



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.