

2024 JCRC SB 1085 - Corrections - Segregated Housi

Uploaded by: Ashlie Bagwell

Position: FAV



**Testimony in SUPPORT of Senate Bill 1085 – Corrections – Segregated
Housing – Limitations
Judicial Proceedings Committee
March 6, 2024**

The Jewish Community Relations Council of Greater Washington (JCRC) serves as the public affairs and community relations arm of the Jewish community. We represent over 100 Jewish organizations, synagogues, and social services agencies throughout Maryland, Virginia, and the District of Columbia. The JCRC is strongly committed to cultivating a society based on freedom, justice, and pluralism. We work throughout the region to advocate for our agencies that serve the most vulnerable residents and to campaign for important policy interests on behalf of the Jewish community and all Marylanders. The JCRC is focused on promoting social justice and intergroup relations and combating antisemitism and all forms of hatred.

The JCRC's advocacy is grounded in core values of the Jewish faith: Justice, repentance, and the preservation of human life (Exodus 20:13). It is from this perspective that we support Senate Bill 1085. This Bill requires hearing officers and personnel involved with the supervision and care of individuals placed in restrictive housing to undergo training and to establish guidelines and procedures for the placement of incarcerated individuals in segregated housing. SB 1085 also requires that the handling of "administrative segregation" is revised such that effectively this approach may be used only for up to 3 days or on a modified basis (i.e., restricting an incarcerated person's housing to not more than 17 hours per day in an isolated cell).

Our agency believes that conditions of confinement must be humane and that certain conditions, including the overuse of solitary confinement, can impose dire consequences more egregious than the sentences themselves. We are extremely concerned about the devastating mental health effects of restricting housing/solitary confinement. The practice of keeping an individual in a one-person cell with no opportunities for meaningful human interaction causes long term harm to an incarcerated person's mental and physical health. Additionally, this practice does not only injure the incarcerated individual, but also our entire system of corrections. Upon release, individuals who have been harmed by the lack of adequate human interaction, are incapable of productive participation in society. For these reasons, the JCRC supports SB 1085 and asks for a favorable report.

Bruce Turnbull written testimony in favor of SB 10

Uploaded by: Bruce Turnbull

Position: FAV

March 5, 2024

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

TESTIMONY ON SB 1085 - FAVORABLE
Restrictive Housing Limitations

TO: Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings 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 SB 1085, to place restrictions on the use of restrictive housing in Maryland prisons (applying to state-run prisons in Maryland the solitary confinement limits adopted by the United Nations). 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>

The bill would simply ensure that Maryland prisons no longer engage in what is generally agreed to be torture – keeping an individual in solitary confinement for more than 15 consecutive days or more than 60 days in a year, providing basic, bare minimum due process for someone who is being placed in solitary confinement, and maintaining some level of access to programs and services in the prison. If those requirements are enacted and carried out, Maryland would conform to internationally recognized limits on the use of solitary confinement. Anything less would mean that Maryland would continue to engage in torture.

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.

SB1085_Carol Stern_FAV.pdf

Uploaded by: CAROL STERN

Position: FAV

Carol Stern
4550 North Park Avenue Apt. T106
Chevy Chase, MD 20815

**Testimony in Support of SB1085
Correctional Services - Segregated Housing - Limitations**

TO: Chairman Smith, Vice Chair Waldstreicher, and members of the Judiciary Committee

FROM: Carol Stern

I am testifying in favor of SB1085 as a resident of Montgomery County's District 16 and a member of Adat Shalom Reconstructionist Synagogue.

There are two Jewish texts that shape my religious and moral abhorrence of solitary confinement in general, and especially related to juveniles. In Genesis Chapter 1, we learn that **the human is created in God's image - *B'tselem Elohim*. We all contain the divine spark, and we all deserve to be treated with respect and dignity. This applies to all people, whether they are incarcerated or not.**

The second text is in Genesis Chapter 2, where we learn that **"It is not good for the human to be alone."** This is a powerful statement about our need to be nurtured by others at all times in our life but, I would add, especially for juveniles, who are immature and needy human beings. It is never good to be away from the nurturing company of other people, but **juveniles should not be alone during the difficult time of incarceration.** These two verses inspire the spiritual and moral imperative to work for changes to solitary confinement laws.

Maryland had not shared information on its practices regarding solitary confinement so it had been difficult to determine the extent of the problem. In 2016, legislation passed requiring annual reporting on who was isolated and for how long. But, the last substantive report was for fiscal year 2018. It revealed that 50% of those in prison are placed in solitary, and the average length of confinement is anywhere from 43 to 51 days.

Solitary confinement is an archaic practice that should be ended and has been proven to be detrimental to adolescents who are especially susceptible to the toxic nature of this restrictive housing. I know that if my children or grandchildren were exposed to extreme idleness, sensory deprivation, and lack of human interaction, they would suffer lasting physical and emotional damage. I support this bill which would cap the use of restrictive housing to 15 days, prohibit vulnerable inmates from its use, severely limit the practice for juveniles, and mandate that those put in restrictive housing be allowed to contest the confinement. In addition, the training requirements are crucial to assure that the guards and staff understand the new law and its requirements. This bill is one step toward treating incarcerated Marylanders with the dignity and respect that all people deserve.

I respectfully urge a favorable report for SB1085.

Autism Society Written testimony_MD SB 1085 (1).pd

Uploaded by: Delancy Allred

Position: FAV



Virtual Testimony on SB 1085

Autism Society of America,

Autism Society of Maryland, Autism Society of Baltimore- Chesapeake,

and People on the Go Maryland

Submitted to Maryland Senate Judicial Proceedings Committee

March 6, 2024

Autism Society of America

6110 Executive Boulevard, Suite 305

Rockville, Maryland 20852

1 (800) 328-8476

Autism Society Maryland

9770 Patuxent Woods Drive, Suite 308

Columbia, MD 21046

410-290-3466

Autism Society Baltimore-Chesapeake

P.O. Box 10822

Baltimore, MD 21234

410.655.7933

People On the Go Maryland

Merritt Family Building

7000 Tudsbury Road

Windsor Mill, Maryland 21244

443-923-9593

Dear Chairman Smith and other members of the Committee,

Thank you for the opportunity to submit testimony regarding SB 1085, a bill to restrict segregation in state correctional settings and to require data and training by staff.

My name is Carlean Ponder and I am here to testify on behalf of the Autism Society of America, the Autism Society of Maryland, Autism Society Baltimore-Chesapeake, and People on the Go Maryland. The Autism Society of America is the nation's oldest and largest grassroots organization representing individuals on the Autism spectrum and their families. The Autism Society envisions a world where individuals and families living with Autism can maximize their quality of life, are treated with the highest level of dignity, and live in a society where their talents and skills are appreciated and valued. Along with our 70+ affiliates nationwide, we provide advocacy, education, information and referral, support, and community engagement opportunities at national, state, and local levels. Our Maryland affiliates include the Autism Society of Maryland, which works with families and autistic individuals in Montgomery, Howard, and Anne Arundel County, and the Autism Society of Baltimore-Chesapeake, which covers Baltimore City and County. These affiliates have served the state by offering information and referral services, educational workshops, social and support groups, and are led by Melissa Rosenberg and Thairen Greene.

Autistic people are over-represented in jails and prisons. One [study](#) estimated the prevalence ranges from 9 to 18 percent of the incarcerated population, however,

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Autism is generally not included in screening assessments in jails and prisons. Underdiagnoses, particularly for Black, Indigenous and People of Color (BIPOC) communities is very likely, and there are few accommodations for developmental disabilities in these settings. Autistic individuals are vulnerable in prison settings as they are more susceptible to victimization and face different challenges compared to the non-Autistic population. More specifically, individuals with Autism and/or intellectual disabilities often struggle to comprehend prison rules, rendering them particularly susceptible to exploitation and violence. This often results in disciplinary action involving restricted housing, often referred to as solitary confinement. [The Marshall Project found](#) that Autistic people are included in the overrepresentation of people with mental health disabilities sent to solitary confinement, often for prolonged periods.

Senate Bill 1085 limits the over-use of solitary confinement by requiring at least 4 hours of out-of-cell time, for no longer than 3 days in most cases, and at most, 15 consecutive days, when serious danger is shown through an evidentiary hearing. The bill includes protections for vulnerable populations, such as those who are Autistic, by requiring both a physician and managing officials to document that certain criteria are met. It also requires a mental and physical health assessment every 24 hours of placement in restrictive housing, which is critical for those with mental health and developmental disabilities. Consideration of the person’s disability, treatment options and alternative behavioral plans should be considered during any due process hearing.

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A report by Maryland Disability Rights¹ found through its investigation restrictive housing practices in Maryland correctional facilities that people with serious mental illness are most likely to suffer harm from segregation and to be confined for longer periods of time. The average was 224 days of restrictive housing for people in this category.²

The data component of Bill 1085 will allow legislators, the public, and corrections facilities an accounting of how often and for what categories restricted housing is most used, as well as what steps were taken to find alternatives. We appreciate the addition of ensuring access to mental health professionals when in restrictive settings, along with the availability of physical and mental health assessments initially and every 24 hours.

Beyond Bill 1085, we have recommendations for services that should be available in correctional facilities regardless of whether a person is in restrictive housing or not. Screening exams for Autism and intellectual disability upon entry are crucial, as they determine whether prisoners will have access to supports. It is also important to note the shortage of mental health professionals in the state prison setting. The Disability Rights Maryland reported noted that three of four direct mental health positions at NBCI were vacant in December 2016, and that limited group treatment options existed. ³Often, the pay is too low to attract and retain mental health professionals in correctional facilities. It is critical to support legislation that helps to remedy this issue.

¹ Beyond Incarceration: Lock Down for Persons with Disabilities, An Investigation by Disability Rights Maryland (2017)

² Id., page 10.

³ Id., pages 10-11..

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Alternatives to solitary confinement, such as de-escalation spaces are also critical for the Autism community. This alternative allows for a designated area for an individual to engage in strategies to unwind from a behavioral trigger. In addition, requiring training that is based in trauma-informed care for all personnel working in these setting is recommended. This ensures that staff is aware of strategies to minimize behavioral disturbances through positive reinforcements, which would limit the need to use solitary confinement.

We look forward to working with the Maryland legislature to make this necessary change. Thank you for considering the testimony of the Autism Society of America as this bill moves forward. If you have any questions, please contact Delancy Allred, State Policy Coordinator at dallred@autismsociety.org, or Justice Center Director, Carlean Ponder at cponder@autismsociety.org.com.

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HFM Testimony FOR HB1144_SB1085 curb solitary_Sena

Uploaded by: Homewood Friends Meeting (Baltimore Quakers)

Position: FAV

Support SB1085/HB1144 – Limit Use of Restrictive Housing

Homewood Friends Meeting (Religious Society of Friends)
3117 N. Charles Street, Baltimore MD 20218

March 5, 2024

To: The Honorable William C. Smith, Jr., and Distinguished Members of the Maryland Senate Judicial Proceedings Committee

Homewood Friends Meeting (Quaker) in Baltimore, writes to join the voices of innumerable other Marylanders in strong support of [SB1085/HB1144](#) during the current Maryland legislative session. These are identical, cross-filed bills aimed at restricting the use of solitary confinement in Maryland's state-run correctional facilities. The brutality and persistent harms of solitary confinement cannot be overstated, for individuals, families, the communities to which confined persons return, and to the moral and financial costs to the State of Maryland.

Quakers are often 'credited' with introducing solitary confinement to the US in the late 1700s with the thought that time spent alone in contemplation would give convicts an opportunity to consider their sins and repent (hence the term "penitentiary"). However, Quakers quickly learned this was a grave mistake, and have opposed the use of solitary confinement by any name, since the 1800s. Over time, it became clear that forced isolation, particularly for weeks, months and years as occurs in Maryland, causes or exacerbates mental illness. In addition, enforced idleness is physically debilitating, and undermines any preparation for re-entry to society. Because it is harmful and not corrective,

It is imperative to appreciate that the horrors of solitary confinement are never imposed by a judge as part of a person's sentence. It is extra-judicial. Solitary (or restrictive housing, as it is called in Maryland) is often an ad hoc decision within a facility with little oversight and no real appeal, often for pretty minor things. Certainly the harms of solitary are profoundly disproportionate – and morally and legally objectionable.

Isolated Persons Suffer. It is well documented that Incarcerated persons placed in restrictive housing suffer physical and psychological harms, such as psychosis, trauma, severe depression, serious self injury, or suicide.

Families Suffer. Individuals in restrictive housing are generally denied visits and calls from family. This breaks down the family ties that are crucial to supporting people upon re-entry.

Communities Are NOT Safer. Research shows that time spent in solitary may increase people's likelihood of post-release offending, especially violent re-offending. This is made still worse when incarcerated people are released directly from restrictive housing into the community. Thus as practiced in Maryland, solitary causes more harm than it prevents to public safety.

Solitary Confinement Costs the State More. We are impressed by the research gathered by Interfaith Action for Human Rights from other states that restricting the use of solitary saves money (citing studies from Mississippi, Illinois and California).

Homewood Quaker Meeting urges the members of the Senate Judicial Proceedings Committee to support HB1144/SB1085.

Sincerely,

Support SB1085/HB1144 – Limit Use of Restrictive Housing

Sarah Bur, Clerk

Maryland Catholic Conference_FAV_SB1085.pdf

Uploaded by: Jenny Kraska

Position: FAV



MARYLAND CATHOLIC

CONFERENCE

March 06, 2024

SB 1085

Corrections – Segregated Housing - Limitations

Senate Judicial Proceedings Committee

Position: Favorable

The Maryland Catholic Conference (MCC) offers this testimony in support of Senate Bill 1085. 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.

Senate Bill 1085 concerns segregated housing and training for correctional personnel. This legislation is a critical step towards ensuring the human treatment of incarcerated individuals and promoting their successful reintegration into society.

From a Catholic perspective, every person is endowed with inherent dignity and worth, regardless of their past actions or circumstances. It is our moral duty to ensure that the rights and dignity of all individuals, including those who are incarcerated, are respected and upheld. Segregated housing, often used as a disciplinary measure in correctional facilities, can have detrimental effects on the mental and emotional well-being of individuals and may hinder their rehabilitation and reintegration efforts.

The establishment of guidelines and procedures for the placement of incarcerated individuals in certain types of segregated housing is a positive step towards promoting transparency, accountability, and consistency in correctional practices. By ensuring that placement decisions are based on clear criteria and conducted in a fair and humane manner, we can mitigate the potential harms associated with segregated housing and create conditions that support rehabilitation and positive behavior change.

Furthermore, requiring hearing officers and personnel involved in the supervision and care of individuals placed in restrictive housing to undergo certain training is essential for ensuring that they possess the knowledge, skills, and sensitivity needed to interact with incarcerated individuals in a respectful and compassionate manner. This training should include education on trauma-informed care, de-escalation techniques, mental health awareness, and alternatives to segregation, reflecting principles of restorative justice and the Catholic emphasis on mercy and redemption.

The MCC appreciates your consideration and, for these reasons, respectfully requests a favorable report on Senate Bill 1085.

NASW Maryland - 2024 SB 1085 FAV - Solitary Confin

Uploaded by: Karessa Proctor

Position: FAV

Testimony Before the Judicial Proceedings Committee

March 6, 2024

Senate Bill 1085: Corrections - Segregated Housing – Limitations

**** Support ****

The National Association of Social Workers – Maryland Chapter is a professional organization representing over 3,000 social workers statewide. We are pleased to support of SB 1085. We are in support of altering a reporting requirement for correctional units relating to restrictive housing, making it a requirement for hearing officers and personnel involved with supervision and care of individuals placed in restrictive housing to undergo specialized training and establishing guidelines and procedures for the placement of incarcerated individual in certain types of segregated housing.

It is clear to social workers across the state that both the isolation and the conditions of solitary confinement are traumatic. Using isolation as a punitive tool does not assist anyone with reentry and behavior change. Beyond the trauma of solitary confinement, human connection and healthy relationships are key to mental health and social functioning. Isolating individuals does not improve their ability to relate positively to others and indeed is a significant detriment to those skills. Through the practice of solitary confinement, we are making it more difficult for individuals to successfully reenter society.

In conclusion, NASW-Maryland supports this bill because the widespread use of segregation and isolation needs to be reduced, and we must make sure that people with mental health issues receive the appropriate services. We urge a favorable report of SB 1085.

Respectfully,

Karessa Proctor, BSW, MSW
Executive Director, NASW-MD

SB1085 Testimony to Judicial Proceedings- Correcti

Uploaded by: Lauren Pruitt

Position: FAV



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The Honorable Chair William C. Smith, Jr.
Senate Judicial Proceedings Committee
2 East
Miller Senate Office Building Annapolis,
Maryland 21401

March 5, 2024

Testimony of FreeState Justice

IN SUPPORT OF SB1085: Corrections – Segregated Housing - Limitations

To the Honorable Chair William C. Smith Jr., Vice Chair Jeff Waldstreicher, and esteemed members of the Judicial Proceedings Committee:

FreeState Justice is Maryland's civil rights advocacy organization for lesbian, gay, bisexual, transgender, and queer (LGBTQIA+) Marylanders. We also provide pro bono legal services each year to hundreds of LGBTQIA+ Marylanders who could not otherwise afford an attorney and we advocate more broadly on behalf of the LGBTQIA+ community.

We write today in support of Senate Bill 1085, which would set reasonable limitations on the use of restrictive housing in Maryland while requiring training for hearing officers and personnel involved with the supervision and care of individuals placed in restrictive housing.

A history of abuse, and profiling toward LGBTQIA+ people by law enforcement, along with high poverty rates, homelessness, and discrimination in education and employment, has contributed to increased contacts with the criminal justice system, leading to higher levels of incarceration. When finding themselves incarcerated, jails and prisons are traumatizing, dangerous places. Being LGBTQIA+, means humiliation and abuse both physical and sexual by other prisoners, correctional officers and staff. Many LGBTQIA+ people are placed in solitary confinement just because of who they are many times against their will. This protective custody remains in widespread use in many jails and prisons, even when evidence shows the considerable health risk to prisoners, and

FreeState Justice, Inc. (formerly FreeState Legal Project, Inc., merging with Equality Maryland) is a social justice organization that works through direct legal services, legislative and policy advocacy, and community engagement to enable Marylanders across the spectrum of lesbian, gay, bisexual, transgender, and queer identities to be free to live authentically, with safety and dignity, in all communities throughout our state.

likelihood it undermines correctional security. The organization Black & Pink released a groundbreaking report in 2015¹ examining the experiences of incarcerated LGBTQ people. 85 percent of respondents reported that they had spent some time in solitary confinement. Of those, almost 50 percent had spent two years or more in isolation. Reporting found that transgender women and cisgender gay men were put into solitary confinement against their will at the highest rates.

Corrections systems have increasingly relied on solitary confinement as a prison management tool to the detriment of the isolated individuals. But solitary confinement jeopardizes our public safety, is fundamentally inhumane and wastes taxpayer dollars. We must insist on humane and more cost-effective methods of punishment and prison management. Senate Bill 1085's additional training and monthly reporting requirements which include recording gender demographic information coupled with the overall time limitations and out of cell movements while on restrictive housing are the types of protections needed for incarcerated individuals especially members of the LGBTQIA+ community.

For these reasons, FreeState Justice urges a favorable report on Senate Bill 1085.

Lauren Pruitt, Esq.
Legal Director, FreeState Justice

¹ Coming Out of Concrete Closets A Report on Black and Pink's National LGBTQ Prisoner Survey- <https://www.blackandpink.org/wp-content/uploads/Coming-Out-of-Concrete-Closets.-Black-and-Pink.-October-21-2015..pdf>

SB1085MTsiongas.pdf

Uploaded by: Magdalena Tsiongas

Position: FAV

TESTIMONY ON SB1085
Segregated Housing - Limitations

Senate Judicial Proceedings Committee
March 6, 2024

SUPPORT

Submitted by: **Magdalena Tsiongas, MPH**

Chair Smith, Vice Chair Waldstreicher and members of the Judicial Proceedings Committee:

I, Magdalena Tsiongas, am testifying in support of SB1085, Segregated Housing - Limitations. I am submitting this testimony as the family member of an incarcerated person in a Maryland prison.

So often, segregated housing is used as a catch-all in Maryland prisons. People who are going through acute mental health crisis are put alone in cells, people who are being punished for an infraction are put alone in cells, people who feel unsafe around others are put alone in cells. In 2022, 370 people with serious mental illness were placed in restrictive housing in Maryland.

I recently spoke with the mother of a man who spent 60 days on punitive segregation, which means for 60 days, he wasn't able to speak to call or visit with his children. And many more people spend far longer than 60 days in segregation.

This is not an isolation issue. According to the 2022 report of the Department of Public Safety and Correctional Services, 25.8% of incarcerated individuals were in restrictive housing (solitary) at least once the prior year. The average length of stay in restrictive housing (solitary) was 42.5 days.

International standards, including the United Nations, classify solitary confinement beyond 15 DAYS torture. Make no mistake, therefore, that Maryland is torturing people in prisons by keeping them alone in cells, deprived of human contact, for sometimes years at a time.

I urge you for a **favorable report** on SB1085, with an amendment for the bill to include county jails as well as state prisons.

Thank you.

SB1085_2024_WDCTestimony_SUPPORT.pdf

Uploaded by: Margaret Barry

Position: FAV



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

**Senate Bill 1085 Corrections – Segregated Housing – Limitations
Judicial Proceedings Committee - March 6, 2024
Support**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2024 legislative session. WDC is one of Maryland's largest and most active Democratic Clubs with hundreds of politically active members, including many elected officials.

Senate Bill 1085 limits the use of restrictive housing in Maryland prisons. 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, anxiety, hypertension and other physical deterioration, and they are far more likely to mutilate themselves or commit or attempt suicide.

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 standard. This bill is similarly influenced.

The general population in Maryland prisons suffers from bad food, filth, fledgling rehabilitative services, and inane, nerve bracing rules. You might expect that a person in this environment who is then sent to solitary confinement did 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 Dept. of Public Safety and Corrections report on the use of solitary confinement covering fiscal year 2022 revealed that Maryland prisons *increased* their use of restrictive housing by 39%, experienced by almost 26% of the overall population.¹ The average length of confinement reported was 42.4 days. The majority of men and women placed in isolation were Black.

What this bill seeks is a change in the culture of prison disciplinary procedures that considers the extreme nature of restrictive housing and the damage it does to the people isolated in this

¹ DPSCS. FY22 Restrictive Housing Report. (2022). https://goccp.maryland.gov/wp-content/uploads/MSAR10904_FY-22-Restrictive-Housing-Report.pdf

way. It encourages prison administrators to identify and use other approaches to maintaining discipline.

The bill also allows taxpayer dollars spent on prisons to be used more effectively. The extensive use of isolation has significant costs beyond the social failure of relying on inhumane practices. There are the hidden costs such as increased medical care² and the cost of increased recidivism.³ There are also the more direct construction costs⁴ and the cost of increased supervision.⁵ Estimated savings for New York state level correctional facilities, as a result of its limits on the use of solitary confinement, are \$114 million annually.⁶

As Marylanders, we are responsible for what happens to those we place in prison. We need to assure that people are not returned home wounded by the treatment they receive. Restrictive housing is destructive and a poor use of our investment as taxpayers. We expect humane treatment of those who are incarcerated, and a focus on practices promising rehabilitation and public safety.

Senate Bill 1085 encourages the development and use of effective approaches to maintaining safety and order in our prisons. In sum, it moves Maryland in the direction it needs to go regarding management of its prisons.

We ask for your support for SB 1085 and strongly urge a favorable Committee report.

Tazeen Ahmad
WDC President

Carol Cichowski and
Margaret Martin Barry
WDC Criminal Justice Reform
Subcommittee

Cynthia Rubenstein
Co-Chair, WDC Advocacy

² Partnership for the Public Good, *Save Money, Save Lives: An Analysis of the Fiscal Impact of the HALT Solitary Confinement Act*, (Buffalo, NY: Partnership for the Public Good, 2020),18, https://ppgbuffalo.org/files/documents/criminal-justice/incarceration/save_money_save_lives.pdf

³Ibid.

⁴The Maryland Correctional Adjustment Center was built at a cost of \$21 million in 1989 to house 288 inmates at a cost of over \$72,000 per bed. If prisons continue to rely heavily on the use of isolation, the need for such expenditures will rise.

⁵In the federal prison system, segregated housing units have an average inmate-to-correctional-officer ratio of 41:1 compared to 124:1, meaning solitary confinement requires more than three times the amount of staff to operate. US Government Accountability Office (GAO), *Improvements Needed In Bureau Of Prisons' Monitoring And Evaluation Of Segregated Housing*, GAO-13-429, (Washington, DC: Government Accountability Office, 2013), 29-32.

⁶ Partnership for the Public Good, *Save Money, Save Lives: An Analysis of the Fiscal Impact of the HALT Solitary Confinement Act* (November 2020) at 7, https://ppgbuffalo.org/files/documents/criminal-justice/incarceration/save_money_save_lives.pdf

Testimony Prepared for the Senate Judicial Proceed

Uploaded by: Marvin Silver

Position: FAV

Testimony Prepared for the Senate Judicial Proceedings Senate Bill 1085
Corrections - Segregated Housing - Limitations
March 5, 2024
Position: Support

We write to you to urge a favorable report for SB1085, Corrections - Segregated Housing - Limitations, which restricts the use of solitary confinement in Maryland's state-run correctional facilities. The bill is consistent in principle with a [*Resolution of Witness Condemning Prolonged Solitary Confinement as a Form of Torture*](#) endorsed by the Central Atlantic Conference (CAC) of the United Church of Christ (UCC), a regional judicatory comprised of over 475 clergy and 160 congregations, including 64 congregations and over 9300 members in the State of Maryland. This same resolution was approved at the UCC's 34th General Synod in 2023.

The detrimental effects of solitary confinement (called "restrictive housing" in Maryland) cannot be overstated.

- **Isolated Persons Suffer.** Incarcerated persons placed in restrictive housing suffer physical and psychological harms, such as psychosis, trauma, severe depression, serious self-injury, or suicide.
- **Families Suffer.** When an individual is in restrictive housing, that person is often banned from getting visits and calls from family—this not only punishes families, it breaks down the family ties that are crucial to supporting people upon re-entry.
- **Communities Suffer.** Research shows that time spent in solitary may increase people's likelihood of post-release offending, especially violent re-offending. This is even worse when incarcerated people are released directly from restrictive housing into the community, causing a serious threat to public safety.
- **Solitary Confinement Costs More.** Housing people in solitary confinement costs more than housing them in prison generally, and restricting the use of solitary saves money. For example, Mississippi saved \$8 million after 2010, and Illinois saved \$26 million after 2013. In 2016-2017, California's Department of Corrections and Rehabilitation budget was projected to decrease by \$28 million if limitations were imposed on the use of solitary (Rodriguez, 2016).

In Fiscal Year 2022, the most recent year for which data have been released by the Department of Public Safety and Correctional Services:

- The use of solitary confinement increased by 39%,
- Individuals were subjected to solitary nearly 12,000 times, with a startling 25.8% of the prison population being placed in solitary at least once during the year.
- The average length of stay in solitary confinement was 42.5 days.
- There are significant racial disparities in the imposition of solitary confinement.
- Although the U.N. Special Rapporteur on Torture has found that mentally ill persons should never be placed in restrictive housing, 370 people with serious mental illness were placed in restrictive housing in Maryland.
- 135 people were released directly to the community, after spending an average of 59 days in restrictive housing.

Recent studies also show that people of color are over-represented in solitary confinement compared to the prison population in general and they receive longer terms in solitary confinement than white people for the same disciplinary infractions. In the United States, solitary confinement is disproportionately imposed on Black people, Latinx people, Native people, and other people of color, as well as transgender and gender non-conforming people, people with mental health needs, and young people.

The impacts of solitary confinement extend far beyond the individuals subjected to such conditions. For impoverished people and families in the U.S., the impact of the incarceration of a loved one is particularly devastating. Solitary confinement further exacerbates poverty in the families and communities of the estimated 500,000 people who are released from U.S. prisons and jails each year (U.S. Bureau of Justice Statistics).

In addition to barriers to employment and public assistance, very little is done to prepare those who have been in solitary confinement to transition back to families and employment and to repair the devastation of prolonged isolation to the mind, body, and spirit. Denied access to supportive services while incarcerated due to the isolation of solitary confinement, these people often leave prison with little more than a list of mental health facilities. Jobless and with little support to address the trauma and torture they have endured, many return to prison.

A group of leading criminologists coordinated by the American Academy of Arts and Sciences, as well as other scholars, have documented a prison to poverty pipeline linked to the widespread use of prisons and jails in the U.S. According to the Pew Charitable Trust, a formerly incarcerated person's earning potential is reduced by forty percent. The family impact of contact with the U.S. prison system is one of the largest contributors to poverty, hunger, and success for children of those who are incarcerated.

Given these stark realities, it is imperative for Maryland to take decisive action to curtail the use of solitary confinement. **We, therefore, respectfully urge a favorable report for Senate Bill 1085.**

On behalf of the ***Justice & Witness Action Network–Maryland*** (Central Atlantic Conference, United Church of Christ):
Rev. Marvin M. Silver, Associate Conference Minister

Bill #SB1085 - Seekers Church - FAV.pdf

Uploaded by: Paul Holmes

Position: FAV

Date of Hearing: March 6, 2024

Seekers Church

276 Carroll St NW, Washington, DC 20012

TESTIMONY ON SB1085 (FAVORABLE)
Corrections - Segregated Housing – Limitations

TO: Dear Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee:

FROM: Seekers Church

Most members of Seekers Church are residents of the State of Maryland and live in legislative districts 18, 19, 20, 21, 22, 24 and 26. We are testifying in support of SB1085.

Solitary confinement (“segregated housing”) lasting more than 15 consecutive days is recognized as torture by the United Nations and numerous countries around the world. It is dehumanizing, life-threatening, and causes physical and mental suffering. It destroys human dignity and violates basic human rights. As followers of Jesus, we are called to love our neighbors and to see all human beings as valued children of God. Solitary confinement is an act of violence and a flagrant violation of God’s call to heal and care-for rather than to harm.

Moreover, from a purely practical perspective, solitary does not work. It does nothing to reduce violence in the facility. It hinders rehabilitation and increases recidivism. It puts prisoners, families and communities at risk. And it costs Maryland more to segregate people than to keep them in the general population.

We are particularly aggrieved by the infamous fact that Maryland incarcerates the highest percentage of Black people in the country – 71 percent of our prison population – more than twice the national average – and appallingly, leads the nation in sentencing young Black men to the longest prison terms, at a rate 25 percent higher than the next nearest state, Mississippi. Legislating limitations on “segregated housing” is one modest step by which Maryland can begin to address this shameful bias against Black and Brown people in our state.

We call for strict limitations on the use of solitary confinement/“segregated housing” and we call for it to be abolished for vulnerable people. **The REJMT of Seekers Church urges a favorable report on SB1085.**

FAV-SB 1085 - segregated housing limits.docx.pdf

Uploaded by: Philip Caroom

Position: FAV

SUPPORT SB 1085 -segregated housing limits

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



TO: Chair Will Smith and Senate Judicial Proceedings Committee

FROM: Phil Caroom, MAJR Executive Committee

DATE: March 6, 2024

Maryland Alliance for Justice Reform (MAJR) strongly supports SB 1085 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 as 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 increase recidivism, impeding their potential for rehabilitation and re-integrating into our communities..

SB 1085 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, and 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 SB 1085.

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

Sarah McKinley 2024 SB1085 OPD Testimony.pdf

Uploaded by: Sarah McKinley

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: SB1085 Correctional Services – Segregated Housing – Limitations

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 03/05/2024

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 1085.

Something that is not often considered with individuals in carceral settings is the role that trauma plays in criminal behavior. Adverse childhood experiences (ACEs) are potentially traumatic events that occur before the age of 18. According to the Center for Disease Control (CDC), 61% of the U.S. population has experienced at least one or more ACEs, while 98% of the prison population has experienced at least one or more ACEs. ACEs can have long-term, negative effects on health and well-being, and the toxic stress from ACEs can negatively impact brain development, the immune system, and stress-responses. The trauma of ACEs may be exacerbated by the harsh conditions of segregated housing, resulting in increased health issues and a decline in functioning that negatively impacts immediate wellbeing as well as reintegration upon release.

I attached a copy of the ACE assessment tool with some background information about how it should be administered. The short documentary by the Compassion Prison Project at this link, <https://vimeo.com/398088783>, shows the pervasive presence of ACEs among prison populations

and how lives can be transformed by addressing childhood trauma through increased awareness and compassionate understanding.

According to Dr. Robert Block, “ACEs are the single greatest unaddressed health threat facing our nation.” ACEs and mental illness are prevalent in the assessments conducted by OPD social workers of our clients. Many people in our carceral system are being punished for having mental illness, which directly correlates with their ACEs; and for that reason, we have some of the most traumatized people in our society inside our jails and prisons.

Because correctional settings serve individuals who bring their traumatized and troubled histories into the jails and prisons with them, the characteristics of confinement can trigger PTSD reactions. This makes it essential for anyone working with incarcerated individuals to be trauma-informed, especially when working with individuals in solitary confinement, so they are able to appropriately address the effects of trauma.

Trauma-informed care (TIC) recognizes and responds to the signs, symptoms, and risks of trauma to better support the health needs of people who have experienced ACEs and toxic stress. TIC is highly compatible with the risk, need, and responsivity (RNR) principles of effective correctional rehabilitation, and is central to the responsivity component, which may be the most important, yet most overlooked of the three RNR principles. TIC provides a sense of safety, empowerment, trust, and respect in service settings, and is beneficial to everyone. The overall use of TIC can improve safety for the correctional setting and in the community upon one’s reentry.

The UN considers solitary confinement to be torture. It has been reported that the psychological effects of solitary confinement are equivalent to physical torture. More than 150 years of

research in psychiatry, psychology, criminology, anthropology, and epidemiology has documented the detrimental effects of solitary confinement on mental health and well-being that can lead to serious and lasting psychological damage. Physical and social isolation, combined with sensory deprivation and forced idleness, create a toxic combination associated with a variety of harmful effects.

As lawmakers, it is up to you to make the best decisions that provide the most beneficial outcomes for the individuals and communities you represent. The reforms outlined in this bill will bring Maryland in line with the rest of the world.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on Senate Bill 1085.

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

Authored by: Sarah McKinley, Student Social Work Intern, sarah.mckinley@maryland.gov

SB1085 SUPPORT letter.pdf

Uploaded by: Suzanne O'Hatnick

Position: FAV

March 5, 2024

To: Members of the Maryland State Judicial Proceedings Committee
From: Suzanne O'Hatnick
Re: SUPPORT for SB1085

Dear Committee Chairman Smith and Committee Members,

I urge your support for SB1085 Corrections - Segregated Housing -Limitations.

And I have good news for you, too! Virginia just today passed similar legislation in both their House and Senate, and it is on its way to the Governor's office.

It is no secret that prolonged isolation by any name can be and often is mentally destabilizing. In the public arena we call it solitary confinement. As a Quaker I should know. Quakers started the practice in the late 1700s, then realized that forced isolation, unlike voluntary meditation, causes profound mental instability, and have been opposed at least since the early 1800s. It really is time to stop this practice which, when imposed for more than 15 days, has been declared by the UN Special Rapporteur on Torture to be torture.

In the last report by DPSCS, from 2022 (by the way, they are late with the 2023 report), 25.8% of persons incarcerated in state prisons spent an average of 42.5 days in solitary. 95% of those imprisoned are released into the community, some, directly from solitary. How we treat those who are imprisoned will affect them - and us - for the rest of their lives.

The nine states that have sharply reduced the use of solitary confinement have found that isolation did not decrease violence in prisons, and releasing prisoners from solitary confinement did not increase violence. Additionally, States have saved considerable sums of money, especially over time, by reducing its use.

It makes sense and is the right thing to do: please give your full support to SB1085.

Thank you,

Suzanne Hubbard O'Hatnick
Co-Founder, Interfaith Action for Human Rights
Member, Maryland Alliance for Justice Reform
Member, Stony Run Friends Meeting, Baltimore (Quaker)

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IL Written Testimony SB 1085 of 2024.pdf

Uploaded by: Chris Kelter

Position: FWA



SB 1085: Corrections - Segregated Housing – Limitations

Testimony of Maryland Centers for Independent Living

SUPPORT WITH AMENDMENTS

Senate Judicial Proceedings, March 6, 2024

Centers for Independent Living (CIL) are created by federal law. CILs work to enhance civil rights and community services for people with disabilities. There are seven CILs throughout Maryland, operated by and for people with disabilities. At least 51% of CIL staff and Board are people with disabilities. CILs provide Information and Referral, Advocacy, Peer Support, Independent Living Skills training, and Transition Services to individuals in their communities. Housing assistance is offered by CILs as housing services are critical to independent living.

The Independent Living Network submits this written testimony in **support** of SB 1085 with consideration of the proposed amendments.

SB 1085 Impacts People with Disabilities: People with disabilities are overrepresented in the nation's prisons.¹ Maryland's prisons use segregation more frequently than many jurisdictions and disproportionately places individuals with disabilities in segregation. In FY 2022, the Department of Public Safety & Correctional Services (DPSCS) reported increasing its usage of restrictive housing and that 25.8% of incarcerated individuals were placed in restrictive housing. Among individuals with a serious mental illness, however, more than 38% were placed in restrictive housing.² This disproportionate number of persons with disabilities in restrictive housing (segregation) is especially troubling given that this population is known to be especially subject to harm from segregation.

There is a consensus that segregation is psychologically painful, can be traumatic and harmful, especially for persons with serious mental illness. Depression, post-traumatic stress

¹ Rebecca Vallas, "Disabled Behind Bars The Mass Incarceration of People With Disabilities in America's Jails and Prisons", July, 2016, available at: <https://www.americanprogress.org/wp-content/uploads/sites/2/2016/07/2CriminalJusticeDisability-report.pdf>

² Department of Public safety and Correctional Services Report on restrictive Housing- Fiscal year 2022. Dec. 2021. <https://gocp.maryland.gov/wp-content/uploads/MSAR10904> FY 22 Restrictive-Housing-Report pdf.

disorder, psychosis, hallucinations, paranoia, claustrophobia, anxiety and suicidal ideation are frequent side effects.³ Numerous organizations have condemned the practice, including:

- The American Psychiatric Association, “Prolonged segregation of adult inmates with serious mental illness, with rare exceptions, should be avoided due to the potential for harm”.⁴
- The Society of Correctional Physicians “acknowledges that prolonged segregation of inmates with serious mental illness, with rare exceptions, violates basic tenets of mental health treatment.”⁵
- The American Public Health Association calls for correctional authorities to, “eliminate solitary confinement as a means of punishing prisoners and to develop alternatives for individuals with serious mental illnesses.”⁶
- The U.S. Department of Justice, Report and Recommendations Concerning the Use of Restrictive Housing, states that individuals with serious mental illness should not be placed in restrictive housing, absent exigent circumstances and then with additional services and out of cell time.⁷
- The National Commission on Correctional Healthcare urges that individuals with mental illness be excluded from solitary confinement.⁸
- The World Health Organization (WHO) has recognized, “Those with pre-existing mental illness are particularly vulnerable to the effects of solitary confinement.”⁹

SB 1085, with proposed amendments from the sponsors, would end DPSCS’ harmful reliance on segregation and an inappropriate definition of “serious mental illness.” The definition relied upon by DPSCS is not appropriate to a prison context and leaves people at risk of serious harm. The definition relied upon by DPSCS requires that even if an individual is diagnosed as psychotic or has schizophrenia, they are not considered to be “seriously mentally ill”, unless they have had this condition *for 2 years, AND meet 3 of 5 criteria*, which include criteria inapplicable to a prison context: the *inability to maintain independent employment, or inability, due to cognitive disorganization, to procure financial assistance to support living in the community*¹⁰. The listing of diagnosis eligible for consideration as “seriously mentally ill” exclude numerous mental health disabilities such as severe PTSD or trauma diagnoses, severe

³ Craig Williams v Secretary Pennsylvania Department of Corrections, No. 14-1469, No. 15-1390, 2017 WL 526483 (3d Cir. 2017).

⁴ American Psychiatric Association, Position Statement on Segregation of Prisoners with Mental Illness, Approved by the Board of Trustees, December 2012.

⁵ Society of Correctional Physicians, Position Statement on Restricted Housing of Mentally Ill Inmates (2013).

⁶ American Public Health Association, Solitary confinement as a public health issue. Washington, DC: American Public Health Association, November 5, 2013, Policy 201310. <http://www.apha.org/policies-and-advocacy/publichealth-policy-statements/policy-database/2014/07/14/13/30/solitary-confinement-as-a-public-health-issue>.

⁷ Department of Justice, Report and Recommendations Concerning the Use Of Restrictive Housing, Jan. 2016 at 113. <https://www.justice.gov/dag/file/815551/download>

⁸ Solitary Confinement (Isolation), National Commission on Correctional Health Care (April 2016). <https://www.ncchc.org/solitary-confinement>.

⁹ “Prisons and Health”, edited by Stefan Enggist, Lars Moller, Gauden Galea and Caroline Udesen, World Health Organization, Regional Office for Europe, 2014, at 29.

¹⁰ COMAR 10.21.17.02

anxiety disorders, and personality disorders.¹¹ The reference in the proposed bill to this definition is nonsensical and leads to clear harm. We strongly support sponsor’s amendments to this section of their bill, and in further support note the severe undercounting of individuals with serious mental illness based on DPSCS’ reliance of an inappropriate COMAR definition.

DPSCS’ reliance on an inappropriate definition of “serious mental illness” has resulted in significant under identification of people with disabilities.

The American Psychiatric Association (APA)¹², the National Commission on Correction Health Care¹³ and Human Rights Watch¹⁴ have each estimated that that 17-20% of individuals in U.S. prisons have serious mental illness. Studies supported by the Bureau of Justice Statistics report that 20% of incarcerated individuals have a serious mental illness.¹⁵

In 2011, DPSCS reported that 1.2% of the prison population experienced serious mental illness; in 2015 DPSCS identified 13% of the prison population as seriously mentally ill, in 2016 DPSCS identified 7% of the prison population as seriously mentally ill; in FY 2022 DPSCS identified 6.1% of the prison population as seriously mentally ill.

SB 1085, as amended, should end the under identification of individuals with serious mental illness and provide protection from harm to individuals with serious mental illness, intellectual disabilities and other disabilities. This is a vitally necessary step.

We appreciate the consideration of these comments.

For further information contact:

Imani Graham, Executive Director
The IMAGE Center
igraham@imagemd.org
410-982-6311

or Chris Kelter, Executive Director
Accessible Resources for Independence
ckelter@airnow.org
443-713-3914

¹¹ Ibid.

¹² American Psychiatric Association, *Psychiatric Services in Jails and Prisons*, 2nd ed. (Washington, D.C.: American Psychiatric Association, 200), Introduction, xix.

¹³ National Commission on Correctional Health Care, *The Health Status of Soon-to-be-Released Inmates*, A Report to Congress, March 2002, https://www.ncjrs.gov/pdffiles1/nij/gr_vol.1, p.22; April 2002, vol.2. http://www.ncchc.org/pubs/pubs_stbr.vol1.html; http://www.ncchc.org/pubs/pubs_stbr.vol2.html.

¹⁴ Human Rights Watch, *Ill Equipped: U.S. Prisons and Offenders with Mental Illness* (Washington, D.C.: Human Rights Watch, 2003).

¹⁵ Lauren E. Glaze and Doris J. James, “Mental Health Problems of Prison and Jail Inmates” (Washington: Bureau of Justice Statistics, 2006).

SB 1085 Restrictive Housing.pdf

Uploaded by: Emma Holcomb

Position: FWA



Empowerment. Integration. Equality.

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

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

www.DisabilityRightsMD.org

Maryland Senate Judicial Proceedings Committee – Bill Hearing
Wednesday, March 6, 2024 1:00 PM
Written Testimony in Support of Senate Bill 1085

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. As a result of our investigations, DRM filed litigation against DPSCS in the fall of 2021, alleging that DPSCS's excessive use of restrictive housing for individuals with serious mental illness and failure to provide adequate treatment to those individuals violates the Constitution, the Americans with Disabilities Act, and the Rehabilitation Act. Our testimony is informed by what we have learned through this work and from those who are directly impacted.

The horrific conditions in the restrictive housing units in Maryland's prisons are difficult to imagine for anyone who has not spent time inside them. Individuals in restrictive housing—another term for segregation or solitary confinement—are often kept in their cells for 23 hours a day; on days that do not have scheduled recreation or shower times, or when recreation or showers are cancelled, people may not leave their cells. When recreation is allowed, it is often in cages. Some people may not leave their cells for weeks at a time. Cells no larger than parking spaces may be frigid in the winter and reach extremely high temperatures in the summer. In the cells, people often have nothing to do. They may be given tablets they can use to call their families and attorneys, or, in disciplinary segregation in some of Maryland's facilities, they may have their tablets taken away, making it difficult or impossible for them to contact the outside world. People can spend prolonged time in these conditions, especially in administrative segregation. There is no limit on how long an individual may remain on administrative segregation in Maryland. And the use of restrictive housing in Maryland's

prisons is increasing; 26% of incarcerated individuals in DPSCS custody were subject to restrictive housing in 2022, compared to 18% in 2021.¹

The extreme isolation of restrictive housing, even for short amounts of time, has significant impacts on mental health. 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. And yet DPSCS uses restrictive housing for many people who already have a serious mental illness (SMI). In FY 2022, DPSCS reported that 38.5% of individuals with SMI were placed in restrictive housing at some point in the year.² Some of them were placed in restrictive housing multiple times. This is a significant increase from FY 2021, in which DPSCS reported that 22% of incarcerated individuals with serious mental illness were placed in restrictive housing.³

Inadequate, and, we believe, constitutionally insufficient 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 may be limited to psychiatric medication or work sheets that must be completed alone in cell. The quality of mental health care in these units is grossly inadequate.

The number of individuals in restrictive housing in Maryland who have a serious mental illness is almost certainly undercounted. While the National Commission on Correctional Health Care has estimated that 17.5% of individuals in state prisons have schizophrenia, bipolar disorder, or major depression, and the American Psychiatric Association has estimated that approximately 20% of individuals in American prisons have a serious mental illness, DPSCS reported that in FY 2022, 960 individuals in DPSCS were diagnosed with a serious mental illness- only 6% of the 15,807 people incarcerated by DPSCS that year.

The definition of “Serious Mental Illness” (SMI) used by DPSCS is inappropriately restrictive and not suited for the prison environment. Its continued use ensures continued undercount and underservice to people with SMI and should not be codified. DPSCS use a Maryland Department of Health definition used for certain, but not all, of the Department of Health’s programs. DPSCS has said they would amend their definition of SMI in the past, but they have not taken steps to do so, and individuals with SMI have continued to be under-identified. DPSCS has also said that they would work to improve the programming available to individuals in restrictive

¹ *Department of Public Safety and Correctional Services Report on Restrictive Housing – Fiscal Year 2022 Fulfilling Reporting Requirements of Correctional Services Article § 9-614*, December 2021, 7.

https://goccp.maryland.gov/wp-content/uploads/MSAR10904_FY-22-Restrictive-Housing-Report.pdf

² *Id.*, 13. In 2022, DPSCS identified approximately 960 incarcerated persons as diagnosed with a serious mental illness, and 370 of those individuals were placed on restrictive housing.

³ *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.

<https://goccp.maryland.gov/wp-content/uploads/SB946-FY21-Restrictive-Housing-Report.pdf>

housing, but very little, if any, programming is available to those who are in their cells 23 or more hours per day in Maryland.⁴

The widespread use of restrictive housing in Maryland correctional facilities must change. We understand that this bill is the result of compromise and efforts to ensure that the use of restrictive housing in Maryland prisons is minimized. We are concerned about the frequent under-identification of individuals with SMI in Maryland's prisons and support an amendment to replace the reference to DPSCS' reliance on an inappropriate definition of SMI, as well as an amendment that would entirely ban the use of restrictive housing for individuals with developmental disabilities and significant auditory, visual, or physical disabilities. DRM urges this committee to address these issues and provide a favorable recommendation for Senate Bill 1085, with amendments.

Please contact Em Holcomb, Staff Attorney at Disability Rights Maryland, with any questions. I can be reached at emh@disabilityrightsmd.org or 443-692-2536.

⁴ *Disability Rights Maryland*, *Beyond Incarceration: Lock Down for Persons with Disabilities* (2016), 11.

SB1085 FWA.pdf

Uploaded by: Morgan Mills

Position: FWA

March 6, 2024

Chair Smith, Vice Chair Waldstreicher, and distinguished members of the Judicial Proceedings Committee,

NAMI Maryland and our 11 local affiliates across the state represent a network of more than 58,000 families, individuals, community-based organizations, and service providers. NAMI Maryland is a 501(c)(3) non-profit dedicated to providing education, support, and advocacy for people living with mental illnesses, their families, and the wider community.

NAMI MD applauds the sponsors of this bill that alters reporting requirements for correctional units related to restrictive housing, and offers concise definitions for administrative segregation, restrictive housing, and disciplinary segregation. The bill also requires hearing officers and personnel in the supervision and care of individuals placed in restrictive housing to undergo certain training.

NAMI MD believes that education about serious mental illness at all levels of judicial and legal systems is crucial and that personnel should be required to complete a minimum of 20 hours of training.

Additionally, we appreciate the increased reporting for vulnerable individuals with serious mental illnesses placed in restrictive housing and the requirement to report steps taken to improve the conditions of confinement by allowing opportunities for out of cell time, congregate activities, daily outdoor recreation time, and the requirement to create de-escalation spaces and residential rehabilitation units (separate units for therapy/treatment and rehabilitative programming).

Compared with other prisoners, prisoners with mental illness have higher rates of restrictive housing. NAMI MD calls upon state and other correctional authorities to provide mental health care alternatives to solitary confinement that include enhanced mental health treatment, services and programs, crisis intervention training for correctional officers and mental health step-down units. States that have adopted such proactive efforts to eliminate solitary confinement have documented highly positive results that include reduced psychiatric symptoms, less violence, and significant cost savings.

Overall, this bill, if enacted, would result in a huge improvement to the current system of restrictive housing in State correctional facilities.

However, we request that Sec. 10-1003 (D) be amended to include notification of a designated family member or attorney of the enumerated information regarding the individual's placement in restrictive housing. Family members are a central resource in the treatment of juveniles and adults living with serious mental illnesses. In some instances, individuals with serious mental illness may lack capacity to understand the facts and circumstances that led to the individual placement in restrictive housing. In these instances, the designated family member or attorney should be notified.

Kathryn S. Farinholt
Executive Director
National Alliance on Mental Illness, Maryland

Contact: Morgan Mills
Compass Government Relations
Mmills@compassadvocacy.com

Additionally, (E) and (F) should be amended to include a designated family member or attorney as well. We need to protect patients with serious mental illnesses that lack the capacity to contest their placement in restrictive housing on their own volition. By including a designated family member or attorney in these sections, we are offering further protection for individuals with serious mental illnesses that aren't competent at the time of their placement.

For these reasons, we urge a favorable report but do request consideration of the aforementioned amendments.

SB1085.Council.SWA.pdf

Uploaded by: Rachel London

Position: FWA



Maryland Developmental
Disabilities Council

EMPOWERMENT • OPPORTUNITY • INCLUSION

Senate Judicial Proceedings Committee

March 6, 2024

SB 1085: Corrections – Segregated Housing – Limitations

Position: **Support with Amendment**

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 limiting restrictive housing for individuals with serious mental illness and “vulnerable individuals”, but strongly recommends that the limitation also specifically apply to people with intellectual and developmental disabilities.**

We appreciate that the definition of serious mental illness, includes descriptors that could capture some people with developmental disabilities (page 6, lines 24-27 – pages 7, lines 1-9); however, **in order to ensure more people are protected from harmful practices, language should specifically include people with intellectual and developmental disabilities.**

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, which is especially significant for persons with serious disabilities.**
- **Maryland overuses restrictive housing.** In FY2022, there were 11,953 placements on restrictive housing, a 25.5% in administrative segregation placements and a 54.5% increase in the use of disciplinary segregation. (December 2022 DPSCS Report on Restrictive Housing).

- **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

SB 1085 Amendment

Uploaded by: Senator M Washington

Position: FWA



SB1085/583824/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

06 MAR 24
10:41:41

BY: Senator M. Washington
(To be offered in the Judicial Proceedings Committee)

AMENDMENT TO SENATE BILL 1085
(First Reading File Bill)

On page 2, strike beginning with the colon in line 11 down through the second “HOUSING” in line 15.

On page 4, in line 7, strike “VULNERABLE”.

On page 6, in line 13, strike “(1)”; and strike beginning with “THE” in line 13 down through the first “MENTAL” in line 15 and substitute “, “SERIOUS MENTAL””.

On pages 6 and 7, strike beginning with “DISORDER” in line 15 on page 6 down through “SKILLS” in line 4 on page 7 and substitute “, BEHAVIORAL, OR EMOTIONAL DISORDER RESULTING IN SERIOUS FUNCTIONAL IMPAIRMENT THAT SUBSTANTIALLY INTERFERES WITH OR LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES”.

On page 7, strike in their entirety lines 5 through 8, inclusive; in line 9, after “(B)” insert “(1)”; in the same line, strike beginning with “SUBJECT” through “VULNERABLE” and substitute “EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN”; in line 10, strike “UNLESS” and substitute “IF THE INDIVIDUAL”; in lines 11 and 13, strike “(1)” and “(2)”, respectively, and substitute “(I)” and “(II)”, respectively; strike beginning with “THE” in line 11 down through “ILLNESS” in line 12 and substitute “IS UNDER THE AGE OF 26 YEARS OR AT LEAST 55 YEARS OLD”; in line 12, strike “AND”; strike beginning with “THE” in line 13 down through the colon in line 15 and substitute “HAS A DEVELOPMENTAL DISABILITY;”; in lines 16 and 18, strike “(I)” and “(II)”, respectively, and substitute “(III)” and “(IV)”, respectively; strike beginning with “THE” in line 16 down through “OTHERS” in line 17 and substitute “HAS”.

A SIGNIFICANT AUDITORY, VISUAL, OR PHYSICAL IMPAIRMENT"; in line 17, strike "AND"; and strike beginning with "RESTRICTIVE" in line 18 down through the period in line 20 and substitute "HAS BEEN IDENTIFIED AS HAVING A SERIOUS MENTAL ILLNESS;

(V) HAS A SERIOUS MEDICAL CONDITION THAT CANNOT EFFECTIVELY BE TREATED IN ISOLATED CONFINEMENT;

(VI) IS PREGNANT;

(VII) HAS GIVEN BIRTH WITHIN THE IMMEDIATELY PRECEDING 56 DAYS OF THE PROPOSED RESTRICTIVE HOUSING PLACEMENT; OR

(VIII) HAS SUFFERED A MISCARRIAGE OR TERMINATED A PREGNANCY WITHIN THE IMMEDIATELY PRECEDING 6 MONTHS OF THE PROPOSED RESTRICTIVE HOUSING PLACEMENT.

(2) SUBJECT TO SUBSECTION (G) OF THIS SECTION, AN INDIVIDUAL MAY BE PLACED IN RESTRICTIVE HOUSING IF:

(I) THE INDIVIDUAL IS:

1. AT LEAST 18 YEARS OLD AND UNDER THE AGE OF 26 YEARS; OR

2. HAS A SERIOUS MENTAL ILLNESS; AND

(II) THE MANAGING OFFICIAL AND THE CHIEF PHYSICIAN OF THE CORRECTIONAL FACILITY HAVE DETERMINED, AND RECORDED IN WRITING THE REASONS FOR DETERMINING, THAT:

1. THE INDIVIDUAL PRESENTS A GRAVE RISK OF HARM TO THE INDIVIDUAL OR OTHERS; AND

2. RESTRICTIVE HOUSING IS THE ONLY MEANS OF ENSURING THE SAFETY OF THE INDIVIDUAL OR OTHERS FROM THE RISK OF HARM PRESENTED BY THE INDIVIDUAL.”

On page 8, strike beginning with “THE” in line 29 down through “OR” in line 30.

SB 1085 - SWA - MPS WPS.pdf

Uploaded by: Thomas Tompsett

Position: FWA



March 5, 2024

The Honorable William C. Smith Jr.
Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, MD 21401

RE: Favorable with Amendments – Senate Bill 1085: Corrections - Segregated Housing – Limitations

Dear Chairman Smith and Honorable Members of the Committee:

The Maryland Psychiatric Society (MPS) and the Washington Psychiatric Society (WPS) are state medical organizations whose physician members specialize in diagnosing, treating, and preventing mental illnesses, including substance use disorders. Formed more than sixty-five years ago to support the needs of psychiatrists and their patients, both organizations work to ensure available, accessible, and comprehensive quality mental health resources for all Maryland citizens; and strive through public education to dispel the stigma and discrimination of those suffering from a mental illness. As the district branches of the American Psychiatric Association covering the state of Maryland, MPS/WPS represent over 1000 psychiatrists and physicians currently in psychiatric training.

While we commend the proponents of Senate Bill 1085: Corrections - Segregated Housing – Limitations (SB 1085) for their efforts and appreciate the incorporation of some of our previous suggestions from years past, MPS/WPS are compelled to highlight several critical concerns that necessitate immediate rectification:

1. Section 3(i) of the bill (page 2, lines 16 – 17), pertaining to the definition of "Restrictive housing," lacks necessary clarity regarding individuals voluntarily seeking segregation for protective reasons. It is imperative to preserve this vital distinction in the law to safeguard the rights and well-being of those individuals.
2. Page 7, lines 21 – 28, present troubling ambiguities regarding the placement of individuals in protective custody, potentially imposing undue limitations and complications. Ensuring the flexibility of correctional facilities to address the complex needs of inmates in protective custody, both voluntarily and involuntarily, is paramount for effective mental health care within these institutions. Correctional facilities need to be able to place people in protective custody indefinitely, voluntarily or involuntarily. While this may still be possible under the bill because it requires periodic review for continuation, other parts of the bill seem to create hard limits.



3. Of utmost concern is the requirement, as stipulated on page 10, lines 9 - 12, for daily mental health assessments of individuals in segregated housing. This mandate not only poses logistical challenges, particularly during weekends when mental health resources may be limited or nonexistent but also risks diverting crucial treatment providers from addressing urgent crises elsewhere. We strongly advocate for aligning this provision with established standards, such as those set forth by the National Commission on Correctional Health Care, to optimize mental health care delivery while maintaining operational efficiency.

In light of these pressing considerations, we implore this honorable committee to support SB 1085 with the proposed amendments, thereby ensuring the equitable and effective provision of mental health care services within correctional facilities across our state. Should further clarification or information be required, MPS/WPS stand ready to provide assistance and insights. Please do not hesitate to reach out to Thomas Tompsett Jr. at tommy.tompsett@mdlobbyist.com.

Respectfully submitted,
The Maryland Psychiatric Society and the Washington Psychiatric Society
Legislative Action Committee

SB1085_DPSCS_OPPOSITION.pdf

Uploaded by: Catherine Kahl

Position: UNF



Department of Public Safety and Correctional Services

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ASSISTANT SECRETARY
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REENTRY SERVICES

JANELLE B. MUMMEY
DIRECTOR

BILL: SENATE BILL 1085

POSITION: OPPOSITION

EXPLANATION: This bill makes substantial changes on the usage of restrictive housing, requires mandated training; and establishes guidelines and procedures for the placement of individuals on restrictive housing in correctional facilities. The passage of this bill will not only have a significant fiscal and operational impact on the Department, it will put correctional officers, and mental health staff at a considerable safety risk.

COMMENTS:

- The Department of Public Safety and Correctional Services' Division of Correction operates 13 State correctional facilities housing offenders sentenced to periods of incarceration for 18 months and longer. The Department also oversees five facilities located in Baltimore City that houses pretrial detainees and incarcerated individuals sentenced to incarceration for periods of 18 months and less.
- SB 1085 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.
- **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.

- The bill defines a Residential Rehabilitation Unit as an alternative for restrictive housing, however, the Department does not have residential rehabilitation units.
- The bill would require that ALL personnel involved in the supervision and care of individuals placed in restrictive housing complete 16 hours of training and 4 hours annually; and ALL hearing officers complete at least 8 hours of training before being assigned to a restrictive housing unit, and shall receive at least 4 hours of additional training annually.
 - The Division of Correction (DOC) has over 5,200 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 16 hours of training to ALL correctional officers is estimated to cost approximately \$2.0M 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 12 hours of training to the Department's 12 hearing officers is estimated to cost approximately \$12,000 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.
- 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.

- Under the bill's vulnerable individual definition, an individual is between at least 18 years old and 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.
- Under the bill, an incarcerated individual may contest the placement on restrictive housing in an administrative hearing within 70 hours of the initial placement, and be represented by an attorney or an advocate of their choosing. 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 in 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.
- SB1085 establishes that an individual may not be subject to restrictive housing for more than 3 consecutive days or 6 days in any 60-day period. An individual may be placed in restrictive housing for a period of time exceeding the limit if a written decision is issued following an evidentiary hearing. This is an unworkable requirement as it will require a hearing and a decision to be made within the 3 days time period.

- The bill requires that an individual on restrictive housing be given a physical and mental health assessment every 24 hours, and shall be performed by a licensed mental health professional, a medical professional, and one member of the facility management team. Further, if an individual exhibit's "unusual" behavior, an assessment is required every 15 minutes. The cost to implement these assessments will be exorbitant, and estimated to be well over \$5M.
- 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.
- SB 1085 is extremely prescriptive and absolute. It seeks to legislate the manner in which the Department conducts daily operations and provides no flexibility to the correctional professionals operating the correctional facilities who work tirelessly to maintain safety and security.
- 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 vote **UNFAVORABLE** on Senate Bill 1085.

MCAA SB 1085 Letter Restrictive Housing.pdf

Uploaded by: Mary Ann Thompson

Position: UNF



SB-1085
Corrections Segregated Housing

MCAA Position: **OPPOSE**

TO: Judicial Proceedings Committee

DATE: March 5, 2024

FROM: Ryan Ross, President
Lamonte Cooke, Legislative Committee
Mary Ann Thompson, Legislative Committee

The Maryland Correctional Administrator's Association (MCAA), an organization comprised of our statewide jail wardens and administrators for promoting and improving best correctional practices, appreciates the opportunity to provide information regarding Senate Bill 1085.

Local Detention Centers in the State of Maryland operate according to the Maryland Commission on Correctional Standards (MCCS), codified in Title 12 Department of Public Safety and Correctional Services, Subtitle 14 Commission on Correctional Standards, which includes restrictive housing.

Restrictive housing has long been recognized as a legitimate measure to ensure correctional institutions' orderly operation and safety. Correctional managers' primary duty and responsibility is to provide for the protection and welfare of incarcerated individuals 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 cause them to be deliberately indifferent to certain risk factors.

While most of the bill focuses on the State prison system, the bill language sets the local detention centers up for failure to comply with this bill as written:

- Due to facility design, allowing all incarcerated individuals out-of-cell equitably for seven (7) hours per day during non-lockdown hours is not possible.
- There is no allowance for those who, by healthcare and behavioral health professionals, are on medical and mental health holds or maladjusted behavior individuals.
- Residential rehabilitation units would require additional housing units and requisite personnel.
- Some of the data is not currently tracked and would require hiring personnel to gather and report the data to the General Assembly, some of which is already submitted to the Governor's Office on Crime Prevention and Policy by law.

The Maryland Correctional Administrators Association strongly opposes this bill and respectfully requests this committee for an unfavorable report on SB-1085.

SB1085-JPR_MACo_OPP.pdf

Uploaded by: Sarah Sample

Position: UNF



Senate Bill 1085

Corrections – Segregated Housing - Limitations

MACo Position: **OPPOSE**

To: Judicial Proceedings Committee

Date: March 6, 2024

From: Sarah Sample

The Maryland Association of Counties (MACo) **OPPOSES** SB 1085. The bill alters reporting requirements for local detention centers regarding individuals in segregated housing and changes the definition of restrictive housing to more than 17 hours in an individual cell, down from 22 hours.

No warden takes the decision to use restrictive housing lightly but, under some circumstances, these accommodations are in the best interests of the individual, staff members, and the broader detention center population. Accordingly, current statute requires all detention centers ensure that qualifying individuals in restrictive housing have 2 hours of out-of-cell time, based on the “22 and 2” model. The new definition from the bill effectively converts that requirement to “17 and 7.”

Local detention centers make significant efforts to ensure 2 hours of out-of-cell time for individuals in restrictive housing. They juggle schedules, staff, officers, and facilities in order to do so. The new provisions of the bill create a situation where compliance is not possible despite a significant effort as is already demanded. The changes would require additional capital and operating funding for beds, dayrooms, staff, security, and space. Even individuals who have voluntarily waived allowances, like out-of-cell time, for their own safety, would now potentially be exposed to others they were intending to avoid.

In a large-scale state-run facility, there may be multiple options to consider in managing difficult incarcerated individual cases and accommodating the out-of-cell time required by the bill. However, in county detention centers – frequently smaller in physical space than state facilities – such options may simply be unavailable. SB 1085, however, holds both facilities to the same standard.

Proper protocols should accompany decisions regarding restrictive housing, but those provisions should be possible and not 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. The restrictions in this bill would make that nearly impossible and almost certainly would have an adverse effect on staff safety and retention.

While seeking to create a standard of care and a duty to provide practical alternatives to restrictive housing, SB 1085 does not take into account the practical effect on smaller facilities in each county. For these reasons, MACo urges an **UNFAVORABLE** report for SB 1085.