions of incarceration before release. Being kept in restrictive housing is itself traumatizing and its impact varies on the state and needs of the individual. However, the current practice of releasing individuals directly from being held in restrictive housing to the outside community without any required adjustment counseling is not just bad for the offender, but bad for our community.

This bill requires that a 6 month pre-release plan be formed for each person. After an assessment on the individual's condition and needs, a personal case plan for treatment is put into action to help ensure that the individual is better equipped to make a successful transition into their community. Not only is this a more humane and respectful approach, but without this process the person is more likely to recidivate. Which leads to fewer people needing to resort to crime for their livelihood; making the community safer. Evidence-based data shows a sentence punishment alone does not usually serve to deter further offenses. Data shows that rehabilitation is the best possible treatment to reduce this costly cycle. The data shows that offenders who are left untreated are a higher safety risk to the community.

Required data from the Correctional System indicates that about 280 - 300 people are directly released yearly from restrictive housing in this manner. Evidence-based data from the Vera Institute indicates that about 42% will be recommitted within 3 years and even more will return with each following year. People need to have their psychological issues—and the reason why they engaged in criminal behavior—addressed.

This situation also highlights Maryland's history of disproportionate racial disparities. For instance, while black female prisoners make up approximately 24% of the general prison population, they make up 41% of the restrictive housing population at any one time.

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The average cost for an incarcerated person is about \$40,000 per year. Why keep spending greater amounts of money, only to see an offender recidivate because they don't have the support needed to actually stay out of prison? When we invest money in rehabilitation our recidivism rate and prison costs decline; so let's be smart about crime. This bill is a wise investment for our inmates AND our communities. The Unitarian Universalists urge you to honor the inherent worth and dignity of our returning citizens, reduce crime levels and help make our communities safer.

Please support SB 977.

Respectfully submitted

Karen Clark

UULM-MD Criminal Justice Lead

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SB0977 - 3.30.22 --Correctional Services StepDown

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POSITION STATEMENT

TESTIMONY PRESENTED TO THE SENATE JUDICIAL PROCEEDINGS COMMITTEE

SENATE BILL 977 – CORRECTIONAL SERVICES - STEP-DOWN PROGRAMS - CAUSE OF ACTION

Sponsor: Senator Lee

March 30, 2022

DONALD C. FRY
PRESIDENT & CEO
GREATER BALTIMORE COMMITTEE

Position: Support

Senate Bill 977 would provide an individualized “step-down” program for an incarcerated individual about to be released into the community and incarcerated individuals in restrictive housing about to be transferred to the general population. The step-down program is a system of review with established criteria that prepares an inmate for transition to the general population or the community that is individualized to the needs of the inmate and uses a coordinated, multidisciplinary treatment team approach. The multidisciplinary treatment team may include psychologists, psychiatric practitioners, licensed social workers, licensed mental health counselors, registered nurses, activity therapists, and correctional staff.

The Greater Baltimore Committee (GBC) supports this legislation. One of the key reasons for recidivism among formerly incarcerated individuals is the lack of access to resources to help them transition to the general population. Senate Bill 977 provides the resources to support their mental and physical health during their transition, thereby increasing their chances of being productive and contributing members to Maryland’s society and workforce. Maryland’s economic potential is predicated upon the maximization of its workforce capabilities; supplying former incarcerated citizens with the mental health resources to help their transition into the general population is part of that process.

The GBC has long supported evidence-based policies and programs to promote successful re-entry from incarceration and remove barriers to employment, including restrictions on access to education and training grants and scholarships, professional and occupational licenses, and housing.

The GBC contends that this bill will help maximize Maryland’s workforce potential by providing individuals with the necessary mental health resources and wraparound services to help them re-enter the workforce.

For these reasons, the Greater Baltimore Committee urges a favorable report on Senate Bill 977.

The Greater Baltimore Committee (GBC) is a non-partisan, independent, regional business advocacy organization comprised of hundreds of businesses -- large, medium and small -- educational institutions, nonprofit organizations and foundations located in Anne Arundel, Baltimore, Carroll, Harford, and Howard counties as well as Baltimore City. The GBC is a 67-year-old, private-sector membership organization with a rich legacy of working with government to find solutions to problems that negatively affect our competitiveness and viability.

GREATER BALTIMORE COMMITTEE

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POSITION ON PROPOSED LEGISLATION

BILL: SB 977- Correctional Services – Step-down Programs – Causes of Action

POSITION: Favorable

DATE: March 26, 2022

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 977. This bill requires the Commissioner of Correction, if certain conditions are met, to provide a step-down program for inmates held in restrictive housing to help them acclimate to the general prison population and, for those inmates released from restrictive housing directly to the community, to prepare for life outside prison walls. Programming would be tailored to the needs of each individual through a multi-disciplinary approach. The bill also allows formerly incarcerated individuals who were denied participation in a step-down program to file a civil action for damages, if certain conditions are met.

Restrictive housing consists of administrative segregation, where the inmate has done nothing wrong but is kept there for his own safety, as well as disciplinary segregation, where the inmate has committed an infraction. Inmates in restrictive housing spend 22-24 hours a day in a locked cage and have little to no social interaction, access to education or programming, physical activity, or communication with loved ones. Although *all* incarcerated persons need and deserve support when they have completed their often decades-long sentences, inmates in restrictive housing are uniquely disadvantaged and ill-prepared for re-entry to the general inmate population or the community.

A stated policy purpose of incarceration is rehabilitation. The United States Sentencing Commission examined 25,431 federal offenders released in 2005, using a follow-up period of eight years for its definition of recidivism.¹ For the eight years after their release, the Commission calculated a rearrest (not re-conviction) rate of 64.8% for the released persons younger than 30, 53.6% for the released persons between the ages of 30 and 39, 43.2% for the released persons between 40 and 49, 26.8% for the released persons between 50 and 59, and 16.4% for the released persons older than 59. *Id.* Across age groups, the recidivism rate in Maryland is estimated to be

¹ Kim Steven Hunt & Billy Easley, U.S. Sent'g Comm'n, *The Effects of Aging on Recidivism Among Federal Offenders* (2017), https://www.uscc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171207_Recidivism-Age.pdf.

40%.² Virginia maintains the lowest recidivism rate in the country at 25%, and it credits that low rate to robust programming within the state's institutions.³

Senate Bill 977 will have a direct impact on recidivism because the data plainly show that affording inmates multi-disciplinary step-down programs preceding their release reduces crime rates. By affording our clients the programming and support they need to lead productive and crime-free lives and, in the process, increasing public safety, this bill is a “win-win.”

For these reasons, the Maryland Office of the Public Defender respectfully requests that this Committee issue a favorable report on Senate Bill 977.

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

² Francis, D. C. R., & Caroom, P. (2019). *Maryland reentry roundtable report 2019*. Maryland Alliance for Justice Reform. Available online at: <https://www.ma4jr.org/wp-content/uploads/2020/01/2019-Reentry-Roundtable-Booklet.pdf>.

³ Virginia Department of Corrections (2019). Virginia maintains the lowest recidivism rate in the country. [Press Release]. Available online at: <https://vadoc.virginia.gov/news-press-releases/2019/virginia-maintains-the-lowest-recidivism-rate-in-the-country>.

SB0977-293625-01.pdf

Uploaded by: Susan Lee

Position: FWA



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AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

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BY: Senator Lee
(To be offered in the Judicial Proceedings Committee)

AMENDMENTS TO SENATE BILL 977
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “**Step-Down Programs – Cause of Action**” and substitute “**Restrictive Housing – Direct Release**”; and strike beginning with “providing” in line 3 down through “inmates” in line 5 and substitute “prohibiting the Commissioner of Correction from prohibiting an inmate placed in restrictive housing from having access to a reentry specialist or case manager within a certain period before the direct release of the inmate from a correctional facility to the community; and generally relating to restrictive housing of inmates”.

AMENDMENT NO. 2

On page 2, after line 4, insert:

“(A) IN THIS SECTION, “RESTRICTIVE HOUSING” HAS THE MEANING STATED IN § 9-614 OF THIS SUBTITLE.

“(B) TO THE EXTENT POSSIBLE, THE COMMISSIONER OF CORRECTION MAY NOT PROHIBIT AN INMATE PLACED IN RESTRICTIVE HOUSING FROM HAVING ACCESS TO A REENTRY SPECIALIST OR CASE MANAGER WITHIN 180 DAYS BEFORE THE DIRECT RELEASE OF THE INMATE FROM A CORRECTIONAL FACILITY TO THE COMMUNITY.”

On pages 2 and 3, strike in their entirety the lines beginning with line 5 on page 2 through line 28 on page 3, inclusive.

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Position: FWA

SUSAN C. LEE
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MAJORITY WHIP

Judicial Proceedings Committee

Joint Committee on
Cybersecurity, Information Technology,
and Biotechnology

Chair

Maryland Legislative Asian American
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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

March 30, 2022

Senate Judicial Proceedings Committee
**SB 977 – Favorable – Correctional Services – Restrictive Housing –
Direct Release**

Senate Bill 977 is the codification of best practices for the preparation of returning citizens when reentry may pose a public safety risk. This is not only a human rights bill, it is public safety legislation.

Studies have shown that restrictive housing is linked to many negative psychological and physical behavioral problems, including anxiety, depression, ruminations, irritability, anger, paranoia, disturbed sleep, disturbed appetite, cognitive impairments, social withdrawal, cardiovascular disease, impaired vision, self-harm, and suicide. While Maryland's Division of Correction proclaims that it has, "A commitment to returning offenders to society with the tools necessary to keep them from their former life of crime is evident in the vast array of job skill opportunities, educational programming, psychological and health sessions, and drug treatment." Policy is more effective here than words.

In Colorado, no one is released directly from solitary into the community. Rather, Colorado implemented a graduated step-down program to prepare people for their return home. In comparison, from 2016 to 2018, Maryland released 834 people directly from isolation in Maryland correctional facilities after spending an average of 60 days in restrictive housing. This Maryland practice endangers community members who may be foreseeably be victimized by these individuals who have not had a chance to step down. Marylanders are put at more risk than Colorado citizens due to this policy.

This bill simply allows returning citizens with 180 days left until release the opportunity to work with a reentry specialist or case manager. These specialized individuals assist in the transition from restrictive housing to living among the community. In 2019, [the amended provision](#) in this legislation, as we will strike most of the bill, was passed out of this committee but stalled in the last days of the session.

For these reasons, I respectfully request a favorable report on SB 977, as amended for conformity with [HB 67 third reader](#).

SB997 - RH Step Down Program.docx.pdf

Uploaded by: Jennifer Beskid

Position: INFO



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BILL: SENATE BILL 977

POSITION: LETTER OF INFORMATION

EXPLANATION: Senate Bill 977 requires the Commissioner of Correction (Commissioner) to establish a “step-down program” for offenders who have been placed in restrictive housing and who are within 180 days of returning to the general population or being released. It further requires the Commissioner to document in writing why an incarcerated individual did not participate in a step-down program; the bill also allows a former incarcerated individual to file a civil action for direct injury from a denial of the right to access a step-down program. **This bill will have a significant fiscal and operational impact on the Department of Public Safety and Correctional Services’ Division of Correction (DOC) and the Division of Pretrial Detention and Services (DPDS).**

COMMENTS:

- The crossfile of this bill, HB 67 passed the House with amendments. As amended, the bill prohibits the Commissioner from allowing an incarcerated individual on restrictive housing access to a Reentry Specialist or Case Manager within 180 days of release from a correctional facility.
- HB 67 as amended resolves the concerns of the Department of Public Safety and Correctional Services (Department) and will have no fiscal or operational impact.
- SB 977 as introduced will have a significant fiscal and operational impact on the Department.

Restrictive Housing Usage Summary

- The Department is obligated to submit annual reports that provide a detailed breakdown of placements on restrictive housing. Reports for fiscal years 2016 - 2021 can be accessed at:
<http://goccp.maryland.gov/reports-publications/by-other-agencies/>

- In preparing the Department's reports for fiscal years 2020 and 2021, the Department's Office of Data Development made an alteration to the methodology utilized to track restrictive housing that was based on improvements in tracking. This alteration prompted a review/update of prior years' data and determined:
 - Restrictive housing usage is 60% lower than previous estimates; and,
 - Disciplinary segregation is 1/4 lower than previous estimates.
- Highlights from the FY 21 Report on Restrictive Housing:
 - In FY 2021, the Department decreased its usage of restrictive housing (disciplinary and administrative segregation) by 15.6%.
 - Disciplinary segregation decreased 22% from FY 20 and the placement length has fallen by 3.2 days.
 - Restrictive housing is not utilized with pregnant women.
 - The median length of stay is 30 days on any restrictive housing.
 - Not all facilities have restrictive housing.
 - The Department has reduced the average length of disciplinary segregation placements by nearly 48% in three years.

Information on Impact of SB 977

- HB 977 will require the Commissioner to provide a step down program to an incarcerated individual before the individual is transferred from restrictive housing to the general population or is directly released to the community.
- Currently, 11 of the 13 DOC facilities house Administration and Disciplinary Segregation and the Department has an existing policy requiring a segregation review board for each facility that houses segregation individuals.
- Currently, when an incarcerated individual is placed in restrictive housing for disciplinary reasons, notification as to why, for how long, and appeal rights are provided to the inmate in accordance with COMAR 12.03, *Inmate Disciplinary Process*. After placement, a multi-disciplinary team reviews the placement. For both the disciplinary placement and the administrative placement, the inmate must sign an acknowledgment of receipt of the placement authorization.
- In January 2020, DPSCS signed a Memorandum of Understanding (MOU) with the American Correctional Association (ACA) to accredit all of our correctional facilities. Accreditation requires adherence to the performance based standards manual, *Performance- Based Standards and Expected Practices for Adult Correctional Institutions* (5th ed.).

- This includes comprehensive best practices concerning restrictive housing that were developed as the result of five years of comprehensive national research and community input. This bill would conflict with the Department's MOU and the ACA process as these performance standards evolve over time and specifying restrictive housing practices legislatively would prohibit the Department from modifying the program without legislative involvement.
- The ACA in their publication, *Performance-Based Standards and Expected Practices for Adult Correctional Institutions* (5th ed.), recommends a step down process for incarcerated individuals who are returning to a general population from restrictive housing that includes a multidisciplinary approach including:
 - Pre-screening evaluation;
 - Monthly evaluations using a multidisciplinary approach to determine the incarcerated individual'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; and,
 - A post-screening evaluation.
- The step down program stipulated under SB 977 requires that it be individualized to the needs of the incarcerated individual and involve a multidisciplinary treatment approach to include mental health practitioners and counselors, licensed social workers, activity therapists, medical staff as well as correctional staff.
- Implementation of SB 977 will require the DOC to create dedicated units at each facility operating a restrictive housing unit. The mandated services will have to be conducted either on the restrictive housing unit or at specifically designated locations within each facility capable of separating the segregated individuals from the general population to ensure the safety and security of the staff, incarcerated individual, and the facility. DPDS will be required to do the same.
- The DOC estimates that to provide a step-down program at each of its facilities that meet the mandates of the bill will cost over **\$2.7 million** in staffing.
- In accordance with current policies and procedures, every time an incarcerated individual is removed from restrictive housing, up to a two-man escort is needed per individual to ensure the safety and security of the staff and facility, but also to ensure the safety and

security of the incarcerated individual. Once the individual arrives at the location to which he or she is being escorted, the officer(s) must stay with the individual. **The projected fiscal impact to DPSCS is over \$2.6 million for additional correctional officers.**

- SB 977 will substantially affect the fiscal operation of DPSCS in the provision that provides for an aggrieved individual who seeks redress by legal remedy and recovery of court costs if DPSCS fails to satisfy the provisions set forth in § 9-614.2. Being that clear and convincing evidence is the threshold that must be met for the Department to prevail; determining such evidence existed prior to the denial of access to the step-down unit will be left to the courts. Until the court has decided whether or not the Commissioner has met its burden, the cost to the Department and the Attorney General's office will be substantial in preparing to defend its position.
- It is important to keep in mind that the Department is still operating during a global pandemic. The Department enacted over 50 policies and procedures over the past 23 months. Limiting movement within the correctional facilities was a key COVID-19 prevention and mitigation strategy. A lesson learned from the current COVID-19 pandemic is the need for flexibility in operations.
- 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 urges the Committee to consider conforming Senate Bill 977 to the crossfile, HB 67 that passed the House.