



## Department of Public Safety and Correctional Services

### Office of the Secretary

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**BILL:** HOUSE BILL 1154

**POSITION:** OPPOSE

**EXPLANATION:** House Bill 1154 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 20 hours or more out of a 24-hour period; requires the Department to offer at least four hours of time outside of the incarcerated individual's cell. 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 house pretrial detainees and incarcerated individuals sentenced to incarceration for periods of 18 months and less.
- Restrictive housing serves as a necessary tool for managing incarcerated 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.
- Despite this, the Department actively seeks available alternatives to restrictive housing wherever possible, and addresses the underlying issues that drive events that trigger restrictive housing. Where appropriate, wardens may waive sanctions to restrictive housing, and hearing officers seek alternative dispositions and non-segregation sanctions in 53% of cases.
- To date, 232 staff of various disciplines have received Crisis De-escalation Training. Efforts are underway to expand training opportunities focusing on staff persons working in our highest risk units. This training is an important component of facilitating alternative dispute resolution to avoid infractions and interpersonal conflicts.

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- To address the needs of vulnerable individuals, the Department piloted the establishment of mental health tiers, with a capacity of 261 beds across nine facilities. These dedicated housing units are general population units that are designed around the needs of individuals who struggle in the general population due to mental health needs. These supportive units, with specially trained staff and support from mental health staff, have served as both a stabilizing environment to reduce repeat placements for nonviolent infractions, and have addressed underlying drivers of restrictive housing by offering an alternative to returning to general population. Currently, refusal of housing placements are a significant driver of prolonged restrictive housing.
- To assist in strategic reduction and management of the Department's use of restrictive housing, the Department is hosting a training on restrictive housing, facilitated by the National Institute of Corrections, for facility and operational leadership. This multi-day training will focus on strategies to prevent and reduce restrictive housing placement, length of stay, violence, and address individuals who refuse housing.
- Altering the definition of restrictive housing to be defined as 20 hours or more in a locked cell exceeds what is considered "good correctional practices." The American Correctional Association, the organization charged with setting the national and 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."
- Incarcerated individuals placed in restrictive housing are most often housed in a doubled bunked cell with another incarcerated individual and are allowed continued use of their tablets to access entertainment and programming.
- Incarcerated individuals in restrictive housing have access to their tablets, writing materials as needed, and the facility librarian makes weekly visits to the restrictive housing units to provide books and book exchanges.
- Clinical nurses make daily rounds to restrictive housing units and peer support specialists actively engage the incarcerated individuals in problem solving to facilitate a successful transfer back to the general population.
- Incarcerated individuals on restrictive housing have the same access to care as those in the general population. Additional weekly rounds are conducted for incarcerated individuals with serious mental illness to conduct assessments which are documented.

**Commented [1]:** by offering a general population tier focused on the mental needs of the individuals placed on the mental health tier.

- In addition, the bill also imposes a 15 consecutive day limit with no more than 20 total days in a two-month period that an individual can be placed on restrictive housing.
- Recreation for individuals placed in restrictive housing is fundamentally different from recreation for incarcerated individuals in general population. Those placed in 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 20 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 adequate secure recreation areas, the DOC would not be able to provide the amount of recreation time required for the segregation population to access recreation individually, and occurrences of violence would skyrocket in restrictive housing areas if recreation at this scale were conducted with existing facility resources.
- From November 1, 2024 through January 20, 2025, the Eastern Correctional Institution (ECI) 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 six. (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, resulting in a doubling of the assault rate.
- Changing the definition of restrictive housing 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

**Commented [2]:** take out-sounds like people hurting themselves are in restrictive housing because of that

**Commented [3R2]:** I think the implication here is about PREA. Is there a way we can say that more explicitly to clarify away from this concern?

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 4 hours a day of out of cell activity, capacity, facility security level, and already existing correctional staff posts which assist with recreation.
- Facilities currently face challenges with overtime usage and staffing levels which create collapsed posts/positions. To ensure General Population would receive over the threshold of Restrictive Housing minimums it would require the DOC to increase overtime usage and/or staffing levels to prevent the collapsing of posts/positions.
- The Department's current ability to track restrictive housing usage, including measurements of placements and duration, are based on formal assignment to restrictive housing. The language of this bill would expand the definition to be a dynamic status that would require day-to-day tracking for the entire sentenced population that could not be calculated in advance, or recreated based on currently available documentation. The Department's case management system proactively calculates the duration of segregation for assignments to punitive segregation, and is triggered by existing recording of bed assignment.
- None of the current features of the electronic case management system can accommodate dynamic day to day tracking at the scale required by this legislation, which poses a significant challenge both for compliance reporting as well as for population management. Absent major technological and or equipment investment, which could not be completed by October 2026, the Department does not have the electronic infrastructure to effectuate the 20 day cumulative limit proposed by this bill.
- The Department also respectfully notes that even if enabled electronically, the impact of hourly documentation for each individual in custody will have a significant impact on operational workloads, and would likely negatively impact efforts to reduce overtime and expand access to programming, which is contrary to the spirit and goals of the proposed legislation.
- The legislation would not allow daily operations of the DOC for operational flexibility in order to be considered general population. Operations are often impacted by offsite medical needs, incident response, preventative contraband interdiction, necessary maintenance and construction that ensures facility safety, and weather-related disruptions. Consideration must be given to

individuals 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 1154 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.
- While HB 1154 proposes alternatives to limit the use of restrictive housing. The implications of the bill raise significant concerns regarding public safety, institutional order, and the overall effectiveness of correctional rehabilitation.

**CONCLUSION:** For these reasons, the Department of Public Safety Correctional Services respectfully requests this Committee vote **UNFAVORABLE** on House Bill 1154.