

HOUSE BILL 131

E4, D3

11r0539

(PRE-FILED)

By: **Delegate J. Lewis**

Requested: September 14, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services – Step-Down Programs – Cause of Action**

3 FOR the purpose of requiring the Commissioner of Correction to provide a certain inmate
4 with a certain step-down program at a certain time; establishing the requirements
5 of a certain step-down program; prohibiting a certain inmate from being denied
6 access to a certain program, except under certain circumstances; requiring the
7 Commissioner of Correction to document a certain justification in writing;
8 authorizing a certain civil action for damages; defining certain terms; and generally
9 relating to programs for inmates.

10 BY repealing and reenacting, without amendments,
11 Article – Correctional Services
12 Section 9-614(a)
13 Annotated Code of Maryland
14 (2017 Replacement Volume and 2020 Supplement)

15 BY adding to
16 Article – Correctional Services
17 Section 9-614.2
18 Annotated Code of Maryland
19 (2017 Replacement Volume and 2020 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That the Laws of Maryland read as follows:

22 **Article – Correctional Services**

23 9-614.

24 (a) (1) In this section the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) “Correctional unit” has the meaning stated in § 2–401 of this article.

2 (3) (i) “Restrictive housing” means a form of physical separation that
3 has not been requested by the inmate in which the inmate is placed in a locked room or cell
4 for approximately 22 hours or more out of a 24–hour period.

5 (ii) “Restrictive housing” includes administrative segregation and
6 disciplinary segregation.

7 **9–614.2.**

8 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
9 **INDICATED.**

10 **(2) “MULTIDISCIPLINARY TREATMENT TEAM” MEANS AN**
11 **INTEGRATED TEAM THAT MEETS TO DEVELOP AND PROVIDE NECESSARY HEALTH**
12 **AND BEHAVIORAL HEALTH CARE SERVICES AND INDIVIDUALIZED TREATMENT THAT**
13 **ADDRESSES THE NEEDS OF AN INMATE IN RESTRICTIVE HOUSING OR IN A**
14 **STEP–DOWN PROGRAM.**

15 **(3) “STEP–DOWN PROGRAM” MEANS A SYSTEM OF REVIEW WITH**
16 **ESTABLISHED CRITERIA THAT PREPARES AN INMATE FOR TRANSITION TO THE**
17 **GENERAL POPULATION OR THE COMMUNITY.**

18 **(B) BEFORE THE TRANSFER OF AN INMATE PLACED IN RESTRICTIVE**
19 **HOUSING TO THE GENERAL POPULATION OR THE DIRECT RELEASE OF AN INMATE**
20 **FROM A FACILITY TO THE COMMUNITY, THE COMMISSIONER OF CORRECTION SHALL**
21 **PROVIDE TO THE INMATE A STEP–DOWN PROGRAM.**

22 **(C) (1) A STEP–DOWN PROGRAM SHALL BE INDIVIDUALIZED TO THE**
23 **NEEDS OF THE INMATE AND INVOLVE A COORDINATED, MULTIDISCIPLINARY**
24 **TREATMENT TEAM APPROACH.**

25 **(2) A MULTIDISCIPLINARY TREATMENT TEAM MAY INCLUDE**
26 **PSYCHOLOGISTS, PSYCHIATRIC PRACTITIONERS, LICENSED SOCIAL WORKERS,**
27 **LICENSED MENTAL HEALTH COUNSELORS, REGISTERED NURSES, ACTIVITY**
28 **THERAPISTS, AND CORRECTIONAL STAFF.**

29 **(3) IF AN INMATE NEEDS CHRONIC CARE OR OTHER SIGNIFICANT**
30 **MEDICAL ACCOMMODATION TO PARTICIPATE IN THE PROGRAM, THE**
31 **MULTIDISCIPLINARY TREATMENT TEAM SHALL INCLUDE APPROPRIATE MEDICAL**
32 **PERSONNEL.**

1 **(D) A STEP-DOWN PROGRAM SHALL INCLUDE:**

2 **(1) A PRE-SCREENING EVALUATION;**

3 **(2) MONTHLY EVALUATIONS USING A MULTIDISCIPLINARY**
4 **APPROACH TO DETERMINE THE INMATE'S COMPLIANCE WITH PROGRAM**
5 **REQUIREMENTS;**

6 **(3) SUBJECT TO MONTHLY EVALUATIONS:**

7 **(I) GRADUALLY INCREASED OUT-OF-CELL TIME;**

8 **(II) GRADUALLY INCREASED GROUP INTERACTION;**

9 **(III) GRADUALLY INCREASED EDUCATION AND PROGRAMMING**
10 **OPPORTUNITIES; AND**

11 **(IV) GRADUALLY INCREASED PRIVILEGES;**

12 **(4) A STEP-DOWN TRANSITION COMPLIANCE REVIEW; AND**

13 **(5) A POSTSCREENING EVALUATION.**

14 **(E) AN INMATE WITH LESS THAN 180 DAYS UNTIL RELEASE TO THE**
15 **COMMUNITY MAY NOT BE DENIED ACCESS TO A STEP-DOWN PROGRAM UNLESS THE**
16 **WARDEN OR THE WARDEN'S DESIGNEE MAKES AN INDIVIDUALIZED DETERMINATION**
17 **CERTIFIED IN WRITING AND BASED ON CLEAR AND CONVINCING EVIDENCE THAT**
18 **THE INMATE POSES:**

19 **(1) A GRAVE RISK OF HARM TO OTHERS OR THE SECURITY OF THE**
20 **FACILITY AND ALL OTHER LESS-RESTRICTIVE OPTIONS HAVE BEEN EXHAUSTED; OR**

21 **(2) AN IMMEDIATE AND CREDIBLE FLIGHT RISK THAT CANNOT BE**
22 **REASONABLY PREVENTED BY OTHER MEANS.**

23 **(F) THE COMMISSIONER OF CORRECTION SHALL DOCUMENT IN WRITING**
24 **THE JUSTIFICATION FOR AN INMATE BEING TRANSFERRED DIRECTLY FROM**
25 **RESTRICTIVE HOUSING TO THE GENERAL POPULATION OR RELEASED DIRECTLY**
26 **FROM INCARCERATION TO THE COMMUNITY WITHOUT HAVING PARTICIPATED IN A**
27 **STEP-DOWN PROGRAM.**

28 **(G) A FORMER INMATE WHO HAS SUFFERED A SPECIFIC AND DIRECT INJURY**
29 **FROM A DENIAL OF THE RIGHT TO ACCESS A STEP-DOWN PROGRAM UNDER THIS**

1 **SECTION MAY BRING A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION FOR**
2 **DAMAGES, INCLUDING COSTS AND REASONABLE ATTORNEY FEES.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2021.