

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1564
Judiciary

(Delegate J. Lewis, *et al.*)

Task Force on Practices and Procedures on Solitary Confinement

This bill establishes the Task Force on Practices and Procedures on Solitary Confinement. The Governor's Office of Crime Control and Prevention (GOCCP) must designate the chair of the task force and provide staff for the task force. By December 1, 2017, the task force must report its findings and recommendations to the Governor and the General Assembly.

The bill takes effect June 1, 2017, and terminates June 30, 2018.

Fiscal Summary

State Effect: Any expense reimbursements for task force members and staffing costs for GOCCP are assumed to be minimal and absorbable within existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The task force must:

- study the use of solitary confinement as a disciplinary tool, and what effect solitary confinement has on recidivism and reoffense;
- collect and analyze data regarding the reasons people are given solitary confinement, the average duration an individual spends in solitary confinement, and

demographic statistics regarding what individuals are given solitary confinement; and

- recommend alternate means of punishment to be used instead of solitary confinement and methods to reduce or eliminate the use of solitary confinement.

A member of the task force may not receive compensation but is entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget.

Current Law: The Department of Public Safety and Correctional Services (DPSCS) is authorized to adopt regulations for the operation and maintenance of State correctional facilities, including regulations concerning the discipline and conduct of inmates, including the character of punishments for violations of discipline.

By regulation, the managing official of a correctional facility must maintain a written policy and procedure governing the placement, removal, supervision, and rights of an inmate assigned to “administrative segregation,” “disciplinary detention,” medical isolation, and protective custody status, which includes provisions for (1) identification of persons authorized to place and remove an inmate from special confinement; (2) designation of circumstances and conditions warranting assignment and release; (3) specification of timeframes, method, and persons authorized to review status; (4) access to services, programs, and activities consistent with the inmate’s status; and (5) maintenance of supervision records of specified activities and occurrences.

“Administrative segregation” means a form of physical separation of an inmate from the general population determined by the classification process or authorized personnel when the continued presence of an inmate in the general population would pose a serious threat to (1) life; (2) property; (3) self; (4) staff or other inmates; (5) the security or orderly functioning of the facility; or (6) the well-being of society. “Disciplinary detention” means a form of physical separation in which an inmate found guilty at a disciplinary hearing is confined apart from the general population for a designated period of time.

There are also DPSCS regulations concerning inmate discipline. An inmate who commits a rule violation is subject to the inmate disciplinary process of the department. Sanctions for inmate rule violations include (1) placement of an inmate on disciplinary segregation; (2) revocation of good conduct and special projects credit; (3) suspension of inmate privileges; or (4) restitution for lost, stolen, altered, damaged, or destroyed property of the State, a person, or an entity. Rule violations are categorized according to the severity of the offense. When staff believe a rule violation has occurred, an investigation is initiated within one calendar day of the alleged violation, and a shift supervisor determines whether the violation merits a hearing, informal disposition, or reduction to an incident report. Staff serves a notice of inmate rule violation and disciplinary hearing on the inmate, and a shift commander may isolate the inmate if the inmate poses a threat to security.

Following a hearing, and upon a determination of guilt, a hearing officer may permit the defendant inmate or, if represented, the defendant inmate’s representative and, if assigned, the facility representative, to argue for appropriate sanctions. The hearing officer also (1) determines and imposes appropriate sanctions in regards to disciplinary segregation time and loss of diminution credits according to an adjustment history sentencing matrix and (2) informs the hearing participants of the sanction imposed and the period and effective date of the sanction.

Background: Chapters 596 and 597 of 2016 require DPSCS, by December 31 of each year, to submit specified information relating to inmates in “restrictive housing” to GOCCP and the General Assembly. “Restrictive housing” means a form of physical separation in which the inmate is placed in a locked room or cell for approximately 22 hours or more out of a 24-hour period. “Restrictive housing” includes administrative segregation and disciplinary segregation.

In the [report](#) released in December 2016, DPSCS reports that, during fiscal 2016, there were 17,646 placements on restrictive housing. This includes 5,158 placements on administrative segregation and 12,488 placements on disciplinary segregation. Some inmates were placed on restrictive housing more than once during the reporting period.

There were no pregnant inmates placed on restrictive housing during the reporting period. There were 172 inmates diagnosed with a “serious mental illness” placed on restrictive housing. **Exhibit 1** shows the average and median length of stay in restrictive housing placements during fiscal 2016.

Exhibit 1
Restrictive Housing Placements
Length of Stay (in days)
Fiscal 2016

	<u>Average</u>	<u>Median</u>
Restrictive Housing	58	42
Administrative Segregation	67	49
Disciplinary Segregation	52	38

Source: Department of Public Safety and Correctional Services

In 2015, DPSCS entered into a partnership with the National Institute of Corrections (NIC) seeking technical assistance to reform the segregation practices in the State. As a result of

the partnership, NIC presented DPSCS with 15 recommendations to move toward compliance with national standards regarding the operation of segregation, including the establishment of a Maximum II Structured Housing (MAX II SH) Program.

DPSCS advises that it is in the process of implementing the national best practices and establishing MAX II SH facilities for the male and female populations. The units will be used for inmates considered to be the most violent and dangerous and who continuously commit assaults and other serious infractions while incarcerated. The concept is to target an inmate's inappropriate behaviors – especially violent behavior – and develop individualized case plans to target the top four risk factors for violent behavior: antisocial behavior, antisocial personality patterns, antisocial cognition, and antisocial associates.

Inmates assigned to the MAX II SH units will complete a four-step stratified incentive-based plan that allows inmates to slowly assimilate back into the general population through a controlled environment, yet provides separation from the general population for safety concerns. Each phase is monitored by mental health and medical professionals, who will develop cognitive groups to effectively help inmates reengage in positive behavior. The goal is to eventually place these inmates back into the general population at the completion of the program.

The MAX II SH initiative is scheduled to begin July 2017.

Additional Information

Prior Introductions: None.

Cross File: SB 659 (Senators Benson and Smith) - Judicial Proceedings.

Information Source(s): Governor's Office of Crime Control and Prevention; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2017
md/lgc

Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:
(410) 946-5510
(301) 970-5510