

Senate Judicial Proceedings Committee
**SB 268 – Correctional Services – Restrictive Housing – Individuals with Intellectual or
Developmental Disabilities**
February 4, 2026 at 11:00 AM
Position: Unfavorable

Disability Rights Maryland (DRM) is Maryland’s state-designated Protection and Advocacy organization, with responsibility under law to protect individuals with disabilities from abuse, neglect and civil rights violations. While DRM appreciates SB 268’s attempt to limit the use of restrictive housing for individuals with intellectual or developmental disabilities (IDD), we conclude that this bill would do more harm than good. The bill would permit DPSCS to place individuals with IDD in restrictive housing for 15 days out of every month, and potentially much more than that. Significantly, the bill’s proposed definition of “restrictive housing” is much narrower than the one currently in statute and would expand the use of restrictive housing to many more instances. The bill also contains many exemptions for discipline categories that are exempted from the 15-day rule. The exemptions in this bill create a giant loophole that would make the 15-day rule meaningless.¹ For these reasons, we cannot support the bill as written.

Over the past decade, DRM has investigated the mental health care provided to individuals with mental illness state correctional facilities, finding the care seriously inadequate, particularly those housed on segregation (restrictive housing) units. We have visited and toured many of the state’s facilities, have reviewed thousands of pages of medical records, engaged with representatives of the Department of Public Safety and Correctional Services (DPSCS), and communicated with incarcerated individuals with disabilities throughout the State. Some of those individuals have been persons with intellectual or developmental disabilities.

Inflicting solitary confinement on those with mental or physical disabilities is prohibited under international law. Even if permitted by domestic law, prolonged or indefinite solitary confinement cannot be regarded as a "lawful sanction" under the Mandela Rules, which provide minimum standards and states that solitary confinement may only be imposed in exceptional circumstances, and "prolonged" solitary confinement of more than 15 consecutive days is regarded as a form of torture.

The United Nations opined in 2020 that the use of extended restrictive housing "trigger[s] and exacerbate[s] psychological suffering, in particular in inmates who may have experienced

¹ For example, the definition of “restrictive housing” includes “a form of physical separation that has not been requested by the individual...” Many individuals with IDD that we have met have requested to be in restrictive housing because they are afraid and/or have been targeted by other incarcerated individuals. These individuals could be (and often are) placed in restrictive housing for an unlimited number of days because they don’t meet DPSCS’ definition of “restrictive housing.”

previous trauma or have mental health conditions or psychosocial disabilities...[t]he severe and often irreparable psychological and physical consequences of solitary confinement and social exclusion are well documented and can range from progressively severe forms of anxiety, stress, and depression to cognitive impairment and suicidal tendencies. "This deliberate infliction of severe mental pain or suffering may well amount to psychological torture," the Special Rapporteur said.

Finally, DRM has concluded that it may be statutorily illegal disability discriminatory and arguably unconstitutional as violative of equal protection to choose one group for whom limits on restrictive housing would apply. Under equal protection guarantees, the government may only choose one group to receive special benefits when there is a significant governmental interest in doing so. These standards ensure that government actions are justified and do not disproportionately affect certain groups, maintaining the principles of equal protection under the law.

We have concluded that we could only support SB 268 if it were amended to address these significant issues.

We propose amending the bill as follows:

Delete text beginning on p.2, line 1 through p.3, line 20.

Start with (B) THIS SECTION APPLIES TO A STATE CORRECTIONAL FACILITY.

(C) (1) DURING THE INTAKE ASSESSMENT FOR A NEW INCARCERATED INDIVIDUAL, AN APPLICABLE CLINICAL PROFESSIONAL SHALL:

- (A) CONDUCT A DISABILITY ASSESSMENT OF THE INDIVIDUAL;
- (B) RECOMMEND ACCOMMODATIONS NEEDED BY THE INDIVIDUAL; AND
- (C) PROVIDE INFORMATION ON NEEDED ACCOMMODATIONS TO THE ADA COORDINATOR FOR THE FACILITY.

(D) WHENEVER AN INCARCERATED INDIVIDUAL WITH A DISABILITY IS PLACED IN RESTRICTIVE HOUSING, A CLINICAL PROFESSIONAL AND THE ADA COORDINATOR SHALL DOCUMENT WHAT ALTERNATIVES HAVE BEEN CONSIDERED AND WHY THEY COULD NOT BE USED IN LIEU OF SEGREGATION.

(E) A CORRECTIONAL FACILITY SHALL TRACK THE NUMBER OF INCARCERATED INDIVIDUALS WITH DISABILITIES, DISAGGREGATED BY DISABILITY, AND REPORT THIS INFORMATION PERIODICALLY TO DPS CS IN CONNECTION WITH THE ANNUAL RESTRICTIVE HOUSING REPORT REQUIRED BY § 9-614 OF THE CORRECTIONAL SERVICES ARTICLE.

Everything else deleted.

For reasons stated above, DRM urges the Committee to reject SB 268 and to permit stakeholders to spend the time needed to address the issues presented by DRM and others who oppose the use of restrictive housing and lack of adequate mental health care in DPSCS facilities.

Should you have any questions or need additional information, please contact Luciene Parsley, Litigation Director at Disability Rights Maryland, at lucienep@disabilityrightsmd.org or at 443-692-2494.