



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.