

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 67
Judiciary

(Delegate J. Lewis)

Judicial Proceedings

Correctional Services - Restrictive Housing - Direct Release

This bill specifies that, to the extent possible, the Commissioner of Correction may not prohibit an inmate placed in restrictive housing from having access to a reentry specialist or case manager within 180 days before the inmate is released to the community.

Fiscal Summary

State Effect: The Department of Public Safety and Correctional Services (DPSCS) can implement the bill within existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: DPSCS is authorized to adopt regulations for the operation and maintenance of State correctional facilities, including regulations concerning the discipline and conduct of inmates and 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.

DPSCS regulations also address 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 credits; (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.

Chapter 526 of 2019 prohibits the placement of a minor in restrictive housing unless the managing official of the facility finds by clear and convincing evidence that there is an immediate and substantial risk of physical harm to the minor, other inmates, or staff or to the security of the facility. “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 and includes administrative segregation and disciplinary segregation.

DPSCS conducts a risk and needs assessment, a physical and mental examination, and an educational, vocational, and job history interview of an inmate as soon as feasible after an individual is sentenced to a DPSCS facility. Based on the assessment, DPSCS develops a case plan to guide an inmate's rehabilitation while under DPSCS custody. A case plan must include programming and treatment recommendations, required conduct in accordance with the rules and policies of DPSCS, and payment plan for restitution (if applicable).

Before the release of any inmate, DPSCS currently:

- works with the Maryland Department of Health to give incarcerated individuals an opportunity to complete a Medicaid application within 90 days of the individual's

release. If the individual chooses to complete the application, the individual is released with the individual's Medicaid card, Medicaid number, or a letter of Presumptive Eligibility if the Medicaid application is rejected. Medicaid covers individuals with incomes up to 138% of federal poverty guidelines;

- provides information regarding services in the jurisdiction of the individual's residence to continue programming offered within DPSCS facilities; and
- provides referrals for community-based mental health and substance use treatment.

DPSCS also provides a continuity of care form to each individual released from a DPSCS facility. The form includes a copy of the individual's current medication list for the individual to continue with appropriate care. If the individual's community provider would like to have additional information, the provider can request the information directly from the department.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 977 (Senator Lee) - Judicial Proceedings.

Information Source(s): Kent, Montgomery, Washington, and Worcester counties; Office of the Attorney General; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - January 25, 2022
fnu2/jc Third Reader - March 24, 2022
Revised - Amendment(s) - March 24, 2022

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