

SENATE BILL 1002

E4

0lr3634
CF HB 742

By: **Senator Waldstreicher**

Introduced and read first time: February 7, 2020

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Corrections – Restrictive Housing – Serious Mental Illness – Assessments**
3 **(Restrictive Housing Reform Act)**

4 FOR the purpose of prohibiting the placement of an inmate with a certain serious mental
5 illness in certain restrictive housing, with certain exceptions; prohibiting, under
6 certain circumstances, the placement of a certain inmate in restrictive housing for
7 more than a certain period of time; requiring a certain inmate to be provided with
8 certain assessments; requiring the managing official of a correctional facility to
9 require certain steps be taken before and during an inmate's placement in restrictive
10 housing; defining certain terms; requiring the Department of Public Safety and
11 Correctional Services to make a certain report to the General Assembly on or before
12 a certain date; and generally relating to restrictive housing.

13 BY repealing and reenacting, without amendments,
14 Article – Correctional Services
15 Section 9–614(a)
16 Annotated Code of Maryland
17 (2017 Replacement Volume and 2019 Supplement)

18 BY adding to
19 Article – Correctional Services
20 Section 9–614.2
21 Annotated Code of Maryland
22 (2017 Replacement Volume and 2019 Supplement)

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

25 **Article – Correctional Services**

26 9–614.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

(2) “Correctional unit” has the meaning stated in § 2–401 of this article.

(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.

(ii) “Restrictive housing” includes administrative segregation and disciplinary segregation.

9–614.2.

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

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

(3) “SERIOUS MENTAL ILLNESS” INCLUDES ANY CONDITION, REGARDLESS OF DIAGNOSIS, INDICATING A HIGH LEVEL OF MENTAL HEALTH NEEDS BASED ON HIGH SYMPTOM SEVERITY OR HIGH RESOURCE DEMANDS AND DEMONSTRATING A SIGNIFICANT FUNCTIONAL IMPAIRMENT IN AN INDIVIDUAL’S ABILITY TO FUNCTION WITHIN A CORRECTIONAL FACILITY, AS EVIDENCED BY:

(I) ENGAGING IN DELIBERATE SELF–HARMING BEHAVIORS, INCLUDING:

1. CUTTING;

2. SELF–MUTILATION;

3. INGESTION OR INSERTION OF A FOREIGN BODY;

4. HEAD–BANGING;

5. DRUG OVERDOSES;

6. HANGING;

7. BITING; OR

8. JUMPING FROM HEIGHTS WITH INTENT TO CAUSE

1 SELF-HARM;

2 (II) DEMONSTRATED DIFFICULTY MAINTAINING ACTIVITIES OF
3 DAILY LIVING, INCLUDING:

4 1. EATING;

5 2. MAINTAINING PERSONAL HYGIENE; OR

6 3. PARTICIPATING IN RECREATION; OR

7 (III) A PERVASIVE PATTERN OF DYSFUNCTIONAL, BIZARRE, OR
8 DISRUPTIVE SOCIAL INTERACTION AS A CONSEQUENCE OF AN UNDERLYING MENTAL
9 DISORDER.

10 (B) THIS SECTION APPLIES TO A FACILITY OPERATED BY A CORRECTIONAL
11 UNIT, AS DEFINED IN § 2-401 OF THIS ARTICLE.

12 (C) AN INMATE WITH A SERIOUS MENTAL ILLNESS MAY NOT BE PLACED IN
13 RESTRICTIVE HOUSING, EXCEPT:

14 (1) IN LIMITED EXIGENT CIRCUMSTANCES WHEN REASONABLE
15 ALTERNATIVES ARE NOT AVAILABLE AND THERE IS AN ACTUAL THREAT OF
16 IMMINENT HARM; OR

17 (2) IF MEDICALLY NECESSARY, AS DETERMINED BY A MEDICAL
18 PROFESSIONAL AND THE INMATE IS PLACED IN A CLINICALLY DESIGNATED AND
19 SUPERVISED AREA.

20 (D) ABSENT COMPELLING CIRCUMSTANCES, AN INMATE WITH A SERIOUS
21 MENTAL ILLNESS MAY NOT BE PLACED IN RESTRICTIVE HOUSING FOR MORE THAN
22 15 DAYS.

23 (E) AN INMATE WITH A SERIOUS MENTAL ILLNESS WHO IS PLACED IN
24 RESTRICTIVE HOUSING SHALL BE PROVIDED DAILY PHYSICAL AND MENTAL HEALTH
25 ASSESSMENTS TO DETERMINE WHETHER THE INMATE MAY BE RELEASED FROM
26 RESTRICTIVE HOUSING.

27 (F) THE MANAGING OFFICIAL OF A CORRECTIONAL FACILITY SHALL
28 REQUIRE THAT:

29 (1) BEFORE PLACEMENT IN RESTRICTIVE HOUSING, EACH INMATE BE
30 PROVIDED DE-ESCALATION TECHNIQUES AND OPPORTUNITIES;

1 **(2) EACH INMATE WHO IS PLACED IN RESTRICTIVE HOUSING BE**
2 **ASSESSED NOT LATER THAN 4 HOURS AFTER THE BEGINNING OF PLACEMENT AND**
3 **EVERY FOLLOWING 24 HOURS; AND**

4 **(3) EACH ASSESSMENT THAT SERVES AS A BASIS FOR CONTINUED**
5 **PLACEMENT IN RESTRICTIVE HOUSING BE DOCUMENTED.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1, 2021,
7 the Department of Public Safety and Correctional Services shall report to the General
8 Assembly, in accordance with § 2-1257 of the State Government Article, on steps the
9 Department has taken to improve conditions of confinement in restrictive housing by
10 allowing opportunities for inmates to have access to out-of-cell time, congregate activity,
11 daily outdoor recreation time, and productive in-cell activities.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2020.