



Department of Public Safety and Correctional Services
Office of the Secretary

6776 Reisterstown Road, Baltimore, Maryland 21215
410-585-3346 – TOLL FREE 877-379-8636 • www.dpscs.maryland.gov

POSITION: LETTER OF INFORMATION

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RE-ENTRY SERVICES

EXPLANATION: House Bill 647 seeks to impose significant limitations on the use of restrictive housing by altering the definition for being in a locked cell from approximately 22 hours to 17 hours or more out of a 24-hour period; creates a new subtitle under the Correctional Services Article defining prohibited acts for incarcerated individuals. Additionally, the Department of Public Safety and Correctional Services is required to create the least restrictive environment necessary for the safety of all incarcerated individuals and staff and for the security of the facility.

COMMENTS:

- The Department of Public Safety and Correctional Services' (Department) Division of Correction operates 13 State correctional facilities housing individuals 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.
- Restrictive housing serves as a necessary tool for managing individuals who pose a significant threat to others or themselves. By limiting its use, an environment is created where violent incidents could escalate, endangering other staff and other incarcerated individuals.
- The bill alters the definition of restrictive housing, stating that an incarcerated individual who is locked in a cell for 17 hours or more is considered to be in restrictive housing, with two exceptions as stated in the bill.
- In addition, the bill provides if an incarcerated individual is placed on restrictive housing for longer than 20 days, and has committed a prohibited act, they are to be placed on restrictive housing until they can be transferred to a residential mental health unit, or remain on restrictive housing for 48 hours longer, whichever duration time is shorter. The latter will always be the decision, as residential mental health units have not been established to accommodate the number of individuals who are

on restrictive housing. This leaves no choice but to allow an incarcerated individual to return to general population after 22 days. To implement both of these requirements poses significant challenges to the Department.

- First, recreation for individuals placed on restrictive housing is fundamentally different from recreation for incarcerated individuals in general population. Those placed on restrictive housing are provided out of cell time in smaller groups in order to promote safety and reduce incidents of violence, as these incarcerated individuals are in restrictive housing due to behavior that demonstrates a risk to the safety and security of themselves and others. As such, special care must be taken to ensure all potential risks of violence are avoided as best as possible.
- To achieve this, incarcerated individuals on restrictive housing must remain separated from others to prevent close physical contact. As a result, they must have recreation time in a secure area, separate from the general population. To avoid being classified as being on restrictive housing, individuals must spend less than 17 hours per day in their cells. Meeting this requirement will necessitate extended recreation periods, which means creating additional secure recreational areas to accommodate the longer hours.
- Without the proper secured recreation areas, it is assured that DOC would not be able to provide the amount of recreation time required and that the occurrences of violence would sky rocket in restrictive housing areas.
- From November 1, 2024 through January 20, 2025, the Eastern Correctional Institution ran a pilot program with the goal of increasing the amount of out of cell time for incarcerated individuals assigned to restrictive housing. Based on an analysis of temperament, enemy status and other potential conflicts, ECI began allowing those who were not cellmates to recreate together, increasing the total of incarcerated individuals in the recreation from two who were cellmates, to 6 (the occupants of three cells).
- During this 80-day pilot, there were 17 II on II assaults and 5 assaults on staff. For reference, the 90 days prior to the pilot only resulted in 8 II on II assaults and 2 staff assaults, demonstrating an increase of over 100%.

- Second, if an incarcerated individual is on restrictive housing for longer than 20 days and committed a prohibited act, the bill suggests they should be transferred to a residential mental health unit. This would require the establishment of additional mental health units to accommodate these individuals, ensuring that existing beds for those already diagnosed with mental health conditions are not compromised.
- Altering the definition of restrictive housing to be defined as 17 hours or more in a locked cell exceeds what is considered “good correctional practices.” The American Correctional Association, the organization charged with setting the performance-based standards for facility operations, defines Restrictive Housing as “a placement that requires an inmate to be confined to a cell at least 22 hours per day for the safe and secure operation of the facility.”
- Changing the definition will require increased staffing as the staffing ratio is different in restrictive housing compared to general population. This is necessary to ensure greater observation and ability to protect those on this placement. If more recreation or out of cell time is required, staffing these units would require a large increase in staff presence.
- Nearly 60 additional custody staff would be needed to account for the additional out of cell time as the majority of population movement ceases on overnight shifts. This analysis was derived based on the current staffing needs of maintaining 1-2 hours a day of out of cell activity, capacity, facility security level, and already existing correctional staff posts which assist with recreation.
- General population units would also require an increase in staffing, as oftentimes, in higher security institutions, the entirety of the unit is not permitted out of cell time together in order to allow for the staff to properly manage the safety and security of the unit.
- The daily operations of DOC would allow little room for error in order to be considered general population. Consideration must be given to being in their cell for 8 hours of sleep, and during institutional counts. Movement is not permitted during these times and incarcerated individuals are to be in their assigned cell during these occurrences.

- Additionally, consideration must be given to meal time and for incarcerated individuals who eat their meals in their cells. Time must also be allotted for sanitation of housing units, which occurs while the housed population is in their cell. Typically, this could require 1-2 hours a day.
- HB 647 identifies vulnerable individuals and suggests they should not be placed in restrictive housing. This policy inadvertently creates divisions within the facility, intensifying their vulnerability and making them more likely to be coerced into committing assaultive acts on behalf of others.
- HB 647 seeks to create a restrictive housing subtitle under the Correctional Services Article that defines prohibited acts for incarcerated individuals.
- By defining prohibited acts, it offers no flexibility, and the Department would be bound to specific criteria that does not account for all behavior or violations that would place an incarcerated individual in restrictive housing.
- While HB 647 proposes alternatives to limit the use of restrictive housing, the implications of the bill raise serious concerns regarding public safety, institutional order, and the overall effectiveness of correctional rehabilitation.

CONCLUSION: The Department of Public Safety and Correctional Services respectfully requests the Committee consider this information as it deliberates House Bill 647.