

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 908 (Senator Love)
 Judicial Proceedings

Correctional Services - Restrictive Housing

This bill, with respect to State correctional facilities, (1) limits the amount of time that an individual may be placed in restrictive housing; (2) requires all restrictive housing units to create the least restrictive environment necessary for the safety of all incarcerated individuals and staff and for the security of the facility and (3) prohibits the placement of a “member of a vulnerable population” in restrictive housing for any period of time. The bill also modifies the definition of “restrictive housing” as it applies to pregnant incarcerated individuals, incarcerated individuals who are minors, and mandatory reporting for both State and local correctional facilities. By October 1, 2028, and October 1, 2030, the Correctional Ombudsman must review the status of the implementation of the bill and include a summary of the results of those reviews in required annual reports.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$6.1 million in FY 2027; additional costs – which could be significant – have not been quantified. Future years reflect annualization, inflation, and ongoing minimum costs. Revenues are not affected.

(\$ in millions)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	6.1	7.1	7.4	7.8	8.1
Net Effect	(\$6.1)	(\$7.1)	(\$7.4)	(\$7.8)	(\$8.1)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: While the altered definition of “restrictive housing” applies to local correctional facilities, it is assumed that the change does not significantly affect local government operations or finances. The bill’s other changes only apply to State correctional facilities.

Small Business Effect: None.

Analysis

Bill Summary: With respect to State correctional facilities, an individual may not be kept in restrictive housing for longer than is necessary, longer than 15 consecutive days, and more than 20 total days in any 60-day period. Each day, an individual in restrictive housing must be offered at least four hours of time that the individual may be outside the individual's cell. The required time outside the individual's cell includes any time for programming and the provision of medical or mental health treatment within a clinical area of the facility.

“Member of a vulnerable population” means an incarcerated individual who:

- is younger than 22;
- is at least age 55;
- has a disability based on a mental illness, has a history of psychiatric hospitalization, or has recently exhibited conduct indicating the need for further observation or evaluation, including serious self-mutilation, to determine the presence of serious mental illness;
- has a developmental disability;
- has a serious medical condition that cannot effectively be treated in restrictive housing;
- is pregnant, is fewer than 45 days postpartum, is caring for a child in a specified facility, or has recently suffered a miscarriage or terminated a pregnancy;
- has a significant auditory or visual impairment; or
- is perceived to be lesbian, gay, bisexual, transgender, or intersex.

The definition of “restrictive housing” – as it applies to both State and local correctional facilities – is modified to mean a form of physical separation that has not been requested by the incarcerated individual in which the incarcerated individual is placed in a locked room or cell for *20 hours* or more (rather than approximately *22 hours* or more) out of a 24-hour period.

In conducting the reviews required by the bill, the Office of the Correctional Ombudsman (OCO) may make unannounced visits to correctional facilities, review daily logs, and administer anonymous surveys.

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 incarcerated individuals 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 incarcerated individual 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 incarcerated individual 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 incarcerated individual’s status; and (5) maintenance of supervision records of specified activities and occurrences.

“Administrative segregation” means a form of physical separation of an incarcerated individual from the general population determined by the classification process or authorized personnel when the continued presence of an incarcerated individual in the general population would pose a serious threat to (1) life; (2) property; (3) self; (4) staff or other incarcerated individuals; (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 incarcerated individual found guilty at a disciplinary hearing is confined apart from the general population for a designated period of time.

DPSCS regulations also address discipline of incarcerated individuals. An incarcerated individual who commits a rule violation is subject to the incarcerated individual disciplinary process of the department. Sanctions for incarcerated individual rule violations include (1) placement of an incarcerated individual on disciplinary segregation; (2) revocation of good conduct and special projects credits; (3) suspension of incarcerated individual 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 incarcerated individual rule violation and disciplinary hearing on the incarcerated individual, and a shift commander may isolate the incarcerated individual if the incarcerated individual poses a threat to security.

Following a hearing, and upon a determination of guilt, a hearing officer may permit the defendant incarcerated individual or, if represented, the defendant incarcerated individual’s representative and, if assigned, the facility representative, to argue for appropriate sanctions. The hearing officer also (1) determines and imposes appropriate sanctions in

regard 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. The standard of proof required for the administrative process is “substantial evidence.” “Substantial evidence” means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

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

Chapter 324 of 2019 prohibits, with specified exceptions, the involuntary placement of a pregnant incarcerated individual in restrictive housing and sets forth requirements for when a pregnant incarcerated individual is placed in restrictive housing. Each correctional facility must have a written policy in place regarding the medical care of pregnant incarcerated individuals that addresses the use of involuntary medical isolation or restrictive housing for administrative, protective, or disciplinary purposes during pregnancy and eight weeks during the postpartum or post-pregnancy recovery period.

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 incarcerated individuals, or staff or to the security of the facility.

By December 31 each year, each correctional unit must submit data to the Governor’s Office of Crime Prevention and Policy (GOCPP) showing, by correctional unit:

- the total population of the correctional unit;
- the number of incarcerated individuals who have been placed in restrictive housing during the preceding year by age, race, gender, classification of housing, and the basis for the incarcerated individual’s placement in restrictive housing;
- the number of incarcerated individuals with serious mental illness that were placed in restrictive housing during the preceding year and the definition of “serious mental illness” used by the unit in making the report;
- the number of incarcerated individuals known to be pregnant when placed in restrictive housing during the preceding year;
- the average and median lengths of stay in restrictive housing of the incarcerated individuals placed in restrictive housing during the preceding year;
- the number of incidents of death, self-harm, and attempts at self-harm by incarcerated individuals in restrictive housing during the preceding year;

- the number of incarcerated individuals released from restrictive housing directly into the community during the preceding year;
- any other data the correctional unit considers relevant to the use of restrictive housing by correctional facilities in the State; and
- any changes to written policies or procedures at each correctional unit relating to the use and conditions of restrictive housing, including steps to reduce reliance on restrictive housing.

GOCPP must make the submitted information available on its website and, as specified, submit the information in a report to the General Assembly.

“Restrictive housing” means a form of physical separation that has not been requested by the incarcerated individual in which the incarcerated individual 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. The definition applies to both State and local correctional facilities.

State Expenditures: General fund expenditures for DPSCS and OCO increase by a total of at least \$6.1 million in fiscal 2027, which accounts for the bill’s October 1, 2026 effective date. Future year expenditures are annualized, adjusted for inflation, and reflect ongoing costs.

Department of Public Safety and Correctional Services

According to DPSCS, in fiscal 2025, a total of 5,123 individuals spent more than 15 days in restrictive housing. DPSCS has taken several measures in recent years to reduce the number of incarcerated individuals in restrictive housing; however, DPSCS advises that to meet the bill’s requirements, a significant number of additional staff is needed.

As a result, general fund expenditures for DPSCS increase by at least \$5.8 million in fiscal 2027, which accounts for the bill’s October 1, 2026 effective date. This estimate reflects the cost of hiring 86 correctional officers to provide supervision (across the Division of Correction, the Patuxent Institution, and the Division of Pretrial Detention and Services) in order to create the least restrictive environment for restrictive housing units and to provide supervision for members of vulnerable populations that may not be placed in restrictive housing. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The estimate is based on information provided by DPSCS regarding staffing needs for increased out-of-cell activity, taking into account capacity, facility security, and existing staffing levels.

Positions	86.0
Salaries and Fringe Benefits	\$5,046,411
Operating Expenses	<u>786,105</u>
Minimum FY 2027 DPSCS Expenditures	\$5,832,516

Future year expenditures – which reflect minimum costs incurred by DPSCS – reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

This estimate does not include additional costs – which may be significant – for:

- any necessary construction or renovation to existing correctional facilities that may be needed (which would be funded through the capital budget);
- any overtime necessary for correctional officers; and
- any additional training needed for correctional officers.

Office of the Correctional Ombudsman

Among other duties, OCO is required under current law to conduct independent reviews and assessments relating to (1) health and mental health services provided to individuals confined by any agency, as specified; (2) agency plans for the expansion, renovation, or closure of facilities; (3) educational and vocational programs for individuals confined by any agency; and (4) *agency policies on restrictive and protective housing*. OCO currently consists of four staff positions, including the Deputy of Correctional Oversight. Adding the responsibility of reviewing the status and implementation of this bill requires additional staff for OCO. Even though the bill requires OCO to complete its final review of the status of the bill’s implementation by October 1, 2030 (and include a summary of the results of that review in OCO’s annual report to be submitted by December 31, 2030), this analysis assumes that – given OCO’s existing mandate to conduct ongoing reviews and assessments relating to agency policies on restrictive housing – OCO needs permanent (rather than contractual) staff to implement the bill.

Accordingly, general fund expenditures for OCO increase by \$290,812 in fiscal 2027, which accounts for the bill’s October 1, 2026 effective date. This estimate reflects the cost of hiring two assistant ombudsmen and one project manager to conduct the required reviews regarding the bill’s implementation. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	3.0
Salaries and Fringe Benefits	\$263,390
Other Operating Expenses	<u>27,422</u>
Total FY 2027 OCO Expenditures	\$290,812

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 702 and HB 647 of 2025.

Designated Cross File: HB 1154 (Delegate Phillips) - Government, Labor, and Elections.

Information Source(s): Anne Arundel, Baltimore, Carroll, Charles, Dorchester, Garrett, Howard, and Montgomery counties; Maryland Association of Counties; Office of the Correctional Ombudsman; Department of Public Safety and Correctional Services; Department of Legislative Services

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