



House of Representatives

General Assembly

File No. 693

January Session, 2017

Substitute House Bill No. 7302

House of Representatives, April 24, 2017

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING ISOLATED CONFINEMENT AND
CORRECTIONAL STAFF TRAINING AND WELLNESS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2017*) (a) As used in this
2 section:

3 (1) "Individual with a physical disability" means any of the
4 following:

5 (A) An individual with impaired vision who is blind, as defined in
6 section 46a-51 of the general statutes;

7 (B) An individual who is a deaf person, as defined in section 46a-63
8 of the general statutes; and

9 (C) An individual with severe mobility restrictions who: (i) Has
10 been prescribed a full-time wheelchair accommodation to ambulate in
11 and out of their cell or bed area; (ii) has been prescribed an intermittent
12 wheelchair accommodation to ambulate outside of such individual's

13 cell or bed area; or (iii) has been prescribed a walker, cane or other
14 assistive device, other than a wheelchair, to ambulate, and cannot walk
15 up or down stairs;

16 (2) "Intellectual disability" means intellectual disability, as defined
17 in section 1-1g of the general statutes;

18 (3) "Isolated confinement" means confinement of an inmate in a
19 correctional facility, pursuant to punitive, investigative, administrative
20 or other classification, in a cell, alone or with other inmates, for twenty
21 or more hours per day;

22 (4) "Other significant mental impairment" means any disorder, other
23 than serious mental illness, including, but not limited to, any of the
24 following:

25 (A) Mental disorder that is frequently characterized by breaks with
26 reality and leads to significant functional impairment;

27 (B) Cognitive disorder, pervasive developmental disorder or
28 organic brain syndrome that results in a significant functional
29 impairment; and

30 (C) Severe personality disorder that is manifested by frequent
31 episodes of psychosis or self-injury and results in significant functional
32 impairment;

33 (5) "Prolonged isolated confinement" means any period of isolated
34 confinement in excess of fifteen days;

35 (6) "Restraint" means any mechanical device used to control the
36 movement of an inmate's body and limbs, including, but not limited
37 to, flex cuffs, soft restraints, hard metal handcuffs, a black box, leg
38 irons, belly chains, a security chain or a convex shield;

39 (7) "Restrictive housing" means the housing of an inmate that is
40 physically separated from other inmate housing, and as described by
41 the Department of Correction on its Internet web site, pursuant to

42 subsection (b) of this section;

43 (8) "Serious mental illness" means a diagnosis by a qualified mental
44 health professional based on the most recent edition of the American
45 Psychiatric Association's "Diagnostic and Statistical Manual of Mental
46 Disorders" with a substantial disorder of thought or mood that
47 significantly impairs judgment, behavior, capacity to recognize reality
48 or ability to cope with the ordinary demands of life, including, but not
49 limited to, the following: (A) Schizophrenia; (B) delusional disorder;
50 (C) schizophreniform disorder; (D) schizoaffective disorder; (E) brief
51 psychotic disorder; (F) substance-induced psychotic disorder,
52 excluding intoxication and withdrawal; (G) psychotic disorder not
53 otherwise specified; (H) major depressive disorders; and (I) bipolar
54 disorder I and II; and

55 (9) "Use of force" means physical contact, including contact through
56 use of an armory item or canine, initiated by a staff member in
57 response to a noncompliant inmate for the purposes of establishing,
58 maintaining or restoring control, order, safety or security, but does not
59 include routine use of physical contact or the routine use of restraints.

60 (b) The Department of Correction shall publish on its Internet web
61 site the formula for calculating an inmate's mental health score and a
62 description of any form of restrictive housing used in this state's
63 correctional facilities and shall identify which, if any, of these forms of
64 restrictive housing constitute isolated confinement.

65 (c) (1) The Department of Correction shall at least annually submit
66 to the Criminal Justice Policy and Planning Division established under
67 section 4-68m of the general statutes the following aggregated and
68 anonymized data and information:

69 (A) The number of inmates in restrictive housing units in
70 correctional facilities, as of the first day of each of the preceding twelve
71 months;

72 (B) The number of inmates currently in units of restrictive housing

73 who have spent the following cumulative durations of time in isolated
74 confinement or prolonged isolated confinement:

75 (i) One to fifteen days;

76 (ii) Sixteen to thirty days;

77 (iii) Thirty-one to one hundred eighty days;

78 (iv) One hundred eighty-one to three hundred sixty-five days;

79 (v) Three hundred sixty-six to seven hundred thirty days;

80 (vi) Seven hundred thirty-one to one thousand ninety-five days;

81 (vii) One thousand ninety-six to one thousand four hundred sixty
82 days;

83 (viii) One thousand four hundred sixty-one to one thousand eight
84 hundred twenty-five days;

85 (ix) One thousand eight hundred twenty-six to two thousand one
86 hundred ninety days;

87 (x) Two thousand one hundred ninety-one to two thousand five
88 hundred fifty-five days;

89 (xi) Two thousand five hundred fifty-six to two thousand nine
90 hundred twenty days;

91 (xii) Two thousand nine hundred twenty-one to three thousand two
92 hundred eighty-five days;

93 (xiii) Three thousand two hundred eighty-six to three thousand six
94 hundred fifty days; and

95 (xiv) More than three thousand six hundred fifty days;

96 (C) For each correctional facility, the number of inmates who during
97 the previous calendar year have spent more than fifteen days,

98 cumulative, in isolated confinement or prolonged isolated
99 confinement;

100 (D) For each unit of restrictive housing, the incidence during each
101 month of the past calendar year in each unit of restrictive housing of
102 the following:

103 (i) Correctional facility-wide lockdowns;

104 (ii) Inmate assaults on correctional and department staff;

105 (iii) Inmate-on-inmate assaults;

106 (iv) Staff-on-inmate use of force incidents;

107 (v) The use of restraints, including, but not limited to, within a cell
108 of an acutely disruptive inmate; and

109 (vi) Inmate self-harm, suicide, attempted suicide, and emergency
110 medical or psychiatric treatment.

111 (2) In addition to reporting the aggregated data pursuant to
112 subparagraph (C) of subdivision (1) of this subsection, the department
113 shall report and disaggregate such data based on an inmate's age,
114 gender identity, ethnicity, physical disability, if any, mental health
115 score as calculated by the department, if any, and the form and phase
116 of restrictive housing and facility.

117 (d) No child, as defined in section 46b-120 of the general statutes,
118 individual with a serious mental illness, an intellectual disability or
119 other significant mental impairment or individual with a physical
120 disability shall be subjected to isolated confinement, except (1) during
121 a facility-wide lockdown or a Class 1 Incident as defined in the
122 Department of Correction's Administrative Directive 6.6, "Reporting of
123 Incidents," dated July 20, 2015; or (2) as a temporary, emergency
124 response to a substantiated threat of imminent physical harm to
125 correctional staff or other inmates, after which period correctional staff
126 shall return the child or individual to the general facility population, or

127 consult with a qualified mental health professional to determine
128 whether further treatment at a mental health facility is necessary. The
129 department shall document on its Internet web site the cause and
130 duration of any use of isolated confinement pursuant to this
131 subsection. The department may isolate any such child or individual
132 for a period not to exceed eight consecutive hours or twenty-four
133 hours in any seven-day period as an immediate response to an
134 inmate's request for protective segregation.

135 (e) Not later than January 1, 2018, the Commissioner of Correction
136 shall review all policies of the Department of Correction relating to any
137 child, as defined in section 46b-120 of the general statutes, individual
138 with a serious mental illness, an intellectual disability or other
139 significant mental impairment and individual with a physical
140 disability held in isolated confinement and revise such policies as
141 necessary to conform with the provisions of this section and issue such
142 directives as are necessary to implement the provisions of this section.

143 (f) In the formulation of any directive issued to implement the
144 provisions of this section, the Department of Correction shall adhere to
145 the following standards, principles and requirements:

146 (1) Prolonged isolated confinement shall be used only to protect
147 against a substantiated threat of imminent physical harm to
148 correctional staff or other inmates, only for the shortest duration
149 reasonably possible to protect against such harm, and only as a last
150 resort when less-restrictive alternatives have failed;

151 (2) No inmate shall be assigned to prolonged isolated confinement
152 without a hearing at which the department shall bear the burden to
153 show by clear and convincing evidence that continued isolated
154 confinement is necessary to protect against a substantiated threat of
155 imminent physical harm to correctional staff or other inmates;

156 (3) No inmate shall be assigned to prolonged isolated confinement
157 for a duration longer than thirty days without review by the
158 commissioner or the commissioner's deputy, if any;

159 (4) The housing of any inmate in prolonged isolated confinement for
160 a duration longer than thirty days shall be subject to periodic reviews
161 not less frequently than every thirty days. No inmate shall be retained
162 in prolonged isolated confinement unless the department
163 demonstrates by clear and convincing evidence that there is a
164 continuing risk of imminent physical harm to correctional officers or
165 other inmates. Disciplinary violations, alone, shall not be a basis for
166 retention in isolated confinement;

167 (5) For any inmate who has spent more than six months in isolated
168 confinement but who, based on clear and convincing evidence, cannot
169 be returned to the general correctional population without a
170 substantial probability of physical harm to correctional staff or other
171 inmates, the department shall adopt and implement reasonable
172 alternative placements that do not involve isolated confinement;

173 (6) Inmates in restrictive housing shall be provided the same access
174 to basic necessities, including, but not limited to, food, water, showers,
175 clothing and bedding, sanitary conditions and medical care, including,
176 but not limited to, any appropriate preventive and emergency care,
177 that are provided to inmates not in restrictive housing;

178 (7) No inmate held in isolated confinement shall be simultaneously
179 denied access to social telephone calls, personal visits and personal
180 mail;

181 (8) No inmate shall be released directly from isolated confinement
182 into the community, except (A) if release is mandated by court order or
183 otherwise by law, or (B) if, under extraordinary circumstances, such
184 release is necessary for the safety of the inmate, correctional staff or
185 other inmates; and

186 (9) No inmate who returns to the custody of the department after
187 completing a prior term of imprisonment in departmental custody
188 shall be held in restrictive housing based solely on a classification
189 applied during such inmate's prior term of imprisonment.

190 (g) Not later than January 1, 2018, the Commissioner of Correction
191 shall review all policies of the Department of Correction relating to
192 isolated confinement and revise those policies as necessary to conform
193 to this section.

194 (h) The provisions of subsections (a) to (g), inclusive, of this section,
195 do not apply to any inmate described in subsection (a) of section 18-
196 10b of the general statutes.

197 (i) Within available appropriations, the Department of Correction
198 shall provide training in the following subjects to employees of the
199 department who interact with inmates on a regular basis:

200 (1) The recognition of symptoms of mental illness;

201 (2) The potential risks and side effects of psychiatric medications;

202 (3) De-escalation techniques for safely managing individuals with
203 mental illness;

204 (4) Consequences of untreated mental illness;

205 (5) The long and short-term psychological effects of isolated
206 confinement; and

207 (6) De-escalation and communication techniques to divert inmates
208 from situations that may lead to the inmate being placed in isolated
209 confinement.

210 Sec. 2. (NEW) (*Effective October 1, 2018*) Within available
211 appropriations, the Department of Correction shall take measures to
212 promote the wellness of employees of the department who interact
213 with inmates on a regular basis. These measures may include, but need
214 not limited to:

215 (1) Employee assistance programs;

216 (2) Peer support programs; and

217 (3) Stress management training.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2017</i>	New section
Sec. 2	<i>October 1, 2018</i>	New section

Statement of Legislative Commissioners:

In Section 1(c)(1)(A), the last sentence was deleted as it was redundant with Section 1(c)(2). In Section 1(d) the language in Subdiv. (3) was moved to the last sentence for accuracy. Section 1(j) was redesignated as Section 2 for clarity.

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

This bill codifies Department of Correction (DOC) procedures concerning isolated confinement, requires the DOC to provide additional isolated confinement data, and to provide training and wellness initiatives for DOC staff and does not result in a fiscal impact to the state or municipalities.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis

sHB 7302

AN ACT CONCERNING ISOLATED CONFINEMENT AND CORRECTIONAL STAFF TRAINING AND WELLNESS.

SUMMARY

This bill generally prohibits the Department of Corrections (DOC) from placing certain inmates in isolated confinement, which the bill defines as confinement of an inmate in a correctional facility cell alone. The inmates include (1) children; (2) individuals with a serious mental illness, intellectual disability, or other significant mental impairment; and (3) individuals with a physical disability. But the bill also specifies circumstances in which these inmates may be placed in isolated confinement for up to eight consecutive hours or 24 hours in a seven-day period.

By January 1, 2018, the bill requires the DOC commissioner to (1) review and revise DOC's isolated confinement policies to conform with the bill and (2) issue any directives necessary to implement the bill. When drafting the directives, the commissioner must adhere to several standards, principles, and requirements specified in the bill.

The bill also requires DOC:

1. at least annually, to submit to the Office of Policy and Management's Justice Policy & Planning Division specified information on restrictive housing and isolated confinement and
2. to publish certain information on its website about isolated confinement, restrictive housing, and the formula for calculating an inmate's mental health score.

Under the bill, "restrictive housing" is inmate housing that is physically separated from other inmate housing. It may constitute

isolated confinement.

The isolated confinement prohibition does not apply to certain inmates on special circumstances high security status because they were convicted of a capital felony or murder with special circumstances.

Additionally, the bill requires DOC, within available appropriations, to (1) provide training on mental illness and solitary confinement to its employees who interact with inmates on a regular basis and (2) take measures to promote the wellness of these employees, such as providing employee assistance, peer support programs, and stress management training.

EFFECTIVE DATE: October 1, 2017

PROHIBITION ON ISOLATED CONFINEMENT

The bill prohibits DOC from placing in solitary confinement any inmate who (1) is a child; (2) has a physical disability; or (3) has a serious mental illness, intellectual disability, or other significant mental impairment.

Under the bill, an “individual with a physical disability” includes a person who is (1) blind or deaf or (2) has severe mobility restrictions and has been prescribed (a) a full-time wheelchair accommodation to move inside and outside of his or her cell or bed area; (b) an intermittent wheelchair accommodation to move outside of his or her cell or bed area; or (c) a walker, cane, or other assistive device, other than a wheelchair, to move around and is unable to walk up and down stairs.

“Intellectual disability” means a significant limitation in intellectual functioning, as defined in existing law, that exists concurrently with adaptive behavior deficits that originated before the individual turned 18.

“Serious mental illness” means a diagnosis by a qualified mental

health professional based on the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders" (i.e., DSM-5) of a substantial thought or mood disorder that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with life's ordinary demands. These diagnoses include schizophrenia; delusional, schizophreniform, schizoaffective, or brief psychotic disorder; substance-induced psychotic disorder, excluding intoxication and withdrawal; psychotic disorder not otherwise specified; major depressive disorders; and bipolar disorder I and II.

"Other significant mental impairment" means disorders other than serious mental illness, including:

1. mental disorders that (a) are frequently characterized by breaks with reality and (b) lead to significant functional impairment,
2. pervasive development or cognitive disorders or organic brain syndromes that result in significant functional impairment, and
3. severe personality disorders that manifest by frequent episodes of psychosis or self-injury and results in significant functional impairment.

PERMISSIBLE ISOLATED CONFINEMENT

In addition to exempting certain inmates on special circumstances high security status from the prohibition on isolated confinement, the bill also makes exceptions to its prohibitions under the following conditions:

1. during facility-wide lockdowns or "class 1 incidents" as defined in the DOC's Administrative Directive 6.6 (see BACKGROUND);
2. as an immediate response to an inmate's request for protective segregation; or
3. as a temporary emergency response to a substantiated threat of imminent physical harm to correctional staff or inmates, after

which period correctional staff must return the inmate to the general facility population or consult with a qualified mental health professional to determine if further treatment at a mental health facility is necessary.

DOC DIRECTIVES

When creating isolated confinement directives to implement the bill, DOC must adhere to the following standards, principles, and requirements:

1. Prolonged isolated confinement may only be used (1) to protect against a substantiated threat of imminent physical harm to correctional staff or inmates, (2) for the shortest duration reasonably possible to protect against such harm, and (3) as a last resort when less-restrictive alternatives have failed.
2. No inmate may be assigned to prolonged isolated confinement (i.e., isolated confinement for more than 15 days) without a hearing at which DOC bears the burden of showing by clear and convincing evidence that continued confinement is necessary to protect against a substantiated threat of imminent physical harm to correctional staff or inmates.
3. No inmate may be assigned to isolated confinement for more than 30 days without review by the commissioner or his deputy.
4. Housing an inmate in isolated confinement for more than 30 days must be subject to periodic reviews at least every 30 days. No inmate may be kept in such confinement unless DOC demonstrates by clear and convincing evidence (presumably at another hearing) that there is a continuing risk of imminent physical harm to correctional officers or inmates. Disciplinary violations cannot be the only basis for retaining an inmate in isolated confinement.
5. For any inmate who has been in isolated confinement for more than six months but, based on clear and convincing evidence,

cannot be returned to the general correctional population without a substantial probability that correctional staff or inmates will be physically harmed, DOC must adopt and implement reasonable alternative placements that do not involve isolated confinements.

6. Inmates in restrictive housing must be provided with the same access to basic necessities, including food, water, showers, clothing and bedding, as well as sanitary conditions and medical care, including any appropriate preventive and emergency care provided to inmates not in restrictive housing.
7. No inmate held in isolated confinement may be simultaneously denied access to social phone calls, personal visits, and mail.
8. No inmate may be released directly from isolated confinement into the community unless (a) the release is mandated by court order or otherwise by law or (b) because of extraordinary circumstances, the release is necessary for the safety of the inmate, staff, or inmates.
9. No inmate who returns to DOC custody after completing a previous prison term in its custody may be held in restrictive housing based solely on a classification that applied during the prior term.

DOC REPORTING REQUIREMENTS

The bill requires DOC at least annually to submit to the Criminal Justice Policy & Planning Division various aggregated and anonymized information, as described below.

Inmate Demographic Information

This information must include the number of inmates in restrictive housing units in the state's correctional facilities as of the first day of each of the previous 12 months, sorted by (1) the inmate's age as of the report date, (2) gender identity, (3) race and ethnicity, (4) any physical disability, (5) any mental health score calculated by DOC, and (6) the

form and phase of restrictive housing and facility.

Also, DOC must submit, for each facility, information on the number of inmates who, during the previous calendar year, spent more than 15 days, cumulatively, in isolated confinement. This information must be broken down by age, gender identity, ethnicity, mental health score, and the form and phase of restrictive housing and facility.

Duration of Isolated Confinement

The statewide data must include the number of inmates currently in restrictive housing units who have spent the following cumulative days in isolated confinement:

1. One to 15 days;
2. 16 to 30 days;
3. 31 to 180 days;
4. 181 to 365 days;
5. 366 to 730 days;
6. 731 to 1,095 days;
7. 1,096 to 1,460 days;
8. 1,461 to 1,825 days;
9. 1,826 to 2,190 days;
10. 2,191 to 2,555 days;
11. 2,556 to 2,920 days;
12. 2,921 to 3,285 days;
13. 3,286 to 3,650 days; and

14. more than 3,650 days.

Restrictive Housing Unit Incidents

The information must include, for each month of the previous calendar year, the incidence of the following in each unit of restrictive housing:

1. correctional facility-wide lockdowns;
2. inmate assaults on correction and department staff;
3. inmate-on-inmate assaults;
4. staff-on-inmate use-of-force incidents;
5. restraint use, including within the cell of an acutely disruptive inmate; and
6. inmate self-harm, suicide, attempted suicide, and emergency medical or psychiatric treatment.

Under the bill, “use of force” means staff-initiated physical contact or contact using an armory item or canine that is (1) in response to a noncompliant inmate and (2) used to establish, maintain, or restore control, order, safety, or security. It does not include routine (1) physical contact or (2) restraint use.

“Restraint” means any mechanical device used to control the movement of an inmate’s body and limbs, including flex cuffs, soft restraints, hard metal handcuffs, a black box, leg irons, belly chains, a security chain, or a convex shield.

TRAINING

The employee training DOC develops under the bill must cover the following subjects:

1. recognizing mental illness symptoms,
2. psychiatric medications’ potential risks and side effects,

3. de-escalation techniques to safely manage individuals with mental illness,
4. de-escalation and communication techniques to divert inmates from situations that may lead to an inmate being placed in isolated confinement,
5. consequences of untreated mental illness, and
6. short- and long-term psychological effects of isolated confinement.

DOC WEBSITE INFORMATION

The bill requires DOC to publish on its website:

1. the formula for calculating an inmate's mental health score;
2. a description of any form of restrictive housing used in the state's correctional facilities, including identifying any that constitutes isolated confinement; and
3. documentation of the cause and duration of any isolated confinement of an inmate who is a child or has a serious mental illness, significant mental impairment, or intellectual or physical disability.

BACKGROUND

Category 1 Incidents

DOC Administrative Directive 6.6, "Reporting of Incidents", effective July 20, 2015, divides incidents, for staff response and notification purposes, into three categories. Category 1 incidents are the most serious and include:

1. outside assault on a DOC building or facility;
2. significant breach of the facility perimeter;
3. possession of firearms, ammunition, or explosives by an inmate or visitor;

4. death of an on-duty employee, visitor, volunteer, or untimely death of an inmate or an injury to any of these individuals that results in admission to an acute-care hospital;
5. an inmate assault on a DOC employee that results in a serious injury;
6. a riot, hostage situation, group disturbance, or inmate work stoppage;
7. major fire, bomb threat, or suspected bio-chemical contamination;
8. employee job action;
9. any suspected, attempted, or confirmed escape from a correctional facility, inmate work detail, or during transport, including community reports of a sighting of an escapee;
10. any incident requiring an emergency response unit to be alerted or mobilized;
11. discharge of a firearm, including by accident, or use of certain chemical agents for reasons other than training or equipment maintenance;
12. substantiated information on a planned disturbance or organized disobedience;
13. an event that seriously impacts the unit's normal operation such as a health emergency, power outage, any major destruction or disablement of state property, or an incident requiring an unplanned lockdown of the facility;
14. terrorist threat or intelligence of suspected terrorist activity;
15. an instance of workplace violence or the threat of such violence that requires immediate separation of employees due to an imminent threat of violence;

16. any reported inmate-on-inmate sexual abuse, inmate-on-staff sexual abuse, or staff-on-inmate sexual abuse where there is immediate evidence or indication that such abuse occurred; and
17. inmate suicide attempt requiring immediate life-saving measures.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 27 Nay 14 (04/04/2017)