



Senate Bill 702

Correctional Services - Restrictive Housing

MACo Position: **OPPOSE**

To: Judicial Proceedings Committee

Date: February 19, 2025

From: Sarah Sample

The Maryland Association of Counties (MACo) **OPPOSES** SB 702. The bill changes the definition of restrictive housing to more than 17 hours in an individual cell in a 24-hour period of time. This shift is down from 22 hours.

No warden takes the decision to use restrictive housing lightly but, under some circumstances, these accommodations are in the best interests of the individual, staff members, and the broader detention center population. Accordingly, current statute requires all detention centers ensure that qualifying individuals in restrictive housing have 2 hours of out-of-cell time, based on the “22 and 2” model. The new definition from the bill effectively converts that requirement to “17 and 7.”

Local detention centers make significant efforts to ensure 2 hours of out-of-cell time for individuals in restrictive housing. They juggle schedules, staff, officers, and facilities in order to do so. The new provisions of the bill create a situation where compliance is not possible despite a significant effort, as is already demanded. The changes would require additional capital and operating funding for more units, beds, dayrooms, staff, security, and space. Without those improvements, individuals who have voluntarily waived allowances, like out-of-cell time, for their own safety, would now potentially be exposed to others they were intending to avoid. The liability exposure under these circumstances is a grave concern, understandably, among local wardens and their oversight bodies.

In a large-scale State-run facility, there may be practical options to consider in managing difficult incarcerated individual cases and accommodating the out-of-cell time required by the bill. However, in county detention centers – typically much smaller in physical space than state facilities – such options may simply be unavailable. SB 702, however, unreasonably holds both facilities to the same standard.

Proper protocols currently accompany decisions regarding restrictive housing. Additional provisions, like those proposed in the bill, should be at least possible and not supersede the authority of a warden to maintain order, particularly when trying to protect those who would do harm and those in harm’s way. The restrictions in this bill would make that nearly impossible and almost certainly would have an adverse effect on staff safety and retention.

While seeking to create a standard of care and a duty to provide practical alternatives to restrictive housing, SB 702 does not take into account the practical effect on smaller facilities in each county. For these reasons, MACo urges an **UNFAVORABLE** report for SB 702.