

Bruce Turnbull written testimony in favor of HB385

Uploaded by: Bruce Turnbull

Position: FAV

February 10, 2023

Bruce H. Turnbull
4838 Montgomery Lane
Bethesda, MD 20814
brucehturnbull@gmail.com

TESTIMONY ON HB 385 - FAVORABLE
Restrictive Housing Limitations/Maryland Mandela Act

TO: Chair Clippinger, Vice Chair Moon, and members of the Judiciary Committee
FROM: Bruce H. Turnbull

My name is Bruce H. Turnbull. I am a resident of District 16. I am submitting this testimony in favor of HB 385, to place restrictions on the use of restrictive housing in Maryland jails and prisons (applying the “Mandela rules” to our jails and prisons). I am writing on my own behalf as a citizen of Maryland but with the background of working with several Jewish and multifaith organizations with respect to needed reforms in our criminal legal system.

My support for this bill is based on two basic reasons.

First, core principles of my Jewish faith, principles that are largely common to all faiths, include the most basic principle that all persons are made in the image of the divine and must be treated accordingly. Further, my faith tradition is that those who commit wrongs, and those against whom wrongs are committed, must be afforded the opportunity for restorative justice, allowing healing to take place and all affected, including the broader community, to return to the path of righteousness.

The use of “restrictive housing” (Maryland’s euphemistic name for what has long been known as solitary confinement) is fundamentally at odds with the treatment of human beings as in the image of the divine and with the restorative justice that is needed for all.

Second, the international community and the psychological community have found that extended (longer than 15 consecutive days) of solitary confinement is tantamount to torture and results in serious, often permanent, psychological (and sometimes physical) damage.

Based on the terrible experiences Nelson Mandela had in South Africa, the United Nations studied the use of solitary confinement, concluding that its use for longer than 15 consecutive days constitutes torture. The UN’s resolution on this subject emphasized that the use of solitary confinement must be used only in extreme cases and even then only as a last resort for short periods of time. Those who would be subject to such confinement must be afforded an independent review to determine whether such confinement is necessary in the particular case. Those with disabilities (mental or physical) should never be placed in solitary confinement. UN General Assembly, Resolution 70/175 , “[United Nations Standard Minimum Rules for the Treatment of Prisoners \(the Nelson Mandela Rules\)](#)”, January 8, 2016. The resolution was adopted by the General Assembly on December 17, 2015.

From the psychological standpoint, a 2021 report from the Vera Institute of Justice found that the overwhelming evidence, over 150 years of research, shows that solitary confinement “can lead to serious and lasting psychological damage.” The report further found that “negative mental health repercussions can persist long-term” and that among people released from prison, those who spent time in solitary “were 78 percent more likely to die from suicide within the first year of their return to the community than people who had been incarcerated but not placed in solitary.” Kayla James and Elena Vanko, “The Impacts of Solitary Confinement” (April 2021), found at <https://www.vera.org/downloads/publications/the-impacts-of-solitary-confinement.pdf>

HB 385 would apply the international recognized limits on the use of solitary confinement to the Maryland jail and prison system, and require both due process in determining whether an individual must be placed in solitary confinement and certain basic standards of care for those who are in such confinement.

This would bring Maryland in line with a growing number of states that have made significant changes to the use of such confinement (e.g., New York, New Jersey, and Connecticut). I would note that Virginia is reported to be likely to adopt restrictions during this year’s legislative session. <https://www.washingtonpost.com/dc-md-va/2023/02/04/virginia-solitary-confinement-general-assembly/>.

In the spirit of Governor Moore’s admonition – Maryland must lead, in this area as well as others that he and the legislature are working on.

Thank you for the opportunity to provide this testimony.

2023 Letter of Support for Restrictive Housing HB0

Uploaded by: Donna Rojas

Position: FAV

February 10, 2023

The Honorable Luke Clippinger
Room 101
6 Bladen Street
Annapolis, MD 21404

RE: Letter in Support of HB0385 – Correctional Services – Restrictive Housing – Limitations
(Maryland Mandela Act)

Dear Chairman Clippinger and the Members of the House Judiciary Committee:

On behalf of the Maryland Alliance for Justice Reform (“MAJR”) (“Commission”), I write to express our strong support of HB0385 – Correctional Services – Restrictive Housing – Limitations (Maryland Mandela Act) (cross-filed with SB0459) and to urge the Committee to issue a favorable report on this bill. I am Donna Rojas, executive committee member and co-chair of the Behind the Walls Workgroup in MAJR.

As a reentry expert and former provider of direct services to justice-involved individuals, I have witnessed the impact restrictive housing can have on an incarcerated individual. Cruel and excessive use of restrictive housing can negatively affect those experiencing mental illness and even those with relatively healthy minds. Being locked down without programming or social interaction for 23 hours daily can contribute to cognitive regression, physical muscular loss, and atrophy health issues. In addition, this could impact effective and successful reentry as individuals must deal with post-incarceration syndrome going from solitary to the streets.

Proper procedures and policies and adequate training of staff working in the restrictive housing area benefit those who may have a serious or violent infraction. However, they should not be “locked down” for weeks and months at a time without opportunity for socialization. Depending on the offense, there should be some “cooling down” period with a trained professional (social worker, case manager, or trained officer) to assist the individual in recognizing what transpired and working through things and then a step-down program moving them to less restrictive housing and increased programming. If individuals are a danger to themselves, the staff, or others, equipped with mental health training may be needed as jails and prisons are not equipped with adequate mental health staffing. Our jails and prisons are not mental health facilities.

Vera Institute advocates for rethinking restrictive housing as it can have significant adverse effects, and there is no proof that it improves safety. Organizations such as the American Correctional Association, the National Commission on Correctional Health Care, the U.S. Department of Justice, The National Institute of Justice, and the United Nations have all had meetings to discuss revamping policies around restrictive housing. Now is the time for Maryland to change the trajectory related to these predatory practices and vote in favor of this bill.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Donna Rojas". The letters are cursive and fluid, with the first name "Donna" and last name "Rojas" clearly distinguishable.

Donna Rojas

HB385_Testimony_2023.pdf

Uploaded by: Emma Holcomb

Position: FAV



Empowerment. Integration. Equality.

1500 Union Ave., Suite 2000, Baltimore, MD 21211

Phone: 410-727-6352 | Fax: 410-727-6389

www.DisabilityRightsMD.org

Maryland House Judiciary Committee – Bill Hearing
Tuesday, January 14, 2023 1:00 PM
Written Testimony in Support of House Bill 385

Disability Rights Maryland (DRM) is the state-designated Protection and Advocacy agency authorized under the Protection and Advocacy for Individuals with Mental Illness Act and the regulations thereto to protect and advocate for the rights of individuals with mental illness. DRM has worked to document serious issues in state correctional facilities and advocate for improved conditions, particularly in restrictive housing units. We have toured facilities across the state, reviewed thousands of pages of records, met with wardens, engaged with administrators and representatives of the Department of Public Safety and Correctional Services (DPSCS), and communicated with both incarcerated individuals and correctional staff throughout the State. Our testimony is informed by what we have learned through this work and from those who are directly impacted.

The use of restrictive housing for individuals with serious mental illness is our main focus in state correctional facilities. Studies have shown that confining an individual in a cell for 22 hours or more per day is a harmful practice that can cause depression, trauma, paranoia, anxiety, suicidal ideations, and exacerbate existing mental illness. DRM's investigations have revealed that individuals with serious mental illness are placed in restrictive housing at much higher rates and for much longer than persons without serious mental illness. In FY 2021, DPSCS reported that 22% of incarcerated individuals with serious mental illness were placed in restrictive housing.¹

Very little, if any, mental health services are provided to individuals in restrictive housing units to mitigate its harmful effects. Health care records indicate that some individuals may not receive any structured out of cell services or programming for months at a time. Mental health treatment in segregation is typically limited to psychiatric medication or occasional work sheets that must be completed alone in cell. The quality of mental health care in these units is grossly inadequate.

This bill would prevent the placement of individuals with serious mental illness, individuals with developmental disabilities, those with serious medical conditions that cannot be effectively treated in restrictive housing, and those with significant auditory or visual impairments in restrictive housing. Many organizations, including the National Commission on Correctional Health Care and the American Public Health Association, have recommended that restrictive

¹ *Department of Public Safety and Correctional Services Report on Restrictive Housing – Fiscal Year 2021 Fulfilling Reporting Requirements of Correctional Services Article § 9-614, December 2021, 12.*

housing not be used for individuals with serious mental illness. In cases where restrictive housing is used for anyone, adequate out-of-cell time should be consistently provided. This bill would finally bring Maryland in line with these recommendations.

The widespread use of restrictive housing in Maryland correctional facilities must change. DRM urges this committee to address these issues and provide a favorable recommendation for House Bill 385.

Respectfully,

Em Holcomb
Staff Attorney*
Disability Rights Maryland
1500 Union Ave., Suite 2000
Baltimore, MD 21211
443-692-2536
EmH@DisabilityRightsMD.org

**Authorized to practice under Rule 19-218*

WDC 2023 Testimony HB385_Final2.pdf

Uploaded by: JoAnne Koravos

Position: FAV



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

House Bill 385
Correctional Services – Restrictive Housing – Limitations (Maryland Mandela Act)
Judiciary Committee – February 14, 2023
SUPPORT

Thank you for this opportunity to submit written testimony in support of **HB0385**, the Correctional Services – Restrictive Housing – Limitations (Maryland Mandela Act). Passage of this legislation in the 2023 legislative session is a priority for the **Montgomery County Women's Democratic Club (WDC)**.

WDC is one of the largest and most active Democratic clubs in the state with hundreds of politically active members, including many elected officials. We thank Delegate Bartlett for her leadership in sponsoring this bill and we urge a favorable report.

HB0385 limits the use of restrictive housing in Maryland prisons, a practice that is as counterproductive as it is inhumane. Solitary confinement, or restrictive housing as it is called in Maryland, includes isolating a person in a cell for upwards of 22 hours a day, for days, weeks, months, and often years. The impact of days in solitary can be devastating to mental and physical health; people locked up in this way suffer depression and anxiety, and they are far more likely to mutilate themselves or die by or attempt suicide. Solitary confinement destroys people: it has been described as permanently damaging the mind, body, and soul of those who experience it.

As the name of this bill references, the United Nations included strict limits on the use of solitary in its revised Minimum Standards for the Treatment of Prisoners, known as the Nelson Mandela Rules. The standards demand that, at a minimum, all nations restrict their use of solitary to no more than 15 days, and ban it altogether for children, pregnant people and new mothers, individuals with mental illness and physical disabilities, and other vulnerable populations. New York recently passed legislation, known as the HALT Act, which comes close to meeting this floor. This bill is similarly influenced, although its 30-day restrictive housing provisions for serious infractions exceed the Mandela standard.

The general populations in Maryland prisons suffer bad food, filth, fledgling rehabilitative services, and inane, nerve-wracking rules. You might expect that a person in this environment who is then sent to solitary confinement to have done something terrible to deserve the decidedly worse treatment. This is not so. People are placed in solitary for running afoul of administrative rules, for mental health issues, for their own protection, because of sexual orientation - things that have nothing to do with violent acts that might arguably lead officials to

engage in such an extreme and damaging response. The last report on the use of solitary confinement in Maryland prisons was fiscal year 2021, DPSCS Report on Restrictive Housing – Fiscal Year 2021 (pursuant to Correctional Services Article, § 9-614). It revealed that 8,577 people were placed in restrictive housing, with 52% of those placements being administrative, as opposed to disciplinary. The average length of confinement reported was just under 60 days.

As with incarceration overall in the state, the vast majority of people placed in restrictive housing are Black. According to the DPSCS Report, almost 72% of the men in restrictive housing were Black, while 22% were white. The gap for those in disciplinary segregation is even greater, with over 78% Black and over 16.4% white. For women, almost 51% in restrictive housing were Black and slightly over 45% were white.

DPSCS also reported that overall it reduced its use of restrictive housing in 2021 by 15.6%. This is good news. However, it does not change the fact that this is an inhumane and destructive practice. Reporting that usage is down does not change the fact that the practice should be avoided altogether, and that the length of any disciplinary segregation used should be circumscribed to, at a minimum, align with the Mandela Rules.

As Marylanders, we are responsible for what happens to those we place in prison. We need to assure that those we incarcerate are not returned home wounded by the treatment they receive. Restrictive housing is counterproductive and a poor use of our investment as taxpayers in the rehabilitation of people who will inevitably return to our communities. HB0385 is carefully tailored to narrow the resort to restrictive housing and to encourage the use of more productive approaches to maintaining safety and order in our prisons. While we would like to have seen it go further by prohibiting any use of restrictive housing beyond the 15-day limit under the Mandela Rules, this is a strong and much needed step in the right direction.

We ask for your support for HB0385 and strongly urge a favorable Committee report.

Diana E. Conway
WDC President

Margaret Martin Barry
WDC Advocacy Committee

HB 0385 - Favorable.pdf

Uploaded by: Kenneth Phelps, Jr.

Position: FAV



THE EPISCOPAL DIOCESE OF MARYLAND

TESTIMONY IN SUPPORT OF HB 0385:

Correctional Services - Restrictive Housing - Limitations (Maryland Mandela Act)

****FAVORABLE****

February 10, 2023

TO: Hon. Luke Clippinger, Chair, Hon. David Moon, Vice Chair and the members of the House Judiciary Committee

FROM: Rev. Kenneth O. Phelps, Jr., Co-Chair, Maryland Episcopal Public Policy Network, Diocese of Maryland

DATE: February 10, 2023

The Episcopal Church, at its 78th Convention in 2015, passed sweeping resolutions aimed at ending mass incarceration practices and mitigating solutions for the damages inflicted upon certain communities by both arrest and sentencing policies and practices, and called for sweeping reforms in the practice of restrictive housing.

Numerous studies show that restrictive housing hurts prisoners, families and communities.

First and foremost, prisoners suffer. Prisoners in restrictive housing have suffered physical and psychological harms, such as psychosis, trauma, severe depression, serious self-injury, or suicide.

Their families suffer. When a prisoner is in restrictive housing, s/he has limited visits and calls from family—this not only punishes families it breaks down the family ties that are crucial to re-entry.

And their communities suffer. Many prisoners are released directly from restrictive housing into the community—this is not safe. During restrictive housing, prisoners often have limited opportunity to seek support from faith leaders and other sources of support, which may be instrumental in supporting the inmate during confinement, but also for safe re-entry upon release.

The Diocese of Maryland requests a favorable report.

HB385 MD Mandela Act IAHR FAV.pdf

Uploaded by: Kimberly Haven

Position: FAV

Kimberly Haven

February 10, 2023

Chairman Luke Clippinger
Vice Chairman David Moon
House Judiciary Committee

House Bill 385 - Maryland Mandela Act
Correctional Services – Restrictive Housing - Limitations
POSITION: FAVORABLE

Members of the House Judiciary Committee,

My name is Kimberly Haven, and I am the Legislative Liaison for Interfaith Action for Human Rights, and ***I offer this testimony in support of HB 385 – the Maryland Mandela Act.***

This legislation is the culmination of several years of effort to reform Maryland’s use of Restrictive Housing. It has been referred to as the most inhumane of all treatment of our incarcerated population. It is not a corrective practice, it is not rehabilitative, it is quite simply torture.

Across the country there are efforts underway to bring about transformative change in U.S. prisons and jails. Maryland has the opportunity to be a leader in this effort – but Maryland must start with focusing on the human dignity of incarcerated people and staff. The use of solitary confinement—also known as segregation or restrictive housing—presents a major barrier to this change.

Advocacy and human rights groups, policymakers, health care professionals, faith-based organizations, and correctional leaders have condemned use of solitary confinement in our jails and prisons. The use of restrictive housing was originally intended to address dangerous, violent behavior in facilities – however, it has now become a tool for responding to all levels of misconduct—ranging from serious assaults to minor, nonviolent rule violations—and for housing vulnerable people.

In Maryland the use of restrictive housing is used as a weapon by our correctional system. The use, misuse and the ever present threat of placement in restrictive housing has detrimental and chilling effects.

The argument that restrictive housing is used in order to make our facilities safer – however, all the research shows that the use of restrictive housing **does not** achieve its intended purpose—it does not make prisons, jails, or the community safer, and in fact it makes them less safe.

What this legislation will do, is create a “Best Practices” model for the Department of Correctional Services and Public Safety (DPSCS) to implement. This legislation recognizes the need for institutional security and safety, but it also recognizes the need for human dignity, alternatives to the use of restrictive housing, supports training for correctional staff to understand the impact and damage caused by its use and it provides guidance on how, when, and why the practice should be used.

Interfaith Action for Human Rights, our members, partners, supporters and allies, have come before this legislative body every year to bring about systemic reform – we have been successful in some areas (youth, pregnant and postpartum individuals) but now we must tackle its entirety.

The use of restrictive housing must ALWAYS be seen as a court of last resort – it must always be used only for the most egregious guilty findings and then only for the shortest amount of time. The mental, physical, emotional harm that being placed in a room that is the size of a parking space is documented and is permanent.

Reading the legislation, reading, and listening to the testimonies in support that are going to come before you is just one piece of understanding what restrictive housing/solitary confinement is –

BUT, simply google solitary confinement testimonies and read the stories – Visualize the stories that you read – feel the stories that you read. You will come to understand why it is time to implement these best practices.

This legislation is GOOD POLICY – it is BEST PRACTICES and it’s time for Maryland to reform the use of Restrictive Housing.

For these reasons and on behalf of Interfaith Action for Human Rights, their members, partners and supporters, ***we urge a favorable report on HB 385.***

Respectfully submitted,
Kimberly Haven
2103 Gough Street
Baltimore, MD 21213
443.987.3959
kimberlyhaven@gmail.com



Mandela Act testimony 2023 OPD fav.docx (1).pdf

Uploaded by: Mary Pizzo

Position: FAV



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: HB 0385 The Mandela Act

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE:02/10/2023

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 0385.

It is well documented that the psychological effects of solitary can be severe. Depending on the circumstances, effects can include anxiety, depression, anger, cognitive disturbances, perceptual distortions, obsessive thoughts, paranoia, and psychosis. Indeed, psychological stressors such as isolation can be as clinically distressing as physical torture.¹ In terms of physical ramifications, isolation has risks of morbidity and mortality comparable with those associated with smoking, obesity, sedentary lifestyle, and high blood pressure.² For vulnerable individuals, the effects can be even more devastating. In the Maryland Correctional Services Article “restricted housing” or more accurately, solitary confinement means “a form of physical separation that has not been requested by the inmate in which the inmate is placed in a locked room or cell for approximately 22 hours *or more* out of a 24-hour period.” (emphasis supplied).³

Individuals can be relegated to restricted housing for extended lengths of time or in repeated succession. Relative consideration for vulnerable individuals is lacking. Yet, remarkably, there are no comprehensive statutory or regulatory guidelines for the administration of restricted housing procedures within the Division of Correction. In fact, the definition of restricted housing

¹ Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics; Jeffrey L. Metzner and Jamie Fellner *Journal of the American Academy of Psychiatry and the Law Online* March 2010, 38 (1) 104-108.

² American Psychiatry Should Join the Call to Abolish Solitary Confinement; Kenneth L. Appelbaum, *Journal of the American Academy of Psychiatry and the Law Online* December 2015, 43 (4) 406-415;

³ Md. Code Ann. Corr. Serv. Art. 9-614.

itself appears only in the portion of the statute requiring the DPSCS to issue an annual report on the use of restricted housing in the Division of Corrections.⁴ That legislative mandate, issued in 2016, showed that the legislature at that time understood that the use of restricted housing requires serious consideration and oversight. This bill builds on those concerns and provides real guidance for managing individuals placed in any type of restricted housing.

Most importantly, the bill provides for necessary training for all correctional personnel involved in the supervision and care of individuals placed in restrictive housing, which would include training necessary for personnel to understand the ramifications of their actions and the effect it could have on already vulnerable people. Certainly, the safety and well being of the incarcerated and staff is benefitted by this.

According to the most recently available DPSCs Report,⁵ correctional personnel are already engaging in practices consistent with this bill, For example, the Report states that, [i]t is the policy of DPSCS to never place a pregnant woman on restrictive housing.”⁶ Additionally, the Report specifies that it relies on the same definition for serious mental illness as that set forth in this bill. ⁷ This bill codifies many of the practices to which the DPSCS Report indicates it already adheres, and assures that those important issues are mandated. Additionally, the bill provides definitions, directions and humanity for the treatment of incarcerated people.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on House Bill/Senate Bill 0385.

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

Authored by: Mary Pizzo, Supervising Attorney, Forensic Mental Health Division

OPD

⁴*Id.*

⁵ DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES Report on Restrictive Housing – Fiscal Year 2021 Fulfilling Reporting Requirements Correctional Services Article, § 9-614, Annotated Code of Maryland December 2021.

⁶ *Id.* at p. 12

⁷ *Id.*

MD Catholic Conference_FAV_HB0385.pdf

Uploaded by: MJ Kraska

Position: FAV



MARYLAND
CATHOLIC
CONFERENCE

February 14, 2023

HB 385

Correctional Services - Restrictive Housing - Limitations (Maryland Mandela Act)

House Judiciary Committee

Position: Favorable

The Catholic Conference is the public policy representative of the three (arch)dioceses serving Maryland, which together encompass over one million Marylanders. Statewide, their parishes, schools, hospitals, and numerous charities combine to form our state's second largest social service provider network, behind only our state government.

House Bill 385 requires hearing officers and personnel involved with the supervision and care of individuals placed in restrictive housing to undergo at least 40 hours of training; establishing guidelines and procedures for the placement of incarcerated individuals in certain types of restrictive housing or disciplinary segregation; and requiring each correctional facility to create a monthly report containing certain information about individuals placed in restrictive housing and to publish the report on the facility's website.

Pope Francis has equated punishment involving external isolation to a form of "torture." He denoted that states should not be "*allowed, juridical or in fact, to subordinate respect for the dignity of the human person to any other purpose, even should it serve some sort of social utility.*" (*Address of Pope Francis to the Delegates of the International Association of Penal Law, October 2014*)

The Church upholds that systems of criminal justice should seek both justice and mercy, with an emphasis upon restoration of communities, victims and offenders. Restrictive housing is a means toward none of these ends and is a regressive policy. It is thus important that the State of Maryland, at the very least, seriously limit its usage. Regardless of their offense, prisoners are exposed to the perils of incarceration for the crimes they've committed. Solitary confinement only compiles these perils and limits their hope for rehabilitation. Simply the relative isolation of confinement is enough to aggravate existing mental health issues.

The Conference appreciates your consideration and, for these reasons, respectfully requests a **favorable** report on HB 385.

O. Moyd Written Testimony - HB 0385 - Restrictive

Uploaded by: Olinda Moyd, Esquire

Position: FAV

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



RE: House Bill HB 0385 – In Favor Written Testimony - Olinda Moyd, Esq.

The Maryland Alliance for Justice Reform supports a favorable report of HB 0385.

The most critical features of this bill are the mandatory training for staff that interacts with persons on restrictive housing; the establishment of guidelines and procedures for placement in restrictive housing and the mandatory reporting requirements from each facility on a monthly basis.

Because the pandemic has resulted in wide-spread, prolonged restrictive lockdown throughout Maryland institutions, this issue has become even more critical in recent years. As a Prisoner's Rights attorney, I have had the unfortunate experience of witnessing the damage that results from prolonged placement of human beings in solitary confinement AKA restrictive housing. Limiting the use of restrictive housing to 15 days in a 365-day period is critical for the orderly operations of institutions and, more importantly, to limit the impact of isolation on the physical and mental health of the individual subjected to such solitude. Training of staff is critical and transition from solitary is a process worthy of planning and careful orchestration.

The bill also outlines the procedures to be implemented in monitoring when a person is placed in restrictive housing. They are to be provided documentation regarding the basis for the placement; provided an opportunity to contest the restrictive housing placement within 72 hours and every 15 days thereafter; the right to appear and be represented at a hearing; and if the individual disputes the placement as a vulnerable person (typically when a person is isolated "for their own protection") they may request and receive a secondary review of determination. These guidelines and procedures will create structure and standard of expectations so that both the staff and the individuals housed on restriction have the opportunity to state their position and be heard. It will also guard against over use of restrictive housing. Unfortunately, this happens all too often with individuals who the correctional staff stigmatizes as "problem inmates". If a person is difficult to manage – which may range from being non-communicative to being too verbose – it's easier for the staff to place this person in restrictive housing and leave them there. But let's remember that no-touch torture can be as brutal as physical torture.

People subjected to long periods of solitary confinement often experience severe anxiety, depression, suicidal thoughts, and other mental health issues. These

symptoms are further exacerbated in people who already exhibit symptoms of mental illness or impaired mental capacities before the period of solitary confinement began.

Furthermore, Black men and women behind bars are disproportionately impacted by the overuse of solitary confinement. A report by The Sentencing Project concluded that Black women are overrepresented in solitary confinement.¹ They found that among the 40 jurisdictions providing data, Black women constituted 24% of the total female incarcerated population, but comprised 41% of the female restricted housing population. An analysis from the Association of State Correctional Administrators and Yale Law School, concluded that there is a link between race and solitary confinement and that men of color are also overrepresented in isolation.² The Human Rights Council has urged the U.S. to adopt policies and practices for the use of solitary confinement with principles similar to those outlined in this bill – decreasing sensory deprivation, gradual increased interactions and incremental earning of privileges.³

We are all too familiar with the heart wrenching story of Kalief Browder, who, at 16 years old, spent three years on Rikers Island without being charged with a crime. He spent the last 17 months in solitary confinement – the Central Punitive Segregation Unit. Six months after he left Rikers he attempted suicide for the first time on the outside and eventually he succeeded. His family contends that solitary confinement is what destroyed Mr. Browder.

We urge a favorable report on this bill to protect persons similarly situated in Maryland's prisons. Maryland must cease the practice of overusing restrictive housing, properly train staff who interact with individuals on restrictive housing and establish proper safeguard and guidelines for the use of such housing.

Olinda Moyd, Esq.
moydlaw@yahoo.com
(301) 704-7784

¹ Race & Justice news: Black Women Overrepresented in Solitary Confinement, December 16, 2016.

² Liman Center Releases Updated Report on Solitary Confinement, Yale Law School, September 14, 2020.

³ Abuse of the Human Rights of Prisoners in the United States: Solitary Confinement, ACLU.

FAV-HB 385-Mandela.docx.pdf

Uploaded by: Philip Caroom

Position: FAV

SUPPORT HB 385-restrictive housing/Mandela act

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



TO: Chair Luke and House Judiciary Committee
FROM: Phil Caroom, MAJR Executive Committee
DATE: February 14, 2023

Maryland Alliance for Justice Reform (MAJR) strongly supports HB 385 seeking to reduce the harms from restrictive housing, with reasonable exceptions, and to require annual reports to show whether progress is being made.

It is well-known that Maryland's use of restrictive housing has been excessive — about twice the national average. If only for financial reasons, this practice should be reduced because restrictive housing is estimated to be three times more costly than ordinary incarceration. But there are other equally well-known negative impacts of restrictive housing beyond its cost. Myriad scientific studies show that solitary confinement causes [depression, anxiety](#), sleeplessness and long lasting trauma. This harm to incarcerated Marylanders' mental health can impede their potential for rehabilitation and for re-integrating themselves into our communities upon release.

HB 385 reasonably would require brief training for correctional officers involved in monitoring restrictive housing units. It also would provide reasonable limits for disciplinary use of restrictive housing, comparable to the brief & escalating sanctions effectively used in Drug Courts and in violations of parole or probation under Maryland's Justice Reinvestment Act. It would ensure protection for prisoners with serious mental illness and for those who are vulnerable due to medical conditions or perceived sexual orientation. But, it also would preserve punitive use for those committing the most serious infractions or crimes behind the walls.

For all these reasons, MAJR strongly urges adoption of HB 385.

NOTE: This testimony is provided on behalf of the Maryland Alliance for Justice Reform executive committee and not on behalf of the Maryland Judiciary.

HB 385.DD Council.Support.pdf

Uploaded by: Rachel London

Position: FAV



Maryland Developmental
Disabilities Council

EMPOWERMENT • OPPORTUNITY • INCLUSION

House Judiciary Committee

February 14, 2023

HB 385: 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 HB 385 because it specifically prohibits people with developmental disabilities from being place 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 7th 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%.

Contact: Rachel London, Executive Director: RLondon@md-council.org

217 E. Redwood Street, Suite 1300 • Baltimore, MD 21202 • 410.767.3670 • md-council.org

Dee Sapp, *Chairperson* • Rachel London, Esq., *Executive Director*

HB 385_AFSCME3_FWA.pdf

Uploaded by: Denise Gilmore

Position: FWA



190 West Ostend St., #201
Baltimore, MD 21230
Phone: 410.547.1515
Fax: 410.837.5436

Patrick Moran - President

HB 385 - Correctional Services - Restrictive Housing - Limitations (Maryland Mandela Act)

POSITION: SUPPORT WITH AMENDMENTS

AFSCME Council 3 supports HB 385. We support efforts to regulate the use of restrictive housing, however we do believe there are instances where it is important for inmates to have the ability to self-select into restrictive housing to protect themselves. We appreciate that this legislation applies a definition to protective custody, but it does not provide for when protective custody might be appropriate. For the safety of inmates and the staff who work at our state prisons, we believe HB 385 should be amended to allow for inmates to self-select into restrictive housing and clear use of protective custody should be defined.

For these reasons, we request the committee provide a favorable with amendments report on HB 385. I

Every AFSCME Maryland State and University contract guarantees a right to union representation.
An employee has the right to a union representative if requested by the employee.
800.492.1996

Find us: afscmemd.org
Like us: facebook.com/AFSCMEMD
Follow/Tweet us: [@afscmemaryland](https://twitter.com/afscmemaryland)

MCAA HB 385 Letter Restrictive Housing.pdf

Uploaded by: Mary Ann Thompson

Position: UNF



HB-385
Restrictive Housing-Limitations

MCAA Position: **OPPOSE**

TO: Judicial Proceedings Committee

DATE: January 31, 2023

FROM: MaryAnn Thompson, President
Brandon Foster, Legislative Committee
Lamonte Cooke, Legislative Committee

The use of restrictive housing has long been recognized as a legitimate measure to ensure the orderly operation and safety of correctional institutions. The limitations of the use of restrictive housing outlined in this bill are extraordinarily dangerous and would lead to serious risk of life and limb to all persons working, or confined, in a correctional facility. Never has there been a bill that proposes more intrusiveness into the management of jail/prison operations. Correctional managers' primary duty and responsibility is to provide for the safety and welfare of inmates and employees. The use of restrictive housing is essential to accomplishing that. If this bill were to become law, it would limit correctional managers' decision-making ability and would cause them to be deliberately indifferent to certain risk factors.

There are several specific, problematic issues we have identified in this bill:

- It mandates very time consuming and expensive training for personnel who supervise or care for individuals in restrictive housing;
- It inappropriately and arbitrarily redefines "restrictive housing";
- It gives arbitrary definition to "Serious mental illness" which does not align with the clinical definition in the DSM-5 (Diagnostic and Statistical Manual of Mental Disorders), American Psychiatric Association;
- It gives arbitrary, subjective definition to "Vulnerable individuals" and prohibits their placement in restrictive housing for any reason;
- It requires burdensome administrative requirements, and notifications, for placing in individual in restrictive housing;
- It restricts the number of days an individual can be placed in restrictive housing to no more than 15 days in a 365-day period;
- It places extreme limits and restrictions on disciplinary procedures and the placement of an individual in "disciplinary segregation";

- It prohibits the use of restraints on individuals placed in restrictive housing, which in many instances would be extremely unsafe; and
- It requires unnecessary submission of certain reports to the General Assembly, some of which are already submitted to the Governor's Office on Crime Control and Prevention in accordance with law.

Contrary to the false narratives of many advocacy groups, managing officials of jails and prisons in Maryland **DO NOT** place individuals in dark dungeons and leave them there to deteriorate indefinitely. Decisions to place individuals in restrictive housing are very carefully made, and the least restrictive means are always considered. These decisions are made in accordance with law, State regulations and standards, and best practices. Managing officials give great consideration to physical and mental health of all inmates, especially those placed in restrictive housing, and policy and procedures emphasize the importance of hygiene, recreation, and access to medical and mental healthcare.

The Maryland Correctional Administrators Association strongly opposes this bill and respectfully requests this committee for an unfavorable report on HB-385.

MCAA HB 385 Letter Restrictive Housing.pdf

Uploaded by: Mary Ann Thompson

Position: UNF



HB-385
Restrictive Housing-Limitations

MCAA Position: **OPPOSE**

TO: Judicial Proceedings Committee

DATE: January 31, 2023

FROM: MaryAnn Thompson, President
Brandon Foster, Legislative Committee
Lamonte Cooke, Legislative Committee

The use of restrictive housing has long been recognized as a legitimate measure to ensure the orderly operation and safety of correctional institutions. The limitations of the use of restrictive housing outlined in this bill are extraordinarily dangerous and would lead to serious risk of life and limb to all persons working, or confined, in a correctional facility. Never has there been a bill that proposes more intrusiveness into the management of jail/prison operations. Correctional managers' primary duty and responsibility is to provide for the safety and welfare of inmates and employees. The use of restrictive housing is essential to accomplishing that. If this bill were to become law, it would limit correctional managers' decision-making ability and would cause them to be deliberately indifferent to certain risk factors.

There are several specific, problematic issues we have identified in this bill:

- It mandates very time consuming and expensive training for personnel who supervise or care for individuals in restrictive housing;
- It inappropriately and arbitrarily redefines "restrictive housing";
- It gives arbitrary definition to "Serious mental illness" which does not align with the clinical definition in the DSM-5 (Diagnostic and Statistical Manual of Mental Disorders), American Psychiatric Association;
- It gives arbitrary, subjective definition to "Vulnerable individuals" and prohibits their placement in restrictive housing for any reason;
- It requires burdensome administrative requirements, and notifications, for placing in individual in restrictive housing;
- It restricts the number of days an individual can be placed in restrictive housing to no more than 15 days in a 365-day period;
- It places extreme limits and restrictions on disciplinary procedures and the placement of an individual in "disciplinary segregation";

- It prohibits the use of restraints on individuals placed in restrictive housing, which in many instances would be extremely unsafe; and
- It requires unnecessary submission of certain reports to the General Assembly, some of which are already submitted to the Governor's Office on Crime Control and Prevention in accordance with law.

Contrary to the false narratives of many advocacy groups, managing officials of jails and prisons in Maryland **DO NOT** place individuals in dark dungeons and leave them there to deteriorate indefinitely. Decisions to place individuals in restrictive housing are very carefully made, and the least restrictive means are always considered. These decisions are made in accordance with law, State regulations and standards, and best practices. Managing officials give great consideration to physical and mental health of all inmates, especially those placed in restrictive housing, and policy and procedures emphasize the importance of hygiene, recreation, and access to medical and mental healthcare.

The Maryland Correctional Administrators Association strongly opposes this bill and respectfully requests this committee for an unfavorable report on HB-385.

MCPA-MSA_HB 385-Restrictive Housing Limitations (M

Uploaded by: Natasha Mehu

Position: UNF



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable Luke Clippinger, Chair and
Members of the Judiciary Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Natasha Mehu, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 14, 2023

RE: **HB 385 – Correctional Services – Restrictive Housing Limitations (Maryland Mandela Act)**

POSITION: OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE HB 385**. This bill sets severe and dangerous limitations on a correctional manager's ability to use restrictive housing.

Restrictive housing is a tool that when carefully and properly used contributes to the safe and orderly operation of a correctional institution. Correctional officials do not make the decision to use restrictive housing lightly. Not only is the decision to use restrictive housing made in compliance with state and federal laws and professional best practices, but it is also made with the consideration of the individual inmate's mental and physical health, hygiene and recreation needs, and access to healthcare. Officials always start with the least restrictive means of housing to protect the inmate, fellow inmates, and correctional officers.

HB 385 sets constraints on the use of restrictive housing that significantly threaten the safety and welfare of inmates and correctional staff. The bill imposes arbitrary definitions, onerous administrative requirements, expensive training, and unreasonable restrictions. For instance, the definition of "serious mental illness" is not in alignment with the clinical definition found in the American Psychiatric Association's DSM-5 (Diagnostic and Statistical Manual of Mental Disorders). Additionally, the definitions of "restrictive housing" and "vulnerable individuals" are overly broad and ill-defined for the circumstances. Limitations on the number of days an individual can be placed in restrictive housing and the limitations on the use of "disciplinary segregation" are unnecessarily extreme. The blanket prohibition on the use of restraints on individuals in restrictive housing is unsafe. These definitions and restrictions do not fit the realities and necessary safeguards taken by correctional professionals when imposing restrictive housing.

While well-intentioned, proponents may misunderstand what constitutes restrictive housing in local jails and prisons which is often negatively and incorrectly portrayed in the media. MCPA and MSA condemn the bad actors that cause distrust and disproportionate limitations on restrictive housing overshadowing its legitimate and necessary uses.

It is very concerning that the requirements in this bill do not allow correctional managers to make restrictive housing decisions in accordance with industry best practices or with flexibility for the specific risks and circumstances they face. It is dangerous to severely limit the responsible use of restrictive housing imposed for the safety of the inmate and others in correctional facilities. For these reasons, MCPA and MSA **OPPOSE HB 385** and request an **UNFAVORABLE** Committee report.

HB0385-JUD_MACo_OPP.pdf

Uploaded by: Sarah Sample

Position: UNF



House Bill 385

Correctional Services – Restrictive Housing – Limitations (Maryland Mandela Act)

MACo Position: **OPPOSE**

To: Judiciary Committee

Date: February 14, 2023

From: Sarah Sample

The Maryland Association of Counties (MACo) **OPPOSES** HB 385. The bill creates rigid, and likely unrealistic, limitations on the use of restrictive housing, seemingly applying the same standard to the State’s largest facilities and the smallest of county jails.

No warden takes the decision to use restrictive housing lightly. In a large-scale state-run facility, there may be multiple options to consider in managing difficult inmate cases.

However, in county detention centers and jails – frequently orders of magnitude smaller in physical space than state facilities – such options may simply be unavailable due to physical space considerations. HB 385, however, holds both facilities to the same standard.

Specifically, there are three areas that concern counties greatly. The required management prescribed in the bill for a broadly-defined “vulnerable individual” could require significantly more space in many correctional facilities that do not have the room to fulfill the requirements. Many jails are simply not outfitted to deal with that number of inmates needing special treatment outside of the general population. Second, the requirement for a more than 100% increase in training hours for what is, effectively, the whole corrections staff poses a daunting fiscal burden on counties, further multiplied by the reality that the high turnover rate would require nearly year-round training for onboarded staff. Third, programming requirements for inmates in restrictive housing could pose a worrisome level of danger for the staff tasked with facilitating the programs and services. Taken collectively, the bill’s effect on local jails could be dramatic costs, even higher staff turnover, and perpetual catch-up in training at a time when staff resources are at an all-time low.

Proper protocols should accompany decisions regarding restrictive housing, but those provisions cannot supersede the authority of a warden to maintain order, most often motivated to protect those who would do harm and those in harm’s way. Other states

considering similar legislation, including California, have additionally shed light on similar reforms creating too significant of a safety threat within detention centers. These objections further demonstrate that these types of changes need to be woven carefully into the existing fabric of the detention centers rather than standing in opposition to the realities these facilities face.

While seeking to create a standard of care and a duty to provide practical alternatives to restrictive housing, HB 385 does not take into account the practical effect on smaller facilities in each county. For these reasons, MACo urges an **UNFAVORABLE** report for HB 385.

HB385_LOI_The Arc Maryland.pdf

Uploaded by: Ande Kolp

Position: INFO

HB385- Correctional Services - Restrictive Housing - Limitations (Maryland Mandela Act)
House Judiciary Committee
February 14, 2023

Letter of Information

The Arc Maryland is the largest statewide advocacy organization dedicated to the rights and quality of lives of children with adults with intellectual and/or developmental disabilities.

Under this bill, a vulnerable individual may not be placed in restrictive housing.

A vulnerable individual is defined in the bill as a person that has a developmental disability, another disabling condition, has recently given birth, had an abortion, or miscarried, or identifies as a member of the LGBTQIA+ community.

For justification re: why a person with developmental or other disabilities would be at risk if placed in restrictive housing:

A few years ago, Disability Rights Maryland completed an investigative study and subsequently published a report, "Beyond Incarceration: Lock Down for Persons with Disabilities." Some of the more significant findings from their in-depth investigation were that Maryland used segregation excessively, individuals with disabilities were harmed in segregation, individuals with disabilities were routinely subject to discrimination in prison, and individuals with disabilities were disproportionately placed in segregation.

The investigation revealed that Maryland's segregation practices were outliers when compared to national averages. Of note:

- Eight percent (8%) of the prison population was in segregation in Maryland in 2015 compared to the national average of four to five percent (4-5%) of the prison population.
- Seventy Three percent (73%) of Maryland's prison population was in segregation at some point in 2017.
- The average length of stay in restrictive housing was 45 days in Maryland, and
- Individuals with disabilities were disproportionately placed into segregation and remained there for longer lengths of time than persons without disabilities.

We believe this bill would implement protections against segregation for vulnerable individuals, protecting them from the harmful and isolative effects of restrictive housing.

Ande Kolp

Executive Director

akolp@thearcmd.org, 443-851-9351, www.thearcmd.org

HB385_DPSCS_LOI.pdf

Uploaded by: Catherine Kahl

Position: INFO



Department of Public Safety and Correctional Services
Office of Government & Legislative Affairs

45 Calvert Street, Suite 7A, Annapolis, MD 21401
(443) 240-8696 • www.dpsscs.maryland.gov

STATE OF MARYLAND

WES MOORE
GOVERNOR

ARUNA MILLER
LT. GOVERNOR

CAROLYN J. SCRUGGS
ACTING SECRETARY

CHRISTINA LENTZ
ACTING
DEPUTY SECRETARY
ADMINISTRATION

ANNIE D. HARVEY
ACTING
DEPUTY SECRETARY
OPERATIONS

VACANT
ASSISTANT SECRETARY

JENNIFER A. BESKID
DIRECTOR

BILL: HOUSE BILL 385

POSITION: LETTER OF INFORMATION

EXPLANATION: This bill defines restrictive housing, and establishes guidelines and procedures for the placement of individuals on restrictive housing in correctional facilities.

COMMENTS:

- The Department of Public Safety and Correctional Services' (DPSCS) Division of Correction is responsible for operating 13 correctional facilities that house offenders sentenced to a period of incarceration for 18 months or longer. The Department also operates the Division of Pretrial Detention and Services, which houses pretrial detainees and inmates sentenced to incarceration for 18 months and less.
- HB 385 establishes processes and procedures for the use of restrictive housing. The entire bill raises serious concerns and the Department touches on some of the disconcerting aspects below.
- **Correctional Services Article § 9-613.3 of the bill would require that ALL personnel involved in the supervision and care of individuals placed in restrictive housing and ALL hearing officers complete at least 40 hours of training before being assigned to a restrictive housing unit, and shall receive at least 8 hours of additional training annually.**
 - The Division of Correction (DOC) has over 6,000 correctional officers who ensure the safety of the incarcerated population, staff, and the facilities in which they work. All correctional officers may be assigned to a restrictive housing unit. To provide 40 hours of annual training to ALL correctional officers is estimated to cost approximately \$4.8M in the first year of implementation.
 - Although the bill is not clear as to whether or not the hearing officers are hearing officers employed by the Department or hearing officers with the Office of Administrative Hearings,

the estimated cost to provide 40 hours of training to the Department's 12 hearing officers is estimated to cost approximately \$20,000 annually.

- There is also a time factor to consider with developing and implementing training, in addition to the impact on the amount of correctional overtime and staffing that will be required to conduct the training.
- **Moving onto §9-614, the bill defines “restrictive housing” as ANY form of housing that separates incarcerated individuals from the general prison population that imposes restrictions on programs, services or interactions with other incarcerated individuals.**
 - This broad definition would include specialty placement units, and protective custody that incarcerated individuals may request in any of the Department's 13 correctional facilities (including Patuxent Institution) and the five facilities operated by the Division of Pretrial Detention and Services.
- HB 385 includes a Residential Rehabilitation Unit in the definition of restrictive housing, when in fact, the Department does not have such units.
- The bill defines serious mental illness (SMI) to include specific psychiatric disorders and aligns the definition with conditions recognized by the federal Bureau of Prisons. Whereas, the Department defines SMI in accordance with the Code of Maryland Regulations (COMAR) 10.21.17.02. The new definition has the potential to increase the number of incarcerated individuals diagnosed with SMI.
- According to the bill, a vulnerable individual can not be placed in restrictive housing. **As stated, the Department's normal operations involving non vulnerable individuals would raise concerns on the constitutional right to equal protection for all other incarcerated individuals. This would establish two tiers of sanctions for the same infraction based on an incarcerated individual's gender identity, or medical status.** The Department assigns sanctions solely based on infractions and an individuals' behavior regardless of their sex, race, gender identity, or medical status.
- Furthermore, these restrictions would pose operational challenges to the Department's ability to remain compliant with the Prison Rape Elimination Act (PREA) and the American with Disabilities Act (ADA). The use of protective custody under the bill conflicts with

the bill's definition of restrictive housing. The Department could not make decisions to protect the welfare of an incarcerated individual based on whether they were classified by this bill as vulnerable. The separation from threat that is common practice in response to a PREA concern could not be equally applied to 'vulnerable' and non vulnerable individuals under the current language of the bill.

- Under the bill's vulnerable individual definition, an individual under 26 is considered a vulnerable individual and therefore cannot be placed in restrictive housing.
- The population under 26 represented less than 20% of disciplinary segregation placements. However, this group is also associated with elevated risk of noncompliance which continues to be reflected in the recidivism rate post release. Placement on disciplinary segregation following a hearing is an important component of maintaining security in institutions to separate the small portion of this population who commit inmate assaults and major infractions.
- To mitigate the impact of sanctions, the Department instituted internal reforms in COMAR to decrease the length of time spent under disciplinary segregation specifically, to enable the Department to effectuate internal sanctions while also reducing the impact of restrictive housing length on individuals.
- Today, disciplinary segregation is 51% lower than 5 years prior, representing 37 fewer days spent on disciplinary segregation on average. The Department has continued to make progress in reducing the time spent on restrictive housing, which was further reduced by nearly 1 week in the past fiscal year.
- Under the bill, an incarcerated individual may contest the placement on restrictive housing in an administrative hearing within 72 hours of the initial placement and every 15 days thereafter, and be represented by an attorney or an advocate of their choosing. As previously stated, this requirement is not clear as to whether the administrative hearing would be held at a facility or the Office of Administrative Hearings.
- Moreover, this requirement would not only be extremely burdensome on the Department to implement, it would require many more hearing officers to handle the frequency of hearings creating a significant fiscal impact. Also, having counsel on disciplinary hearings runs contrary to the ability of the Department to schedule them as quickly and possible and will contribute to hearing delays.

Allowing an incarcerated individual to choose an advocate of their choice presents serious safety and security concerns.

- HB 385 contradicts itself throughout the bill, as it establishes different standards for how long an incarcerated individual can be placed in restrictive housing, administrative and disciplinary segregation. The bill switches from 15 days to 60 days in a 365 period, then only allows for 3 consecutive days of placement.
- The bill establishes guidelines and procedures for addressing first, second and most serious infractions without defining what constitutes an infraction. The Department has strict policies and procedures in place as to what constitutes an institutional violation, degrees of violations, and depending on the severity of the violation, how it is addressed which may not involve placement on restrictive housing.
- The most alarming requirement in the bill is - if the facility administrator or medical or mental health professional determines an incarcerated individual poses an extraordinary and unacceptable risk of imminent physical harm to the safety or security of other incarcerated individuals or staff, the facility shall provide access to programming and contact with persons other than correctional staff. Individuals who pose such a significant risk should not have access to others due to the safety risk. Some programming can continue in cell.
- Finally, the bill establishes a reporting requirement. However, the Department already submits a comprehensive, data driven mandated annual report on the use of restrictive housing to the Governor's Office of Prevention which is posted on their website.
- HB 385 is extremely prescriptive and seeks to legislate the manner in which the Department conducts daily operations. The bill hinders operations and seriously jeopardizes the safety and security of the Department's correctional facilities and places its officers, incarcerated individuals, and staff at serious risk.
- **CONCLUSION:** For these reasons, the Department of Public Safety and Correctional Services respectfully requests the Committee consider this information as it deliberates on House Bill 385.

