

SENATE BILL 45

E5

(PRE-FILED)

3lr0664
CF 3lr1202

By: **Senator Lee**

Requested: November 1, 2022

Introduced and read first time: January 11, 2023

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services – Restrictive Housing – Limitations**
3 **(Maryland Mandela Act)**

4 FOR the purpose of requiring hearing officers and personnel involved with the supervision
5 and care of individuals placed in restrictive housing to undergo certain training;
6 establishing guidelines and procedures for the placement of incarcerated individuals
7 in certain types of restrictive housing or disciplinary segregation; requiring each
8 correctional facility to create a monthly report containing certain information about
9 individuals placed in restrictive housing and to publish the report on the facility's
10 website; and generally relating to restrictive housing.

11 BY adding to
12 Article – Correctional Services
13 Section 9–614.3 and 9–614.4
14 Annotated Code of Maryland
15 (2017 Replacement Volume and 2022 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article – Correctional Services
18 Section 9–614(a)(1)
19 Annotated Code of Maryland
20 (2017 Replacement Volume and 2022 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Correctional Services
23 Section 9–614(a)(3)
24 Annotated Code of Maryland
25 (2017 Replacement Volume and 2022 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 – Correctional Services

9–614.3.

(A) IN THIS SECTION, “RESTRICTIVE HOUSING” HAS THE MEANING STATED
IN § 9–614 OF THIS SUBTITLE.

(B) (1) ALL PERSONNEL INVOLVED IN THE SUPERVISION AND CARE OF
INDIVIDUALS PLACED IN RESTRICTIVE HOUSING SHALL COMPLETE AT LEAST 40
HOURS OF TRAINING, INCLUDING TRAINING ON TRAUMA–INFORMED CARE, BEFORE
BEING ASSIGNED TO A RESTRICTIVE HOUSING UNIT, AND SHALL RECEIVE AT LEAST
8 HOURS OF ADDITIONAL TRAINING ANNUALLY.

(2) A HEARING OFFICER SHALL COMPLETE AT LEAST 40 HOURS OF
TRAINING, INCLUDING TRAINING ON TRAUMA–INFORMED CARE, THE PHYSICAL AND
PSYCHOLOGICAL EFFECTS OF RESTRICTIVE HOUSING, PROCEDURAL AND DUE
PROCESS RIGHTS OF INCARCERATED INDIVIDUALS, AND RESTORATIVE JUSTICE
REMEDIES, PRIOR TO PRESIDING OVER ANY HEARINGS, AND SHALL RECEIVE AT
LEAST 8 HOURS OF ADDITIONAL TRAINING ANNUALLY.

(C) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT OVERTIME
COMPENSATION FOR PERSONNEL AND HEARING OFFICERS REQUIRED TO ATTEND
TRAINING UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
as follows:

Article – Correctional Services

9–614.

(a) (1) In this section the following words have the meanings indicated.

(3) (i) “Restrictive housing” means [a form of physical separation that
has not been requested by the inmate in which the inmate is placed in a locked room or cell
for approximately 22 hours or more out of a 24–hour period] ANY FORM OF HOUSING
THAT SEPARATES INCARCERATED INDIVIDUALS FROM THE GENERAL PRISON
POPULATION OR THAT IMPOSES RESTRICTIONS ON PROGRAMS, SERVICES,
INTERACTIONS WITH OTHER INCARCERATED INDIVIDUALS, OR OTHER CONDITIONS
OF CONFINEMENT.

(ii) “Restrictive housing” includes:

1 1. administrative segregation [and];

2 2. disciplinary segregation; AND

3 3. RESIDENTIAL REHABILITATION UNITS, IF SEPARATE
4 HOUSING IS USED FOR THERAPY, TREATMENT, AND REHABILITATIVE
5 PROGRAMMING.

6 (III) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II)3 OF THIS
7 PARAGRAPH, “RESTRICTIVE HOUSING” DOES NOT INCLUDE A RESIDENTIAL
8 REHABILITATION UNIT.

9 9–614.4.

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (2) “ADMINISTRATIVE SEGREGATION” MEANS A NONPUNITIVE FORM
13 OF RESTRICTIVE HOUSING THAT REMOVES AN INDIVIDUAL FROM THE GENERAL
14 POPULATION OF THE CORRECTIONAL FACILITY FOR:

15 (I) INVESTIGATIVE, PROTECTIVE, OR PREVENTIVE REASONS
16 RESULTING FROM A SUBSTANTIAL AND IMMEDIATE THREAT; OR

17 (II) TRANSITIONAL REASONS, INCLUDING A PENDING
18 TRANSFER, PENDING CLASSIFICATION, OR OTHER TEMPORARY ADMINISTRATIVE
19 MATTER.

20 (3) “DISCIPLINARY SEGREGATION” MEANS A FORM OF PHYSICAL
21 SEPARATION IMPOSED IN RESPONSE TO AN INDIVIDUAL BEING FOUND GUILTY BY A
22 HEARING OFFICER OF VIOLATING DEPARTMENT RULES, INSTITUTIONAL RULES, OR
23 BOTH.

24 (4) “PROTECTIVE CUSTODY” MEANS CUSTODIAL CONDITIONS
25 PROVIDED TO AN INCARCERATED INDIVIDUAL AT THE REQUEST OF THE
26 INCARCERATED INDIVIDUAL OR THROUGH A STAFF DETERMINATION THAT THE
27 INCARCERATED INDIVIDUAL REQUIRES PROTECTION.

28 (5) “RESIDENTIAL REHABILITATION UNIT” MEANS SEPARATE
29 HOUSING USED FOR THERAPY, TREATMENT, AND REHABILITATIVE PROGRAMMING
30 AS AN ALTERNATIVE TO RESTRICTIVE HOUSING FOR INCARCERATED INDIVIDUALS

OR FOR INCARCERATED INDIVIDUALS WHO REQUIRE SEPARATE HOUSING
FOLLOWING THEIR PLACEMENT IN RESTRICTIVE HOUSING.

(6) "RESTRICTIVE HOUSING" HAS THE MEANING STATED IN § 9-614
OF THIS SUBTITLE.

(7) "SERIOUS MENTAL ILLNESS" MEANS A MENTAL DISORDER THAT:

(I) IS MANIFEST IN AN INDIVIDUAL AT LEAST 18 YEARS OLD;

(II) IS DIAGNOSED, ACCORDING TO A CURRENT DIAGNOSTIC
CLASSIFICATION SYSTEM RECOGNIZED BY THE SECRETARY, AS:

1. SCHIZOPHRENIC DISORDER;

2. MAJOR AFFECTIVE DISORDER;

3. ANOTHER PSYCHOTIC DISORDER; OR

4. BORDERLINE OR SCHIZOTYPAL PERSONALITY
DISORDER, EXCLUDING AN ABNORMALITY THAT MANIFESTS ONLY AS REPEATED
CRIMINAL OR OTHERWISE ANTISOCIAL CONDUCT;

(III) IS CHARACTERIZED BY IMPAIRED FUNCTION ON A
CONTINUING OR INTERMITTENT BASIS FOR AT LEAST 2 YEARS; AND

(IV) INCLUDES AT LEAST THREE OF THE FOLLOWING:

1. INABILITY TO MAINTAIN EMPLOYMENT;

2. SOCIAL BEHAVIOR THAT RESULTS IN INTERVENTIONS
BY THE MENTAL HEALTH SYSTEM;

3. INABILITY TO PROCURE FINANCIAL ASSISTANCE TO
SUPPORT LIVING IN THE COMMUNITY DUE TO COGNITIVE DISORGANIZATION;

4. SEVERE INABILITY TO ESTABLISH OR MAINTAIN A
PERSONAL SUPPORT SYSTEM; OR

5. NEED FOR ASSISTANCE WITH BASIC LIVING SKILLS.

(8) "VULNERABLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO:

1 (I) IS UNDER THE AGE OF 26 YEARS OR AT LEAST 55 YEARS OLD;

2 (II) HAS A DEVELOPMENTAL DISABILITY;

3 (III) HAS BEEN IDENTIFIED AS HAVING A SERIOUS MENTAL
4 ILLNESS;

5 (IV) HAS A SERIOUS MEDICAL CONDITION THAT CANNOT
6 EFFECTIVELY BE TREATED IN ISOLATED CONFINEMENT;

7 (V) IS PREGNANT, IS IN THE POSTPARTUM PERIOD, OR HAS
8 RECENTLY SUFFERED A MISCARRIAGE OR TERMINATED A PREGNANCY;

9 (VI) HAS A SIGNIFICANT AUDITORY OR VISUAL IMPAIRMENT; OR

10 (VII) IDENTIFIES AS OR IS PERCEIVED AS LESBIAN, GAY,
11 BISEXUAL, TRANSGENDER, GENDER NONCONFORMING, OR INTERSEX.

12 (B) A VULNERABLE INDIVIDUAL MAY NOT BE PLACED IN RESTRICTIVE
13 HOUSING.

14 (C) AN INDIVIDUAL MAY NOT BE PLACED IN RESTRICTIVE HOUSING BASED
15 SOLELY ON:

16 (1) CONFIDENTIAL INFORMATION CONSIDERED BY THE FACILITY
17 STAFF, BUT NOT PROVIDED TO THE INCARCERATED INDIVIDUAL OR INCLUDED IN
18 REQUIRED RECORDS;

19 (2) GANG OR ENEMY AFFILIATION; OR

20 (3) PROTECTION OF THE INDIVIDUAL FROM THE REST OF THE
21 DETAINED POPULATION OR A LIKELY ABUSER.

22 (D) THE MANAGING OFFICIAL OF A CORRECTIONAL FACILITY SHALL
23 ENSURE THAT EACH INCARCERATED INDIVIDUAL PLACED IN RESTRICTIVE HOUSING
24 IS PROVIDED THE FOLLOWING INFORMATION, IN A LANGUAGE OR MANNER THE
25 INDIVIDUAL CAN UNDERSTAND, WITHIN 24 HOURS OF THE INDIVIDUAL'S
26 PLACEMENT IN RESTRICTIVE HOUSING:

27 (1) NOTICE OF THE FACTS AND CIRCUMSTANCES THAT LED TO
28 PLACING THE INDIVIDUAL IN RESTRICTIVE HOUSING;

1 **(2) A STATEMENT THAT A LESS RESTRICTIVE INTERVENTION WOULD**
2 **BE INSUFFICIENT TO REDUCE RISK;**

3 **(3) THE PROCEDURES THAT THE FACILITY WILL EMPLOY TO MONITOR**
4 **THE INDIVIDUAL;**

5 **(4) THE DATE AND TIME OF THE INDIVIDUAL'S NEXT COURT DATE OR**
6 **ADMINISTRATIVE HEARING DATE, IF APPLICABLE;**

7 **(5) COPIES OF ALL DOCUMENTS, FILES, AND RECORDS RELATING TO**
8 **THE INDIVIDUAL'S PLACEMENT IN RESTRICTIVE HOUSING, UNLESS A DOCUMENT,**
9 **FILE, OR RECORD CONTAINS CONTRABAND, CLASSIFIED INFORMATION, OR**
10 **SENSITIVE SECURITY INFORMATION; AND**

11 **(6) AN EXPLANATION OF THE PROCESS TO APPEAL THE INITIAL**
12 **PLACEMENT OR CONTINUED PLACEMENT OF THE INCARCERATED INDIVIDUAL IN**
13 **RESTRICTIVE HOUSING UNDER SUBSECTION (E) OF THIS SECTION.**

14 **(E) (1) AN INCARCERATED INDIVIDUAL SHALL BE PROVIDED THE**
15 **OPPORTUNITY TO CONTEST THE RESTRICTIVE HOUSING PLACEMENT IN AN**
16 **ADMINISTRATIVE HEARING WITHIN 72 HOURS OF THE INITIAL PLACEMENT AND**
17 **EVERY 15 DAYS THEREAFTER, IN THE ABSENCE OF EXCEPTIONAL CIRCUMSTANCES,**
18 **UNAVOIDABLE DELAYS, OR REASONABLE POSTPONEMENTS.**

19 **(2) THE INCARCERATED INDIVIDUAL SHALL HAVE THE RIGHT TO**
20 **APPEAR AND BE REPRESENTED BY AN ATTORNEY OR ADVOCATE OF THE**
21 **INDIVIDUAL'S CHOOSING AND AT THE INDIVIDUAL'S OWN EXPENSE AT ALL**
22 **HEARINGS CONDUCTED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

23 **(3) IF AN INDIVIDUAL IS PLACED IN RESTRICTIVE HOUSING DUE TO**
24 **EMERGENCY CIRCUMSTANCES, A REVIEW HEARING SHALL BE CONDUCTED AS SOON**
25 **AS POSSIBLE AFTER THE INITIAL PLACEMENT.**

26 **(F) (1) IF AN INDIVIDUAL IN RESTRICTIVE HOUSING DISPUTES A**
27 **DECISION MADE BY A FACILITY STAFF MEMBER OR FACILITY MEDICAL**
28 **PROFESSIONAL REGARDING THE INDIVIDUAL'S STATUS AS A VULNERABLE**
29 **INDIVIDUAL, THE INDIVIDUAL MAY REQUEST AND RECEIVE A SECONDARY REVIEW**
30 **OF THE DETERMINATION BY THE MANAGING OFFICIAL OR CHIEF PHYSICIAN, AS**
31 **APPROPRIATE.**

32 **(2) AN INCARCERATED INDIVIDUAL MAY NOT BE PLACED OR**
33 **RETAINED IN RESTRICTIVE HOUSING IF, FOLLOWING A SECONDARY REVIEW UNDER**
34 **PARAGRAPH (1) OF THIS SUBSECTION, THE MANAGING OFFICIAL OR CHIEF**

1 PHYSICIAN DETERMINES THAT THE INDIVIDUAL NO LONGER MEETS THE STANDARD
2 FOR CONFINEMENT.

3 (G) (1) AN INCARCERATED INDIVIDUAL MAY NOT BE SUBJECT TO
4 ADMINISTRATIVE SEGREGATION FOR MORE THAN 15 DAYS IN A 365-DAY PERIOD.

5 (2) (I) AN INCARCERATED INDIVIDUAL MAY NOT BE PLACED IN
6 RESTRICTIVE HOUSING FOR MORE THAN 3 CONSECUTIVE DAYS UNLESS THE
7 COMMISSIONER OF CORRECTION OR THE COMMISSIONER'S DESIGNEE ISSUES A
8 WRITTEN DECISION, FOLLOWING AN EVIDENTIARY HEARING, THAT STATES BASED
9 ON SPECIFIC OBJECTIVE CRITERIA THAT:

10 1. THE INCARCERATED INDIVIDUAL:

11 A. COMMITTED AN ACT CAUSING SERIOUS INJURY TO OR
12 DEATH OF ANOTHER;

13 B. COMMITTED SEXUAL ASSAULT;

14 C. COMMITTED EXTORTION;

15 D. COERCED OR ATTEMPTED TO COERCE ANOTHER TO
16 VIOLATE RULES OF THE FACILITY;

17 E. LED OR INCITED A RIOT; OR

18 F. PROCURED DEADLY WEAPONS OR OTHER
19 CONTRABAND THAT POSE A SERIOUS THREAT TO SECURITY; AND

20 2. THE ACT WAS SO HEINOUS OR DESTRUCTIVE THAT
21 PLACEMENT IN THE GENERAL POPULATION WOULD CREATE A SIGNIFICANT RISK OF
22 IMMINENT SERIOUS PHYSICAL INJURY.

23 (II) AN INCARCERATED INDIVIDUAL MAY NOT BE PLACED IN
24 RESTRICTIVE HOUSING FOR MORE THAN 60 DAYS IN A 365-DAY PERIOD.

25 (H) (1) AN INCARCERATED INDIVIDUAL WHO HAS BEEN FOUND GUILTY
26 OF AN INFRACTION THAT IS INCLUDED IN ANY INFRACTION CATEGORY OTHER THAN
27 THE MOST SERIOUS CATEGORY MAY NOT BE SUBJECT TO MORE THAN A VERBAL
28 WARNING FOR A FIRST INFRACTION.

1 **(2) (I) AN INDIVIDUAL MAY BE SUBJECT TO DISCIPLINARY**
2 **SEGREGATION ONLY IF THE INDIVIDUAL IS FOUND GUILTY OF AN INFRACTION THAT**
3 **IS INCLUDED IN THE MOST SERIOUS INFRACTION CATEGORY.**

4 **(II) FOR A FIRST INFRACTION INCLUDED IN THE MOST SERIOUS**
5 **INFRACTION CATEGORY, AN INDIVIDUAL MAY NOT BE SUBJECT TO MORE THAN 15**
6 **DAYS OF DISCIPLINARY SEGREGATION EVERY 90 DAYS.**

7 **(III) FOR A SECOND INFRACTION INCLUDED IN THE MOST**
8 **SERIOUS INFRACTION CATEGORY, AN INDIVIDUAL MAY NOT BE SUBJECT TO MORE**
9 **THAN 30 DAYS OF DISCIPLINARY SEGREGATION EVERY 90 DAYS.**

10 **(IV) IF AN INDIVIDUAL WAS HELD IN ADMINISTRATIVE**
11 **SEGREGATION FOR AN INVESTIGATIVE, PROTECTIVE, OR PREVENTIVE REASON**
12 **DURING THE INVESTIGATION OF AN INFRACTION INCLUDED IN THE MOST SERIOUS**
13 **INFRACTION CATEGORY ALLEGEDLY COMMITTED BY THE INDIVIDUAL, THE**
14 **CUMULATIVE TIME THAT THE INDIVIDUAL MAY BE HELD IN BOTH ADMINISTRATIVE**
15 **AND DISCIPLINARY SEGREGATION MAY NOT EXCEED 15 DAYS FOR A FIRST**
16 **INFRACTION AND 30 DAYS FOR A SECOND INFRACTION.**

17 **(I) (1) AN INCARCERATED INDIVIDUAL IN RESTRICTIVE HOUSING SHALL**
18 **BE PROVIDED WITH WEEKLY COMPREHENSIVE PHYSICAL AND MENTAL HEALTH**
19 **ASSESSMENTS BY A MULTIDISCIPLINARY STAFF COMMITTEE CONSISTING OF:**

20 **(I) AT LEAST ONE LICENSED MENTAL HEALTH PROFESSIONAL;**

21 **(II) AT LEAST ONE MEDICAL PROFESSIONAL; AND**

22 **(III) AT LEAST ONE MEMBER OF THE MANAGEMENT OF THE**
23 **FACILITY.**

24 **(2) AN INCARCERATED INDIVIDUAL IN RESTRICTIVE HOUSING SHALL**
25 **BE PROVIDED WITH THE SAME SERVICES AND ACCESS THAT IS PROVIDED TO**
26 **INCARCERATED INDIVIDUALS NOT IN RESTRICTIVE HOUSING, INCLUDING:**

27 **(I) NO LIMITATIONS ON SERVICES, TREATMENTS, OR BASIC**
28 **NEEDS SUCH AS FOOD, CLOTHING, AND BEDDING;**

29 **(II) NO IMPOSITION OF ANY CHANGE IN DIET AS A FORM OF**
30 **PUNISHMENT;**

31 **(III) ACCESS TO CASE MANAGEMENT, CLERGY, AND MENTAL**
32 **HEALTH PROFESSIONALS; AND**

1 (IV) MAXIMIZED ACCESS TO RECREATION, EDUCATION, READING
2 MATERIALS, AND PROGRAMMING.

3 (3) AN INCARCERATED INDIVIDUAL SHALL BE OFFERED
4 PROGRAMMING LED BY PROGRAM OR THERAPEUTIC STAFF COMPARABLE TO THE
5 PROGRAMMING OFFERED TO INCARCERATED INDIVIDUALS NOT IN RESTRICTIVE
6 HOUSING.

7 (4) (I) AN INCARCERATED INDIVIDUAL IN RESTRICTIVE HOUSING
8 SHALL BE OFFERED AT LEAST 4 HOURS OF OUT-OF-CELL PROGRAMMING PER DAY,
9 INCLUDING AT LEAST 1 HOUR FOR RECREATION.

10 (II) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF
11 THIS SUBPARAGRAPH, OUT-OF-CELL TIME MAY INCLUDE PEER-LED PROGRAMS,
12 TIME IN A DAY ROOM OR RECREATION AREA WITH OTHER INDIVIDUALS,
13 CONGREGATE MEALS, VOLUNTEER PROGRAMS, OR OTHER CONGREGATE
14 ACTIVITIES.

15 2. IF THE FACILITY ADMINISTRATOR OR MEDICAL OR
16 MENTAL HEALTH PROFESSIONAL DETERMINES THAT AN INDIVIDUAL POSES AN
17 EXTRAORDINARY AND UNACCEPTABLE RISK OF IMMINENT PHYSICAL HARM TO THE
18 SAFETY OR SECURITY OF OTHER INCARCERATED INDIVIDUALS OR STAFF, THE
19 FACILITY SHALL PROVIDE THE INDIVIDUAL WITH THE REQUIRED OUT-OF-CELL
20 TIME IN AN APPROPRIATE MANNER THAT PROVIDES ACCESS TO STAFF-BASED
21 PROGRAMMING AND CONTACT WITH PERSONS OTHER THAN CORRECTIONAL
22 FACILITY STAFF.

23 3. A FACILITY SHALL DOCUMENT ANY PROGRAM
24 RESTRICTIONS IT IMPOSES IN WRITING, INCLUDING THE BASIS FOR LIMITING
25 ACCESS TO CONGREGATE PROGRAMMING AND A DESCRIPTION OF WHY THE
26 INDIVIDUAL CURRENTLY POSES AN EXTRAORDINARY AND UNACCEPTABLE RISK OF
27 IMMINENT PHYSICAL HARM TO THE SAFETY OR SECURITY OF INCARCERATED
28 PERSONS OR STAFF AND PROVIDE A COPY TO THE INCARCERATED INDIVIDUAL.

29 (III) A FACILITY MAY NOT CONDUCT OUT-OF-CELL
30 PROGRAMMING OPPORTUNITIES IN A SMALLER CAGE OR THERAPY MODULE.

31 (IV) TIME SPENT ON HOUSEKEEPING OR IN PAID EMPLOYMENT
32 MAY NOT BE CONSIDERED OUT-OF-CELL PROGRAMMING.

1 **(J) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A**
2 **FACILITY SHALL CONDUCT AN EXTERNAL VISUAL CHECK ON AN INDIVIDUAL**
3 **INVOLUNTARILY PLACED IN RESTRICTIVE HOUSING AT LEAST TWICE PER SHIFT.**

4 **(2) IF AN INDIVIDUAL INVOLUNTARILY PLACED IN RESTRICTIVE**
5 **HOUSING IS DEMONSTRATING UNUSUAL BEHAVIOR OR HAS INDICATED SUICIDALITY**
6 **OR SELF-HARM, THE FACILITY SHALL MONITOR THE INDIVIDUAL EVERY 15**
7 **MINUTES, OR MORE FREQUENTLY IF RECOMMENDED BY A MEDICAL OR MENTAL**
8 **HEALTH PROFESSIONAL.**

9 **(3) AN INDIVIDUAL INVOLUNTARILY PLACED IN RESTRICTIVE**
10 **HOUSING SHALL BE ASSESSED BY A MEDICAL OR MENTAL HEALTH PROFESSIONAL**
11 **WITHIN 24 HOURS OF PLACEMENT AND BY A MENTAL HEALTH PROFESSIONAL EVERY**
12 **48 HOURS THEREAFTER.**

13 **(K) RESTRAINTS MAY NOT BE USED ON AN INCARCERATED INDIVIDUAL**
14 **PLACED IN RESTRICTIVE HOUSING, IN THE PROCESS OF BEING PLACED IN OR**
15 **RELEASED FROM RESTRICTIVE HOUSING, OR BEING MOVED OR TRANSPORTED TO**
16 **OR FROM RESTRICTIVE HOUSING FOR THE PURPOSES OF RECREATION, PROGRAMS,**
17 **OR OTHER SERVICES, UNLESS THE FACILITY HAS DOCUMENTED THAT SUCH**
18 **RESTRAINTS ARE REQUIRED DUE TO AN EXTRAORDINARY AND UNACCEPTABLE RISK**
19 **OF IMMINENT PHYSICAL HARM TO THE SAFETY OR SECURITY OF INCARCERATED**
20 **INDIVIDUALS OR STAFF.**

21 **(L) (1) AN INCARCERATED INDIVIDUAL MAY BE PLACED IN SEGREGATED**
22 **HOUSING FOR MEDICAL PURPOSES, SUBJECT TO THE FOLLOWING LIMITATIONS:**

23 **(I) THE INDIVIDUAL IS KEPT IN THE SEGREGATED HOUSING**
24 **FOR THE SHORTEST AMOUNT OF TIME REQUIRED TO REDUCE THE RISK OF**
25 **INFECTION;**

26 **(II) THE PLACEMENT IS IN ACCORDANCE WITH STATE AND**
27 **FEDERAL PUBLIC HEALTH GUIDANCE; AND**

28 **(III) A LICENSED PHYSICIAN OR NURSE PRACTITIONER HAS**
29 **PROVIDED WRITTEN APPROVAL OF THE PLACEMENT.**

30 **(2) AN INCARCERATED INDIVIDUAL PLACED IN SEGREGATED**
31 **HOUSING FOR MEDICAL PURPOSES SHALL BE ALLOWED TO PARTICIPATE IN**
32 **PROGRAMS AND SERVICES, SUBJECT TO CONSIDERATIONS OF THE HEALTH AND**
33 **SECURITY OF THE INDIVIDUAL, OTHER INCARCERATED INDIVIDUALS, FACILITY**
34 **STAFF, VISITORS, AND THE PUBLIC.**

1 (M) (1) IF AN INCARCERATED INDIVIDUAL FEARS FOR THE INDIVIDUAL'S
2 SAFETY, THE FACILITY SHALL TRANSFER THE INDIVIDUAL TO MORE APPROPRIATE
3 HOUSING OTHER THAN RESTRICTIVE HOUSING, INCLUDING A SINGLE CELL, A
4 DIFFERENT SECTION OF THE FACILITY, OR A SENSITIVE NEEDS YARD.

5 (2) AN INDIVIDUAL PLACED IN ALTERNATIVE HOUSING UNDER
6 PARAGRAPH (1) OF THIS SUBSECTION SHALL BE GRANTED FULL ACCESS TO
7 OUT-OF-CELL TIME, PROGRAMMING, AND OTHER SERVICES AVAILABLE TO THE
8 REST OF THE DETAINED POPULATION.

9 (N) THE DECISION TO REMOVE ANY PERSONAL ITEMS FROM AN
10 INCARCERATED INDIVIDUAL PLACED IN RESTRICTIVE HOUSING OR RESTRICT THE
11 INDIVIDUAL'S ACCESS TO PROGRAMS OR SERVICES WHILE IN RESTRICTIVE HOUSING
12 SHALL BE MADE BY THE MANAGING OFFICIAL OR DESIGNEE OF THE MANAGING
13 OFFICIAL BEFORE THE INCARCERATED INDIVIDUAL'S MOVE TO RESTRICTIVE
14 HOUSING OR AS SOON AS POSSIBLE AFTER.

15 (O) PLACEMENT OF AN INCARCERATED INDIVIDUAL IN ADMINISTRATIVE
16 SEGREGATION OR PROTECTIVE CUSTODY MAY NOT BE NOTED IN THE
17 INCARCERATED INDIVIDUAL'S BASE FILE OR INSTITUTIONAL RECORD IF THE
18 NOTATION WOULD SERVE TO INTERRUPT THE INCARCERATED INDIVIDUAL'S
19 PROGRAMMING ELIGIBILITY, PAROLE CONSIDERATIONS, SECURITY STATUS
20 CHANGES, OR OTHER OPPORTUNITIES.

21 (P) (1) EACH CORRECTIONAL FACILITY SHALL CREATE A MONTHLY
22 REPORT STATING THE TOTAL NUMBER OF INDIVIDUALS HELD IN RESTRICTIVE
23 HOUSING IN THE PRECEDING MONTH, THE LENGTH OF TIME THOSE INDIVIDUALS
24 HAVE BEEN HELD IN RESTRICTIVE HOUSING, AND DEMOGRAPHIC INFORMATION
25 FOR THOSE INDIVIDUALS, INCLUDING AGE, RACE, AND GENDER.

26 (2) A CORRECTIONAL FACILITY SHALL POST THE REPORTS
27 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE CORRECTIONAL
28 FACILITY'S WEBSITE.

29 (Q) ON OR BEFORE DECEMBER 1 EACH YEAR, THE DEPARTMENT SHALL
30 REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE
31 STATE GOVERNMENT ARTICLE, ON THE STEPS THE DEPARTMENT HAS TAKEN TO:

32 (1) IMPROVE THE CONDITIONS OF CONFINEMENT IN RESTRICTIVE
33 HOUSING BY ALLOWING OPPORTUNITIES FOR OUT-OF-CELL TIME AND
34 CONGREGATE ACTIVITY, PROVIDING INCARCERATED INDIVIDUALS IN RESTRICTIVE
35 HOUSING DAILY OUTDOOR RECREATION TIME, AND CREATING MORE
36 OPPORTUNITIES FOR PRODUCTIVE IN-CELL ACTIVITIES;

1 **(2) LIMIT THE NUMBER OF VIOLATIONS THAT ARE ELIGIBLE FOR**
2 **DISCIPLINARY SANCTIONS;**

3 **(3) ELIMINATE RESTRICTIVE HOUSING SANCTIONS FOR MINOR**
4 **VIOLATIONS;**

5 **(4) CREATE DE-ESCALATION SPACES AND ESTABLISH A SYSTEM THAT**
6 **ALLOWS INCARCERATED INDIVIDUALS IN RESTRICTIVE HOUSING TO ACCESS THOSE**
7 **SPACES FOR MEANINGFUL PERIODS OF TIME;**

8 **(5) CREATE, IN COORDINATION WITH EACH INCARCERATED**
9 **INDIVIDUAL ENTERING RESTRICTIVE HOUSING, STRATEGIES DESIGNED TO RETURN**
10 **THE INDIVIDUAL TO THE GENERAL POPULATION IN THE LEAST AMOUNT OF TIME;**
11 **AND**

12 **(6) AMEND POLICIES TO SPECIFY THAT DISCIPLINARY SEGREGATION**
13 **IS A SANCTION OF LAST RESORT.**

14 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
15 effect January 1, 2024.

16 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section
17 3 of this Act, this Act shall take effect October 1, 2023.