

HOUSE BILL 855

E3, E4

4lr2558

By: **Delegates Bartlett and J. Lewis**

Introduced and read first time: February 2, 2024

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law – Restrictive Housing – Limitations**

3 FOR the purpose of limiting the circumstances under which an incarcerated minor may be
4 involuntarily placed in restrictive housing; authorizing a correctional facility to place
5 a minor in restrictive housing at the minor's request; and generally relating to the
6 placement of minors in restrictive housing.

7 BY repealing and reenacting, with amendments,
8 Article – Correctional Services
9 Section 9–614.1
10 Annotated Code of Maryland
11 (2017 Replacement Volume and 2023 Supplement)

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

14 **Article – Correctional Services**

15 9–614.1.

16 (a) In this section, “restrictive housing” has the meaning stated in § 9–614 of this
17 subtitle.

18 (b) This section applies to a facility operated by a correctional unit, as defined in
19 § 2–401 of this article.

20 (c) **A MINOR MAY NOT BE PLACED IN RESTRICTIVE HOUSING SOLELY FOR**
21 **THE PURPOSES OF DISCIPLINE, PUNISHMENT, ADMINISTRATIVE CONVENIENCE,**
22 **RETALIATION, OR STAFFING SHORTAGES.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(D) (1) A minor may [not] be placed in restrictive housing [unless] AS A
TEMPORARY MEASURE IF:

(I) the managing official of the facility finds by clear and convincing
evidence that there is an immediate and substantial risk:

[(1)] 1. of physical harm to the minor, other incarcerated
individuals, or staff; or

[(2)] 2. to the security of the facility;

(II) THERE ARE NO OTHER REASONABLE MEANS TO ELIMINATE
THE RISK;

(III) RESTRICTIVE HOUSING IS USED ONLY TO THE EXTENT
NECESSARY TO ELIMINATE THE IDENTIFIED RISK;

(IV) RESTRICTIVE HOUSING OCCURS UNDER THE LEAST
RESTRICTIVE CONDITIONS PRACTICABLE AND CONSISTENT WITH THE RATIONALE
FOR THE MINOR'S PLACEMENT IN RESTRICTIVE HOUSING;

(V) FACILITY STAFF PROMPTLY NOTIFIES THE MINOR OF THE
RATIONALE FOR THE MINOR'S PLACEMENT IN RESTRICTIVE HOUSING; AND

(VI) FACILITY STAFF DEVELOPS A PLAN THAT WILL ALLOW THE
MINOR TO LEAVE RESTRICTIVE HOUSING AND RETURN TO THE GENERAL
POPULATION AS SOON AS POSSIBLE.

(2) (I) A HEALTH CARE OR MENTAL HEALTH CARE PROVIDER
SHALL CONDUCT A MENTAL HEALTH SCREENING OF A MINOR PLACED IN
RESTRICTIVE HOUSING UNDER THIS SUBSECTION WITHIN 1 HOUR OF THE MINOR'S
PLACEMENT.

(II) FOLLOWING THE MENTAL HEALTH SCREENING CONDUCTED
UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE CORRECTIONAL FACILITY
SHALL PROVIDE THE MINOR WITH ANY NECESSARY MENTAL HEALTH SERVICES.

(3) A MINOR PLACED IN RESTRICTIVE HOUSING UNDER THIS
SUBSECTION SHALL BE HOUSED IN RESTRICTIVE HOUSING FOR THE SHORTEST
AMOUNT OF TIME NECESSARY, NOT TO EXCEED 6 HOURS.

(4) AT THE END OF THE TIME PERIOD DESCRIBED UNDER
PARAGRAPH (3) OF THIS SUBSECTION, A CORRECTIONAL FACILITY SHALL:

1 **(I) RETURN THE MINOR TO THE GENERAL POPULATION;**

2 **(II) TRANSPORT THE MINOR TO A MENTAL HEALTH FACILITY IF**
3 **RECOMMENDED BY A MENTAL HEALTH PROFESSIONAL;**

4 **(III) TRANSFER THE MINOR TO THE MEDICAL UNIT IN THE**
5 **FACILITY; OR**

6 **(IV) PROVIDE SPECIAL INDIVIDUALIZED PROGRAMMING**
7 **OUTSIDE OF RESTRICTIVE HOUSING THAT MAY INCLUDE:**

8 1. **IN-PERSON SUPERVISION BY AND INTERACTION WITH**
9 **STAFF MEMBERS;**

10 2. **IN-PERSON PROVISION OF EDUCATIONAL SERVICES;**

11 3. **INVOLVEMENT OF THE MINOR IN OTHER ASPECTS OF**
12 **THE FACILITY'S PROGRAMMING, UNLESS THE INVOLVEMENT THREATENS THE**
13 **SAFETY OF THE MINOR OR STAFF OR THE SECURITY OF THE FACILITY;**

14 4. **DEVELOPMENT OF AN INDIVIDUALIZED PLAN TO**
15 **IMPROVE THE MINOR'S BEHAVIOR, CREATED IN CONSULTATION WITH THE MINOR,**
16 **MENTAL HEALTH CARE OR HEALTH CARE STAFF, AND THE MINOR'S FAMILY**
17 **MEMBERS, THAT IDENTIFIES THE CAUSES AND PURPOSES OF THE NEGATIVE**
18 **BEHAVIOR AND ESTABLISHES CONCRETE GOALS THAT THE MINOR CAN WORK**
19 **TOWARD IN ORDER TO BE REMOVED FROM SPECIAL PROGRAMMING; AND**

20 5. **DAILY REVIEW WITH THE MINOR OF THE MINOR'S**
21 **PROGRESS TOWARD GOALS OUTLINED IN THE INDIVIDUALIZED PLAN.**

22 **(E) (1) A MINOR MAY BE PLACED IN RESTRICTIVE HOUSING AT THE**
23 **MINOR'S REQUEST.**

24 **(2) A MINOR PLACED IN RESTRICTIVE HOUSING UNDER THIS**
25 **SUBSECTION MAY REVOKE A REQUEST TO BE PLACED IN RESTRICTIVE HOUSING AT**
26 **ANY TIME AND, IF REVOKED, THE MINOR SHALL BE IMMEDIATELY RETURNED TO THE**
27 **GENERAL POPULATION.**

28 **[(d)] (F) A minor placed in restrictive housing shall be provided:**

29 (1) **[daily physical and mental health assessments to determine whether**
30 **the minor may be released from restrictive housing;**

(2)] the same standard of access that is provided to incarcerated individuals not in restrictive housing to:

- (i) phone calls;
- (ii) visits;
- (iii) mail;
- (iv) food;
- (v) water;
- (vi) showers;
- (vii) sanitary supplies;
- (viii) property, including clothing and bedding; and
- (ix) medical, mental, and dental health care; and

[(3)] (2) unless it would pose a risk of physical harm to the minor or another, maximized access to recreation, education, and programming.

[(e)] (G) If a privilege or condition described in subsection [(d)] (F) of this section is not provided to the minor, the managing official or the managing official's designee shall record the reason in the minor's file.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.