

# HOUSE BILL 786

E4

8lr1444  
CF SB 539

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By: Delegates J. Lewis, Angel, Atterbeary, Barron, Dumais, Hayes, Kelly, Knotts,  
Moon, Morales, Mosby, Proctor, Queen, Rosenberg, Sanchez, Sydnor, and  
Tarlau

Introduced and read first time: February 1, 2018  
Assigned to: Judiciary

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 14, 2018

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Correctional Services – Restrictive Housing – Limitations**

3 FOR the purpose of ~~authorizing a certain sanction for a certain inmate who has been found~~  
4 ~~guilty of a certain administrative infraction; authorizing a certain sanction for a~~  
5 ~~certain inmate who has been found guilty of a certain substantive infraction;~~  
6 ~~restricting the number of consecutive and total days that an inmate may be placed~~  
7 ~~in certain restrictive housing; prohibiting the placement of an inmate in restrictive~~  
8 ~~housing for certain reasons; prohibiting a certain vulnerable inmate from placement~~  
9 ~~in restrictive housing under certain circumstances; requiring a certain inmate in~~  
10 ~~restrictive housing to be provided certain health assessments and access to certain~~  
11 ~~privileges and conditions; requiring the failure to provide a certain privilege or~~  
12 ~~condition to a certain inmate to be recorded in the inmate's file; prohibiting the direct~~  
13 ~~release of a certain inmate from restrictive housing to the community, with a certain~~  
14 ~~exception; providing for the application of this Act; defining certain terms~~ requiring,  
15 to a certain extent, the Department of Public Safety and Correctional Services to  
16 adhere to the standards of the American Corrections Association for restrictive  
17 housing in State correctional facilities; and generally relating to inmates and  
18 restrictive housing.

19 BY repealing and reenacting, without amendments,  
20 Article – Correctional Services  
21 Section 9–614(a)  
22 Annotated Code of Maryland

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### 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.



1 (2017 Replacement Volume)

2 BY adding to  
 3 Article – Correctional Services  
 4 Section ~~9-616~~ 10-802  
 5 Annotated Code of Maryland  
 6 (2017 Replacement Volume)

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

9 **Article – Correctional Services**

10 9-614.

11 (a) (1) In this section, “restrictive housing” means a form of physical  
 12 separation in which the inmate is placed in a locked room or cell for approximately 22 hours  
 13 or more out of a 24-hour period.

14 (2) “Restrictive housing” includes administrative segregation and  
 15 disciplinary segregation.

16 ~~9-616.~~

17 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~  
 18 ~~INDICATED:~~

19 ~~(2) “ADMINISTRATIVE INFRACTION” MEANS AN ACT COMMITTED~~  
 20 ~~INSIDE A CORRECTIONAL FACILITY THAT DOES NOT CONSTITUTE A VIOLATION OF~~  
 21 ~~MARYLAND CRIMINAL LAW.~~

22 ~~(3) “ALTERNATIVE DISCIPLINARY SANCTION” MEANS A PENALTY~~  
 23 ~~IDENTIFIED IN COMAR 12.02.27.39D(1) THROUGH (4).~~

24 ~~(4) “INCIDENT REPORT” HAS THE MEANING STATED IN COMAR~~  
 25 ~~12.02.27.02B.~~

26 ~~(5) “RESTRICTIVE HOUSING” HAS THE MEANING STATED IN § 9-614~~  
 27 ~~OF THIS SUBTITLE.~~

28 ~~(6) “SUBSTANTIVE INFRACTION” MEANS AN ACT COMMITTED INSIDE~~  
 29 ~~A CORRECTIONAL FACILITY THAT CONSTITUTES A VIOLATION OF MARYLAND~~  
 30 ~~CRIMINAL LAW.~~

31 ~~(7) “VULNERABLE INMATE” MEANS AN INMATE WHO:~~

1 ~~(I) IS 18 YEARS OF AGE OR YOUNGER;~~

2 ~~(II) IS 65 YEARS OF AGE OR OLDER;~~

3 ~~(III) IS PREGNANT, IN THE POSTPARTUM PERIOD, OR HAS~~  
4 ~~RECENTLY SUFFERED A MISCARRIAGE OR TERMINATED A PREGNANCY;~~

5 ~~(IV) IS OR IS PERCEIVED TO BE LESBIAN, GAY, BISEXUAL,~~  
6 ~~TRANSGENDER, OR INTERSEX;~~

7 ~~(V) HAS A DIAGNOSED SERIOUS MENTAL ILLNESS; OR~~

8 ~~(VI) HAS AN INTELLECTUAL, A DEVELOPMENTAL, OR A~~  
9 ~~PHYSICAL DISABILITY OR A TRAUMATIC BRAIN INJURY.~~

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

12 ~~(C) (1) AN INMATE WHO HAS BEEN FOUND GUILTY OF AN~~  
13 ~~ADMINISTRATIVE INFRACTION MAY BE SUBJECT TO:~~

14 ~~(I) FOR A FIRST INFRACTION, NOT MORE THAN A VERBAL~~  
15 ~~WARNING;~~

16 ~~(II) FOR A SECOND INFRACTION, NOT MORE THAN AN INCIDENT~~  
17 ~~REPORT; AND~~

18 ~~(III) FOR A THIRD OR SUBSEQUENT INFRACTION, NOT MORE~~  
19 ~~THAN AN ALTERNATIVE DISCIPLINARY SANCTION.~~

20 ~~(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN INMATE~~  
21 ~~WHO HAS BEEN FOUND GUILTY OF A SUBSTANTIVE INFRACTION MAY BE SUBJECT TO:~~

22 ~~(I) FOR A FIRST INFRACTION, NOT MORE THAN 15 DAYS IN~~  
23 ~~RESTRICTIVE HOUSING;~~

24 ~~(II) FOR A SECOND INFRACTION, NOT MORE THAN 30 DAYS IN~~  
25 ~~RESTRICTIVE HOUSING; AND~~

26 ~~(III) FOR A THIRD OR SUBSEQUENT INFRACTION, NOT MORE~~  
27 ~~THAN 45 DAYS IN RESTRICTIVE HOUSING.~~

28 ~~(3) UNLESS THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE~~  
29 ~~INMATE POSES AN IMMEDIATE AND SUBSTANTIAL RISK OF PHYSICAL HARM TO THE~~

~~1 SECURITY OF THE FACILITY, TO THE INMATE, OR TO OTHERS, AN INMATE MAY NOT  
2 BE SUBJECT TO MORE THAN 15 CONSECUTIVE DAYS OR A TOTAL OF 90 DAYS IN  
3 RESTRICTIVE HOUSING IN A 1-YEAR PERIOD.~~

~~4 (D) AN INMATE MAY NOT BE PLACED IN RESTRICTIVE HOUSING FOR:~~

~~5 (1) NONDISCIPLINARY REASONS;~~

~~6 (2) REFUSING MEDICAL TREATMENT; OR~~

~~7 (3) UNLESS THE INMATE'S PLACEMENT IN RESTRICTIVE HOUSING IS  
8 TEMPORARY, HAS BEEN ORDERED BY A MEDICAL PROFESSIONAL, AND IS IN A  
9 CLINICALLY DESIGNATED AND SUPERVISED AREA, SELF-HARM BEHAVIOR.~~

~~10 (E) UNLESS THERE IS A FACILITY-WIDE LOCKDOWN, A VULNERABLE  
11 INMATE MAY NOT BE PLACED IN RESTRICTIVE HOUSING UNTIL ALTERNATIVE  
12 DISCIPLINARY SANCTIONS AND INFORMAL SANCTIONS HAVE BEEN ATTEMPTED AND  
13 DOCUMENTED AND HAVE FAILED TO MITIGATE THE RISK OF PHYSICAL HARM TO THE  
14 SECURITY OF THE FACILITY, TO THE INMATE, OR TO OTHERS.~~

~~15 (F) (1) AN INMATE IN RESTRICTIVE HOUSING SHALL BE PROVIDED:~~

~~16 (i) WEEKLY COMPREHENSIVE PHYSICAL AND MENTAL HEALTH  
17 ASSESSMENTS BY A MEMBER OF THE EVALUATION TEAM, AS DEFINED IN § 4-101 OF  
18 THIS ARTICLE, TO DETERMINE IF THE INMATE MAY BE RELEASED FROM  
19 RESTRICTIVE HOUSING;~~

~~20 (ii) THE SAME STANDARD OF ACCESS THAT IS PROVIDED TO  
21 INMATES NOT IN RESTRICTIVE HOUSING TO:~~

~~22 1. PHONE CALLS;~~

~~23 2. VISITS;~~

~~24 3. MAIL;~~

~~25 4. BASIC NECESSITIES, INCLUDING:~~

~~26 A. FOOD;~~

~~27 B. WATER;~~

~~28 C. SHOWERS; AND~~

~~29 D. CLOTHING AND BEDDING;~~

1 ~~5. SANITARY CONDITIONS; AND~~

2 ~~6. MEDICAL CARE, INCLUDING APPROPRIATE~~  
3 ~~PREVENTIVE AND EMERGENCY CARE; AND~~

4 ~~(H) MAXIMIZED ACCESS TO RECREATION, EDUCATION, AND~~  
5 ~~PROGRAMMING.~~

6 ~~(2) IF A PRIVILEGE OR CONDITION DESCRIBED IN PARAGRAPH (1) OF~~  
7 ~~THIS SUBSECTION IS NOT PROVIDED TO AN INMATE, THE REASON SHALL BE~~  
8 ~~RECORDED IN THE INMATE'S FILE.~~

9 ~~(C) UNLESS NECESSARY FOR THE SAFETY OF THE INMATE, AN INMATE MAY~~  
10 ~~NOT BE RELEASED DIRECTLY FROM RESTRICTIVE HOUSING TO THE COMMUNITY.~~

11 10-802.

12 TO THE EXTENT REASONABLY POSSIBLE, IN STATE CORRECTIONAL  
13 FACILITIES THE DEPARTMENT SHALL ADHERE TO THE STANDARDS OF THE  
14 AMERICAN CORRECTIONS ASSOCIATION FOR RESTRICTIVE HOUSING.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2018.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.