

SENATE BILL 3

O3, E3, J3

(PRE-FILED)

2lr0501
CF 2lr0500

By: **Senator Carter**

Requested: September 18, 2021

Introduced and read first time: January 12, 2022

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Facilities – Disabilities, Juveniles, Behavioral Health, and Health Care – Safety**
3 **Plans**

4 FOR the purpose of requiring that certain regulations adopted by the Department of
5 Juvenile Services governing juvenile care facilities and juvenile detention facilities
6 include a requirement for the establishment, implementation, and revision of certain
7 safety plans; requiring certain State residential centers and private group homes to
8 establish, implement, and revise certain safety plans; requiring certain regulations
9 adopted by the Behavioral Health Administration to include a revision for certain
10 safety plans at a certain regular interval; requiring the Maryland Department of
11 Health to require that certain health care facilities establish and implement certain
12 safety plans and, under certain circumstances, a certain community relations plan;
13 requiring that certain health care facilities revise certain safety plans and, if
14 applicable, certain community relations plans at a certain regular interval; and
15 generally relating to the establishment, implementation, and revision of safety
16 plans.

17 BY repealing and reenacting, with amendments,
18 Article – Health – General
19 Section 7–501, 7–610, 7.5–402, and 19–1C–01
20 Annotated Code of Maryland
21 (2019 Replacement Volume and 2021 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Human Services
24 Section 9–234 and 9–237
25 Annotated Code of Maryland
26 (2019 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

7–501.

(a) There are State residential centers for individuals with an intellectual disability in the Developmental Disabilities Administration.

(b) The Deputy Secretary shall appoint an administrative head for each State residential center.

(c) EACH STATE RESIDENTIAL CENTER SHALL:

(1) ESTABLISH AND IMPLEMENT A SAFETY PLAN FOR THE SAFETY OF THE INDIVIDUALS SERVED BY THE STATE RESIDENTIAL CENTER; AND

(2) REVISE THE SAFETY PLAN EVERY 5 YEARS.

7–610.

(a) An applicant for certificate of approval shall submit an application to the Department on the form that the Secretary requires.

(b) The application shall:

(1) Be signed and verified by the applicant; and

(2) Provide the information that the Secretary requires, including:

(i) The name and address of the applicant;

(ii) The street address of the property where the private group home is to be located or, if no address, a description which identifies the property;

(iii) If the applicant does not own the property, the name of the owner;

(iv) A statement that the applicant will comply with the laws, rules, and regulations that relate to the establishing and operating of private group homes under this subtitle;

(v) A statement that the applicant has sufficient resources to establish a private group home, or that those resources are available to the applicant; [and]

(vi) A statement that the applicant's facilities meet the federal regulation requirements on program accessibility (45 C.F.R. §§ 84.21 through 84.23); AND

(VII) A STATEMENT THAT THE APPLICANT WILL ESTABLISH AND IMPLEMENT A SAFETY PLAN FOR THE SAFETY OF INDIVIDUALS SERVED BY THE PRIVATE GROUP HOME.

7.5–402.

(a) Regulations adopted under this subtitle shall include:

(1) The requirements for licensure of a behavioral health program, including a requirement that the behavioral health program [establish]:

(I) ESTABLISH and implement a safety plan for the safety of the individuals served by the behavioral health program; AND

(II) REVISE THE SAFETY PLAN EVERY 5 YEARS;

(2) The process for a behavioral health program to apply for a license;

(3) A description of the behavioral health programs that are required to be licensed;

(4) Any requirements for the governance of a behavioral health program, including:

(i) A provision prohibiting a conflict of interest between the interests of the provider and those of the individual receiving services;

(ii) A provision authorizing a behavioral health program licensed as an outpatient mental health center to satisfy any regulatory requirement that the medical director be on site through the use of telehealth by the director; and

(iii) A provision authorizing a psychiatric nurse practitioner to serve as a medical director of an outpatient mental health center accredited in accordance with COMAR 10.63.03.05, including through telehealth;

(5) Provisions for inspections of a behavioral health program, including inspection and copying of the records of a behavioral health program in accordance with State and federal law; and

(6) Provisions for denials, sanctions, suspensions, and revocations of licenses, including imposition of civil monetary penalties, and notice and an opportunity to be heard.

(b) (1) The Secretary may require a behavioral health program to be granted accreditation by an accreditation organization approved by the Secretary under Title 19, Subtitle 23 of this article as a condition of licensure under regulations adopted under this subtitle.

(2) By becoming licensed in accordance with paragraph (1) of this subsection, a program agrees to comply with all applicable standards of the accreditation organization.

(3) If a behavioral health program is required to be granted accreditation as a condition of licensure under paragraph (1) of this subsection and the accreditation organization requires the behavioral health program to adopt a community relations plan, the behavioral health program shall submit the community relations plan to the Administration.

(c) Regulations adopted under this subtitle may include provisions setting reasonable fees for applying for a license and for the issuance and renewal of licenses.

(d) The Administration may authorize a behavioral health program to satisfy the safety plan requirement under subsection (a)(1) of this section by implementing a safety plan established for the behavioral health program for another purpose.

19-1C-01.

(a) Before the Department approves the operation of a facility under this title, including by granting a license to the facility, the Department shall require the facility to establish and implement:

(1) A safety plan for the safety of the individuals served by the facility; and

(2) A community relations plan, if the facility is:

(i) Accredited by an accreditation organization, as defined in § 19-2301 of this title; and

(ii) Required by the accreditation organization to establish and implement a community relations plan.

(b) The Department may authorize a facility to satisfy the requirement under:

(1) Subsection (a)(1) of this section by implementing a safety plan established for the facility for another purpose, including an emergency plan; and

(2) Subsection (a)(2) of this section by implementing the community relations plan required by the accreditation organization.

(2) to provide a safe, humane, and caring environment for children; and

(3) to provide access to required services for children.

(c) The standards shall include provisions establishing:

(1) a policy that eliminates the unnecessary use of detention and that prioritizes diversion and appropriate nonsecure alternatives;

(2) criteria for the placement of a child in a particular juvenile detention facility;

(3) population limits for each juvenile detention facility that may not be exceeded except in emergency circumstances;

(4) a requirement that staffing ratios and levels of services be maintained during emergencies;

(5) specifications for the architectural structure of a juvenile detention facility;

(6) staff qualifications and training, including training in recognizing and reporting child abuse and neglect;

(7) the ratio of staff to children in a juvenile detention facility;

(8) the rights of children in a juvenile detention facility, including the right to privacy, visitors, telephone use, and mail delivery;

(9) prohibitions against the use of excessive force against a child;

(10) internal auditing and monitoring of programs and facilities in the juvenile services system; [and]

(11) prohibitions against the use of physical restraints on an individual known to be in the third trimester of pregnancy or during labor, delivery, or postpartum recovery, including during all transports, unless a facility superintendent or the facility superintendent's designee determines that a physical restraint is necessary to protect the individual from harming herself or others or to prevent the individual's escape from custody; AND

(12) A POLICY CONCERNING A SAFETY PLAN FOR THE SAFETY OF JUVENILES DETAINED IN A FACILITY, INCLUDING:

(I) THE MEANS TO IMPLEMENT THE SAFETY PLAN; AND

1 (II) A REQUIREMENT THAT THE SAFETY PLAN BE REVISED
2 EVERY 5 YEARS.

3 (d) The standards shall be consistent with this title and Title 3, Subtitle 8A of the
4 Courts Article.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2022.