

The Department is notifying the Board of a declaration of an emergency variance pursuant to §1-15(b)(3) of the Minimum Standards. An emergency situation prevents the Department's compliance with §6-28(g) "Restraints," as the Department lacks necessary operational resources for the purpose of providing out-of-cell time to individuals in punitive segregation housing in a safe and secure manner. This situation will remain until the Department implements the Board's restrictive housing rulemaking and the Risk Management and Accountability System ("RMAS").

The Department submitted a formal variance request to the Board on July 6, 2021. The Department understands the Board is unable to hear that variance request until a later date. Accordingly, as agreed-upon with the Board, the Department is submitting this emergency variance until such a time that the Department's formal variance request may be heard. As detailed in that formal variance request, the Department remains committed to implementing the Board's restrictive housing rulemaking, which will replace the use of current restrictive housing and the need for a related variance.

Maintaining the safety and security of individuals in custody and staff is a critical function and responsibility of the Department. The provision of out-of-cell time without the use of restraints in the punitive segregation housing context threatens the safety and security of Department facilities and poses a significant threat to the safety of the population in custody and staff. Similarly, the provision of seven-day reviews without alternative secure housing capacity poses a threat to facility safety. The nature of this emergency situation prevents the Department's continued compliance with the Minimum Standards §628(g).