

Senate Bill 761 Correctional Facilities - Transgender, Nonbinary, and Intersex Inmates (Transgender Respect, Agency, and Dignity Act)
House Judicial Proceedings Committee
March 15, 2023
Position: Support

The Mental Health Association of Maryland is a nonprofit education and advocacy organization that brings together consumers, families, clinicians, advocates and concerned citizens for unified action in all aspects of mental health, mental illness and substance use. We work to advance a system of care that is readily and equitably accessible to children and families, which promotes mental wellbeing and resiliency, and that is family driven and youth guided.

MHAMD is in strong support of Senate Bill 761, the Transgender Respect, Agency and Dignity Act, which would protect the physical and mental wellbeing of LGBTQ Marylanders when incarcerated. SB 761 would allow LGBTQ individuals to request transfer to gender appropriate facilities based on their housing preferences & overall safety concerns. This bill also prohibits discrimination from an employee of a correctional facility against inmates on the basis of certain protected classes, including but not limited to ethnicity, disability, pregnancy status, age, sexual orientation, or gender identity.

Transgender Marylanders are at particular risk of psychological distress and associated impairment, primarily from elevated exposure to stigma-related minority stress¹ and from the stress associated with a lack of gender affirmation² (the accurate recognition and validation of one's gender identity). Minority stress is unique, socially based, and chronic, and may make trans and non-binary people more vulnerable to development of behavioral health concerns such as anxiety, depression, or substance use.³ Minority stress is inextricably linked to the

¹ Reisner SL, Poteat T, Keatley J, et al. (2016). *Global health burden and needs of transgender populations: a review*. *Lancet* 2016; 388:412–43. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7035595/>

² Dhejne C, Van Vlerken R, Heylens G, et al. (2016). *Mental health and gender dysphoria: a review of the literature*. *International Review of Psychiatry* 2016; 28:44–57. <https://pubmed.ncbi.nlm.nih.gov/26835611/>

³ Institute of Medicine. (2011). *The health of lesbian, gay, bisexual, and transgender people: Building a foundation for better understanding*. Washington, DC: The National Academies Press. <https://www.ncbi.nlm.nih.gov/books/NBK64806/>

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heightened discrimination transgender people face in housing⁴, employment⁵, education⁶, and policing⁷.

SB 761 is a critical tool in addressing the challenges that our marginalized communities face when incarcerated. LGBTQ inmates are more likely to be victims of violence than the general population – 40% of trans women have reported being sexually assaulted in prison, and 50% of transgender inmates experience sexual assault while incarcerated, a rate 10 times the general prison population.⁸ Additionally, LGBTQ individuals are more likely to be placed in solitary confinement due to being victims of violence - 85% of LGBTQ inmates report being held in solitary confinement, and 50% were placed in solitary confinement for their protection but against their will.⁹ This mistreatment of LGBTQ people in Maryland's jails and prisons leads to significant negative mental health outcomes.

This bill will make Maryland prisons and jails more orderly and safer by eliminating one of the most consistent causes of harm and psychological distress inside facilities. **We recognize the need to protect transgender residents from suffering even greater harms when incarcerated and, as such, urge a favorable report on SB 761.**

⁴ Romero, A., et al. *LGBT People and Housing Affordability, Discrimination, And Homelessness* (2020). <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Housing-Apr-2020.pdf>

⁵ Center for Constitutional Rights. *No Pride in Prejudice: LGBTQIA+ People's Experiences with Employment Discrimination*. (2019). <https://ccrjustice.org/no-pride-prejudice-lgbtqia-people-s-experiences-employment-discrimination>

⁶ GLSEN. *The 2019 National School Climate Survey*. (2019). https://www.glsen.org/sites/default/files/2020-10/NSCS19-Full-Report_2.pdf

⁷ Mallory, C., Hasenbush, A., Sears, B. *Discrimination and Harassment by Law Enforcement Officers in the LGBT Community*. (2015). <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Discrimination-by-Law-Enforcement-Mar-2015.pdf>

⁸ Lambda Legal. *Abuse and Neglect of Transgender People in Prisons and Jails: A Lawyer's Perspective*. (2020). https://www.lambdalegal.org/blog/20201125_transgender-people-prisons-jails

⁹ Ibid.