



## Maryland Developmental Disabilities Council

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### Senate Judicial Proceedings Committee

March 9, 2023

### SB 459: Correctional – Restrictive Housing – Limitation (Maryland Mandela Act)

Position: Support

The Maryland Developmental Disabilities Council (DD Council), a statewide public policy organization that studies and analyzes issues that affect people with developmental disabilities and their impact, **supports SB 459 because it specifically prohibits people with developmental disabilities from being placed in restrictive housing.**

#### WHY is this legislation important?

- **People with disabilities are overrepresented in jails and prisons across the country, but under identified in Maryland.** According to the Bureau of Justice Statistics, people in state and federal prisons are nearly three times as likely to report having a disability as the non-incarcerated population, while those in jails are more than four times as likely. Cognitive and intellectual disabilities are among the most commonly reported: **Prison inmates are four times as likely and jail inmates more than six times as likely to report a cognitive or intellectual disability as the general population.**
  - Maryland does not know how many people with intellectual and developmental disabilities are currently in the State's jails and prisons because Department of Public Safety and Correctional Services (DPSCS) practices and identification of disabilities vary among facilities.
- **Reports and research consistently find that restrictive housing is harmful, especially for individuals with serious disabilities.** In recognition that even short stays in solitary confinement can have severe and long-lasting consequences for people with disabilities numerous national organizations have adopted standards to limit segregation, including the National Commission on Correctional Health Care.
- **Segregation and restrictive housing can prevent individuals from accessing needed programs, treatment, and care which is especially harmful for persons with disabilities.**
- **Maryland overuses restrictive housing.** In FY2021, there were 18,516 prisoners in Maryland, and 8,577 placements in restrictive housing. That is 46% of individuals in DPSCS custody.
  - A 2018 study conducted by the Association of State Correctional Administrators in conjunction with the Liman Center for Public Interest Law at Yale Law School found that Maryland ranked 7<sup>th</sup> out of 43 responding jurisdictions in their use of restrictive housing for at least 15 consecutive days.
- **There is no requirement to consider disability in disciplinary sanctions.** When people with disabilities do not get the accommodations they need in jail or prison, behaviors can increase, and as a result, disproportionate segregation of people with disabilities.
- **Research shows that decreasing segregation and limiting the use of restrictive housing actually decreases prison infractions.** Colorado banned segregation for prisoners with serious mental illness and intellectual disabilities and offers 20 hours a week minimum out-of-cell time (10 structured, 10 unstructured). From 2015-2016, staff assaults reduced by half, and forced cell entries reduced by 79%.

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