

SENATE BILL 3

03, E3, J3

(PRE-FILED)

2lr0501
CF HB 297

By: **Senator Carter**

Requested: September 18, 2021

Introduced and read first time: January 12, 2022

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 26, 2022

CHAPTER _____

1 AN ACT concerning

2 **Facilities – Disabilities, Juveniles, Behavioral Health, and Health Care – ~~Safety~~**
3 **Children and Community Relations 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,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Human Services
Section 9–234 and 9–237
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

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 NOT LESS THAN EVERY 5 YEARS.

(D) A STATE RESIDENTIAL CENTER MAY SATISFY THE REQUIREMENT UNDER SUBSECTION (C) OF THIS SECTION BY IMPLEMENTING A SAFETY OR EMERGENCY PLAN ESTABLISHED FOR THE CENTER FOR ANOTHER PURPOSE.

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~~:

1. ESTABLISH AND IMPLEMENT A SAFETY PLAN FOR THE SAFETY OF INDIVIDUALS SERVED BY THE PRIVATE GROUP HOME; OR

2. IMPLEMENT A SAFETY OR EMERGENCY PLAN ESTABLISHED FOR THE PRIVATE GROUP HOME FOR ANOTHER PURPOSE.

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) 1. ESTABLISH and implement a safety plan for the safety of the individuals served by the behavioral health program; ~~AND OR~~

2. IMPLEMENT A SAFETY OR EMERGENCY PLAN ESTABLISHED FOR THE PROGRAM FOR ANOTHER PURPOSE;

(II) REVISE THE SAFETY PLAN NOT LESS THAN EVERY 5 YEARS; AND

(III) INCLUDE IN THE SAFETY PLAN A STATEMENT CERTIFYING COMPLIANCE WITH:

1. THE NATIONAL FIRE PROTECTION ASSOCIATION 101: LIFE SAFETY CODE; AND

2. THE NATIONAL FIRE PROTECTION ASSOCIATION 99: HEALTH CARE FACILITIES CODE;

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

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

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

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

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

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

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

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

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

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

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

32 (c) Regulations adopted under this subtitle may include provisions setting
33 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.

(C) A FACILITY IN OPERATION ON OR BEFORE SEPTEMBER 30, 2021, SHALL SUBMIT A SAFETY PLAN ~~AND, IF APPLICABLE, A COMMUNITY RELATIONS PLAN~~ ON OR BEFORE OCTOBER 1, 2023, IN ACCORDANCE WITH THIS SECTION.

(D) EACH FACILITY SHALL REVISE ITS SAFETY PLAN ~~AND, IF APPLICABLE, ITS COMMUNITY RELATIONS PLAN~~ NOT LESS THAN EVERY 5 YEARS.

(E) A FACILITY MAY SATISFY THE REQUIREMENT UNDER SUBSECTION (C) OF THIS SECTION BY IMPLEMENTING A SAFETY OR EMERGENCY PLAN ESTABLISHED FOR THE FACILITY FOR ANOTHER PURPOSE.

Article – Human Services

9-234.

(a) The General Assembly intends that:

(1) all children whose care is the responsibility of the State shall have similar protection for their health, their safety, and the quality of their care; and

(2) the regulations of State units that are charged with child care shall be comparable.

(b) The Department shall adopt regulations:

(1) to carry out §§ 9–235 and 9–236 of this subtitle; AND

(2) THAT REQUIRE EACH JUVENILE CARE FACILITY TO:

(I) 1. ESTABLISH AND IMPLEMENT A SAFETY PLAN FOR THE SAFETY OF JUVENILES UNDER THE CARE OF THE FACILITY; OR

2. IMPLEMENT A SAFETY OR EMERGENCY PLAN ESTABLISHED FOR THE FACILITY FOR ANOTHER PURPOSE; AND

(II) REVISE THE SAFETY PLAN NOT LESS THAN EVERY 5 YEARS.

(c) A child care home or child care institution may not be required to obtain a license from more than one State unit.

(d) A State unit authorized to license child care homes or child care institutions may make a cooperative licensing arrangement with another State unit.

9–237.

(a) The Department shall adopt regulations that set standards for juvenile detention facilities operated by the Department and by private agencies under contract with the Department.

(b) The standards shall reflect the following central purposes of juvenile detention:

(1) to protect the public;

(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 OR A SAFETY OR EMERGENCY PLAN ESTABLISHED FOR THE FACILITY FOR ANOTHER PURPOSE; AND

(II) A REQUIREMENT THAT THE SAFETY PLAN BE REVISED NOT LESS THAN EVERY 5 YEARS.

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.