

SENATE BILL 827

E3, E4

5lr3347
CF 5lr2437

By: **Senators Love, Benson, Hettleman, and Muse**

Introduced and read first time: January 28, 2025

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law – Confinement and 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; establishing certain
6 requirements for detaining, confining, or transporting a child; requiring the
7 Department of Juvenile Services to notify a sentencing court within a certain period
8 of time of a child reaching 18 years of age and requiring the sentencing court to hold
9 a hearing and enter an order transferring the child to certain other facilities on the
10 child reaching a certain age; and generally relating to the placement of minors in
11 restrictive housing and the confinement of juveniles.

12 BY repealing and reenacting, with amendments,
13 Article – Correctional Services
14 Section 9–614.1
15 Annotated Code of Maryland
16 (2017 Replacement Volume and 2024 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Courts and Judicial Proceedings
19 Section 3–8A–16
20 Annotated Code of Maryland
21 (2020 Replacement Volume and 2024 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Criminal Procedure
24 Section 4–202(h)
25 Annotated Code of Maryland
26 (2018 Replacement Volume and 2024 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

9–614.1.

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

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

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

(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.

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

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

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

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

13 (I) RETURN THE MINOR TO THE GENERAL POPULATION;

14 (II) TRANSPORT THE MINOR TO A MENTAL HEALTH FACILITY IF
15 RECOMMENDED BY A MENTAL HEALTH PROFESSIONAL;

16 (III) TRANSFER THE MINOR TO THE MEDICAL UNIT IN THE
17 FACILITY; OR

18 (IV) PROVIDE SPECIAL INDIVIDUALIZED PROGRAMMING
19 OUTSIDE OF RESTRICTIVE HOUSING THAT MAY INCLUDE:

20 1. IN-PERSON SUPERVISION BY AND INTERACTION WITH
21 STAFF MEMBERS;

22 2. IN-PERSON PROVISION OF EDUCATIONAL SERVICES;

23 3. INVOLVEMENT OF THE MINOR IN OTHER ASPECTS OF
24 THE FACILITY'S PROGRAMMING, UNLESS THE INVOLVEMENT THREATENS THE
25 SAFETY OF THE MINOR OR STAFF OR THE SECURITY OF THE FACILITY;

26 4. DEVELOPMENT OF AN INDIVIDUALIZED PLAN TO
27 IMPROVE THE MINOR'S BEHAVIOR, CREATED IN CONSULTATION WITH THE MINOR,
28 MENTAL HEALTH CARE OR HEALTH CARE STAFF, AND THE MINOR'S FAMILY
29 MEMBERS, THAT IDENTIFIES THE CAUSES AND PURPOSES OF THE NEGATIVE
30 BEHAVIOR AND ESTABLISHES CONCRETE GOALS THAT THE MINOR CAN WORK
31 TOWARD IN ORDER TO BE REMOVED FROM SPECIAL PROGRAMMING; AND

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

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

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

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

**(1) [daily physical and mental health assessments to determine whether
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.**

Article – Courts and Judicial Proceedings

3-8A-16.

[(a) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court or the intake officer immediately when a person, who is or appears to be under the age of 18 years, is received at the facility and shall deliver him to the court upon request or transfer him to the facility designated by the intake officer or the court, unless the court has waived its jurisdiction with respect to the person and he is being proceeded against as an adult.

(b) When a case is transferred to another court for criminal prosecution, the child shall promptly be transferred to the appropriate officer or adult detention facility in accordance with the law governing the detention of persons charged with crime.]

(A) A CHILD, INCLUDING ONE SUBJECT TO ADULT CRIMINAL COURT JURISDICTION, WHO HAS BEEN CONVICTED OF A CRIME OR IS AWAITING TRIAL ON CRIMINAL CHARGES, MAY NOT BE DETAINED OR CONFINED IN ANY INSTITUTION IN WHICH THE CHILD HAS CONTACT WITH OR COMES WITHIN SIGHT OR SOUND OF AN INCARCERATED ADULT.

(B) A CHILD WHO HAS BEEN CONVICTED OF OR IS AWAITING TRIAL FOR AN OFFENSE UNDER ADULT JURISDICTION MAY NOT BE HELD IN CUSTODY IN AN ADULT CORRECTIONAL FACILITY.

(C) (1) THE DEPARTMENT SHALL NOTIFY THE SENTENCING COURT AND THE STATE'S ATTORNEY WITHIN 180 DAYS, OR AS SOON AS OTHERWISE PRACTICABLE, BEFORE A CHILD WHO IS IN THE CUSTODY OF THE DEPARTMENT REACHES 18 YEARS OF AGE.

(2) ON THE SENTENCING COURT'S RECEIPT OF A NOTIFICATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE SENTENCING COURT SHALL SET THE MATTER FOR A HEARING BEFORE THE CHILD REACHES 18 YEARS OF AGE AND SHALL ENTER AN ORDER TRANSFERRING THE CHILD, ON THE CHILD REACHING 18 YEARS OF AGE, TO AN ADULT CORRECTIONAL FACILITY, FACILITY FOR YOUTHFUL OFFENDERS, IF APPLICABLE, OR ANY DISPOSITION THE COURT CONSIDERS APPROPRIATE THAT DOES NOT VIOLATE THIS SECTION.

(3) THE SENTENCING COURT MAY NOT REMAND A PERSON WHO HAS REACHED 18 YEARS OF AGE TO A JUVENILE FACILITY OR PLACE THE PERSON WITH OTHER JUVENILES.

[(c)] (D) A child may not be transported together with adults who have been charged with or convicted of a crime [unless the court has waived its jurisdiction and the child is being proceeded against as an adult].

Article – Criminal Procedure

4–202.

(h) [(1)] Pending a determination under this section to transfer its jurisdiction, the court shall order the child to be held in a secure juvenile facility unless[:

(i)] the child is released on bail, recognizance, or other conditions of pretrial release[;

(ii) there is not available capacity in a secure juvenile facility, as determined by the Department of Juvenile Services; or

(iii) the court finds that detention in a secure juvenile facility would pose a risk of harm to the child or others.

(2) If the court makes a finding under paragraph (1)(iii) of this subsection that detention in a secure juvenile facility would pose a risk of harm to the child or others, the court shall state the reasons for the finding on the record].

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.