



TESTIMONY TO THE HOUSE JUDICIARY COMMITTEE

House Bill 310 – Correctional Services – Restrictive Housing – Individuals with Developmental or Intellectual Disabilities

Sponsor: Delegates Kaufman, Holmes, A. Johnson, S. Johnson, and Shetty

Date: In the House - Hearing 3/03 at 1:00 p.m.

Position: SUPPORT WITH AMENDMENT

About People on the Go Maryland

People on the Go Maryland promotes self advocacy and civil rights throughout the state. We work to ensure that people with intellectual and/or developmental disabilities have a voice in decisions that affect their lives and are treated with dignity and respect in all settings, including correctional facilities.

Why We Support This Bill with Amendments

People on the Go Maryland supports the intent of House Bill 310 to protect people with intellectual and/or developmental disabilities from prolonged solitary confinement in state correctional facilities. However, we have serious concerns about the bill as currently written. Without amendments, the bill creates a dangerous loophole that would allow people with intellectual and/or developmental disabilities to be held in solitary confinement for unlimited amounts of time. This defeats the purpose of the bill and puts vulnerable people at grave risk of harm.

The Problem: A Dangerous Exception

The bill requires clinical professionals to assess people for intellectual and/or developmental disabilities at intake. If a clinical professional recommends it, the facility cannot place that person in restrictive housing (solitary confinement) for more than 15 consecutive days in a 30-day period. This is a good protection that matches international human rights standards.

However, Section D of the bill removes this 15-day limit entirely if the person commits any “prohibited act.” The prohibited acts listed in the bill include serious actions like violence and escape attempts, but they also include broader behaviors like “making an imminent threat” or “coercing another to violate a rule.” This means that people with intellectual and/or developmental disabilities could be placed in solitary confinement indefinitely for months or even years with no time limit at all.

This exception makes the bill’s protections nearly meaningless. People with intellectual and/or developmental disabilities often struggle to understand complex prison rules, to control impulses, or to predict consequences of their actions. Research shows they are more likely than other people to have behaviors that lead to disciplinary actions in prison. If those behaviors remove all time limits on solitary confinement, the bill will not protect the people it is meant to help.

Why This Matters: The Harm of Solitary Confinement

Solitary confinement is extremely harmful to everyone, but research shows it causes especially severe damage to people with intellectual and/or developmental disabilities:

- **It makes their disabilities worse.** Studies show that isolation causes confusion, increased aggression, and worsening of existing cognitive impairments for people with intellectual and/or developmental disabilities.
- **It causes serious mental health problems.** People in solitary confinement experience high rates of anxiety, depression, hallucinations, paranoia, and thoughts of suicide. These effects are worse for people with intellectual and/or developmental disabilities.

- **It can cause physical changes to the brain.** Research shows that isolation can shrink the part of the brain involved in memory and increase activity in the part of the brain responsible for fear and anxiety.
- **It increases risk of death.** Studies have found that people who have been in solitary confinement are significantly more likely to die by suicide after release, even if they spent only one day in isolation.
- **It denies access to necessary services.** People in solitary confinement typically cannot access mental health treatment, educational programs, or other services that people with intellectual and/or developmental disabilities need.

The United Nations has found that solitary confinement for more than 15 consecutive days amounts to torture. The UN specifically prohibits using solitary confinement on people with mental and physical disabilities when it would worsen their conditions. Many states, including Pennsylvania and Colorado, have already banned or severely limited the use of solitary confinement for people with intellectual disabilities because the evidence of harm is so clear.

Our Proposed Amendment

To make this bill truly protect people with intellectual and/or developmental disabilities, we propose the following amendment to Section D:

AMENDMENT TO SECTION 9-614.3(D):

Strike Section (D) in its entirety and replace with:

“(D) (1) IF AN INCARCERATED INDIVIDUAL WITH A DEVELOPMENTAL DISABILITY OR INTELLECTUAL DISABILITY COMMITS A PROHIBITED ACT, THE CORRECTIONAL FACILITY MAY PLACE THE INDIVIDUAL IN RESTRICTIVE HOUSING ONLY IF:

- (I) THE CORRECTIONAL FACILITY HAS FIRST ATTEMPTED LESS RESTRICTIVE ALTERNATIVES, INCLUDING INCREASED SUPERVISION, MENTAL HEALTH INTERVENTION, OR TRANSFER TO AN APPROPRIATE SETTING; AND**
 - (II) THE COMMISSIONER OF CORRECTION MAKES A WRITTEN DETERMINATION THAT NO LESS RESTRICTIVE ALTERNATIVE WILL ADEQUATELY ADDRESS THE SAFETY CONCERN.**
- (2) EVEN IF A PROHIBITED ACT IS COMMITTED, AN INCARCERATED INDIVIDUAL WITH A DEVELOPMENTAL DISABILITY OR INTELLECTUAL DISABILITY MAY NOT BE PLACED IN RESTRICTIVE HOUSING:**
- (I) FOR MORE THAN 30 CONSECUTIVE DAYS; OR**
 - (II) FOR MORE THAN 60 CUMULATIVE DAYS IN ANY 365-DAY PERIOD.**

- (3) WHILE IN RESTRICTIVE HOUSING FOLLOWING A PROHIBITED ACT, AN INCARCERATED INDIVIDUAL WITH A DEVELOPMENTAL DISABILITY OR INTELLECTUAL DISABILITY MUST:
- (I) RECEIVE DAILY IN-PERSON CONTACT WITH MENTAL HEALTH STAFF;
 - (II) BE PROVIDED ACCESS TO NECESSARY MEDICATIONS, THERAPIES, AND ACCOMMODATIONS FOR THEIR DISABILITY;
 - (III) RECEIVE AT LEAST FOUR HOURS OF OUT-OF-CELL TIME PER DAY; AND
 - (IV) BE REVIEWED EVERY SEVEN DAYS BY A CLINICAL PROFESSIONAL TO ASSESS WHETHER CONTINUED RESTRICTIVE HOUSING IS NECESSARY AND WHETHER IT IS CAUSING DETERIORATION OF THE INDIVIDUAL'S CONDITION.
- (4) THE CORRECTIONAL FACILITY MUST DOCUMENT IN WRITING THE REASON FOR PLACEMENT IN RESTRICTIVE HOUSING, ALL LESS RESTRICTIVE ALTERNATIVES CONSIDERED, AND THE RESULTS OF EACH SEVEN-DAY REVIEW."

What This Amendment Does

This amendment protects people with intellectual and/or developmental disabilities while still allowing correctional facilities to respond to serious safety concerns. Specifically, it:

1. **Requires facilities to try other options first** before using solitary confinement, such as increased supervision or mental health support.
2. **Sets strict time limits even for prohibited acts:** No more than 30 days in a row, and no more than 60 days total in a year. This prevents people with intellectual and/or developmental disabilities from languishing in isolation for months or years.
3. **Ensures access to necessary care** while in solitary confinement, including daily mental health checks, medications, disability accommodations, and time out of the cell.
4. **Requires regular review** every seven days to make sure solitary confinement is still necessary and is not causing harm.
5. **Creates accountability** by requiring written documentation of why solitary confinement was used and what other options were considered.

These protections are based on research about what helps keep people with intellectual and/or developmental disabilities safe while also protecting their health and rights. They recognize that sometimes separation may be necessary for safety, but they ensure it is used only as a last resort, for limited time periods, and with appropriate oversight and support.

Without This Amendment, the Bill Should Not Move Forward

If the bill passes without this amendment, it will create the false appearance of protecting people with intellectual and/or developmental disabilities while actually allowing them to be harmed through unlimited solitary confinement. This would be worse than having no law at all, because it would give the public and legislators the mistaken belief that protections are in place when they are not.

People with intellectual and/or developmental disabilities deserve real protection from the documented harms of prolonged solitary confinement. This amendment provides that protection while still giving correctional facilities the tools they need to maintain safety.

Closing

People on the Go Maryland respectfully recommends a favorable report for House Bill 310 as amended. We thank the Senate Judicial Proceedings Committee for its time and consideration of this important issue affecting the safety, health, and dignity of people with intellectual and/or developmental disabilities in Maryland's correctional system.

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