



Senate

General Assembly

File No. 616

January Session, 2021

Substitute Senate Bill No. 1059

Senate, April 26, 2021

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE OFFICE OF THE CORRECTION OMBUDS, THE USE OF ISOLATED CONFINEMENT, SECLUSION AND RESTRAINTS, SOCIAL CONTACTS FOR INCARCERATED PERSONS AND TRAINING AND WORKERS' COMPENSATION BENEFITS FOR CORRECTION OFFICERS.

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

1 Section 1. Section 18-81jj of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2021*):

3 (a) (1) There is, within the Office of Governmental Accountability
4 established under section 1-300, the Office of the Correction Ombuds for
5 the provision of ombuds services.

6 [(a)] (2) For [the] purposes of this section, ["ombudsman services"]
7 "ombuds services" includes: [(1) the receipt of]

8 (A) Evaluating the delivery of services to incarcerated persons by the
9 Department of Correction, its contractors and other entities that provide
10 services to people detained in correctional institutions or halfway

11 houses through funding provided by the state;

12 (B) Reviewing periodically the procedures established by the
13 Department of Correction to carry out the provisions of title 18 with a
14 view toward the rights of incarcerated persons;

15 (C) Receiving complaints [by the ombudsman] from persons
16 [eighteen years of age or younger] in the custody of the Commissioner
17 of Correction regarding decisions, actions, omissions, policies,
18 procedures, rules or regulations of the Department of Correction; [.]

19 [(2) investigating] (D) Investigating such complaints, rendering a
20 decision on the merits of each complaint and communicating the
21 decision to the complainant; [, (3) recommending]

22 (E) Recommending to the commissioner a resolution of any
23 complaint found to have merit; [, (4) recommending]

24 (F) Reviewing the operation of facilities and procedures employed at
25 such facilities where a person may be housed who is in the custody of
26 the commissioner;

27 (G) Providing assistance including, but not limited to, advocating
28 with a department or service provider or others on behalf of the
29 incarcerated person;

30 (H) Recommending procedure and policy revisions to the
31 department; [, and (5) publishing]

32 (I) Taking all possible actions, including, but not limited to,
33 conducting programs of public education, undertaking legislative
34 advocacy and making proposals for systemic reform and formal legal
35 action, in order to secure and ensure the rights of persons in the custody
36 of the commissioner; and

37 (J) Publishing a quarterly report of all [ombudsman] ombuds services
38 and activities.

39 (b) [The Commissioner of Correction shall hire a person to provide

40 ombudsman services and shall annually report the name of such person
41 to the joint standing committee of the General Assembly having
42 cognizance of matters relating to the Department of Correction in
43 accordance with the provisions of section 11-4a. In addition to the
44 executive assistant positions authorized under subdivision (10) of
45 section 5-198, the commissioner may hire an executive assistant to carry
46 out the duties of this section.] (1) Not later than October 1, 2021, and
47 upon any vacancy in the position of Correction Ombuds, the Governor
48 shall nominate a person qualified by training and experience to perform
49 and lead the office of Correction Ombuds. Any nomination by the
50 Governor for appointment of Correction Ombuds shall be referred,
51 without debate, to the joint standing committee of the General Assembly
52 having cognizance of matters relating to corrections which shall report
53 on each appointment not later than thirty days after the date of
54 reference. Each such appointment by the General Assembly shall be by
55 concurrent resolution.

56 (2) The person appointed as Correction Ombuds shall serve for an
57 initial term of two years and may be reappointed for succeeding terms.

58 (3) Upon any vacancy in the position of Correction Ombuds and until
59 such time as a candidate has been confirmed by the General Assembly
60 or, if the General Assembly is not in session, the candidate designated
61 for appointment by the Governor shall serve as the acting Correction
62 Ombuds and be entitled to the compensation, privileges and powers of
63 the Correction Ombuds until the General Assembly meets to take action
64 on said appointment.

65 (4) Notwithstanding any provision of the general statutes, the
66 Correction Ombuds shall act independently of any department in the
67 performance of the office's duties.

68 (5) The Correction Ombuds may, within available funds, appoint
69 such staff as may be deemed necessary. The duties of the staff may
70 include the duties and powers of the Correction Ombuds if performed
71 under the direction of the Correction Ombuds.

72 (6) The General Assembly shall annually appropriate such sums as
73 necessary for the payment of the salaries of the staff and for the payment
74 of office expenses and other actual expenses incurred by the Correction
75 Ombuds in the performance of his or her duties. Any legal or court fees
76 obtained by the state in actions brought by the Correction Ombuds shall
77 be deposited in the General Fund.

78 (7) The Correction Ombuds shall annually submit, in accordance with
79 the provisions of section 11-4a, to the Governor and the joint standing
80 committees of the General Assembly having cognizance of matters
81 relating to corrections, public health and human services a detailed
82 report analyzing the work of the Office of the Correction Ombuds.

83 (c) Prior to any person [eighteen years of age or younger] in the
84 custody of the Commissioner of Correction obtaining [ombudsman]
85 ombuds services, such person shall have reasonably pursued a
86 resolution of the complaint through any existing internal grievance of
87 appellate procedures of the Department of Correction.

88 (d) All oral and written communications, and records relating to such
89 communications between a person [eighteen years of age or younger] in
90 the custody of the Commissioner of Correction and the [ombudsman]
91 Correction Ombuds or a member of the [ombudsman's] Office of the
92 Correction Ombuds staff, including, but not limited to, the identity of a
93 complainant, the details of a complaint and the investigative findings
94 and conclusions of the [ombudsman] Correction Ombuds shall be
95 confidential and shall not be disclosed without the consent of the
96 person, except that the [ombudsman] Correction Ombuds may disclose
97 without the consent of the person (1) such communications or records
98 as may be necessary for the [ombudsman] Correction Ombuds to
99 conduct an investigation and support any recommendations the
100 ombudsman may make, or (2) the formal disposition of a person's
101 complaint when requested in writing by a court that is hearing such
102 person's application for a writ of habeas corpus that was filed
103 subsequent to an adverse finding by the [ombudsman] Correction
104 Ombuds on such person's complaint.

105 (e) Notwithstanding the provisions of subsection (d) of this section,
106 whenever in the course of providing [ombudsman] ombuds services,
107 the [ombudsman] Correction Ombuds or a member of the
108 [ombudsman's] Office of the Correction Ombuds staff becomes aware
109 of the commission or planned commission of a criminal act or a threat
110 to the health and safety of any person or the security of a correctional
111 facility, the [ombudsman] Correction Ombuds shall notify the
112 Commissioner of Correction or a facility administrator of such act or
113 threat and the nature and target of the act or threat.

114 (f) If the Commissioner of Correction has a reasonable belief that a
115 person [eighteen years of age or younger] in the custody of the
116 commissioner has made or provided to the [ombudsman] Correction
117 Ombuds an oral or written communication concerning a safety or
118 security threat within the Department of Correction or directed against
119 an employee of the department, the [ombudsman] Correction Ombuds
120 shall provide to the commissioner all oral or written communications
121 relevant to such threat.

122 (g) Notwithstanding any provision of the general statutes concerning
123 the confidentiality of records and information, the Correction Ombuds
124 shall have access to, including the right to inspect and copy, any records
125 necessary to carry out the responsibilities of the Correction Ombuds as
126 provided in subsection (a) of this section. If the Correction Ombuds is
127 denied access to any records necessary to carry out said responsibilities,
128 he or she may issue a subpoena for the production of such records as
129 provided in subsection (i) of this section.

130 (h) In the performance of his or her responsibilities under subsection
131 (a) of this section, the Correction Ombuds may communicate privately
132 with any person in the custody of the commissioner. Such
133 communications shall be confidential.

134 (i) The Correction Ombuds may issue subpoenas to compel the
135 attendance and testimony of witnesses or the production of books,
136 papers and other documents and to administer oaths to witnesses in any
137 matter under his or her investigation. If any person to whom such

138 subpoena is issued fails to appear or, having appeared, refuses to give
139 testimony or fails to produce the evidence required, the Correction
140 Ombuds may apply to the superior court for the judicial district of
141 Hartford which shall have jurisdiction to order such person to appear
142 and give testimony or to produce such evidence, as the case may be.

143 (j) The Correction Ombuds may apply for and accept grants, gifts and
144 bequests of funds from other states, federal and interstate agencies and
145 independent authorities and private firms, individuals and foundations,
146 for the purpose of carrying out his or her responsibilities. There is
147 established within the General Fund a Correction Ombuds account
148 which shall be a separate nonlapsing account. Any funds received under
149 this subsection shall, upon deposit in the General Fund, be credited to
150 said account and may be used by the Correction Ombuds in the
151 performance of his or her duties.

152 (k) The name, address and other personally identifiable information
153 of a person who makes a complaint to the Correction Ombuds and all
154 information obtained or generated by the office in the course of an
155 investigation and all confidential records obtained by the Correction
156 Ombuds or a designee shall be confidential and shall not be subject to
157 disclosure under the Freedom of Information Act or otherwise, except
158 that such information and records, other than confidential information
159 concerning a pending law enforcement investigation or a pending
160 prosecution, may be disclosed if the Correction Ombuds determines
161 that disclosure is (1) in the general public interest, or (2) necessary to
162 enable the Correction Ombuds to perform his or her responsibilities
163 under subsection (a) of this section.

164 (l) No state or municipal agency shall discharge, or in any manner
165 discriminate or retaliate against, any employee who in good faith makes
166 a complaint to the Correction Ombuds or cooperates with the Office of
167 the Correction Ombuds in an investigation.

168 (m) The state of Connecticut shall protect and hold harmless any
169 attorney, director, investigator, social worker or other person employed
170 by the Office of the Correction Ombuds and any volunteer appointed

171 by the Correction Ombuds from financial loss and expense, including
172 legal fees and costs, if any, arising out of any claim, demand or suit for
173 damages resulting from acts or omissions committed in the discharge of
174 his or her duties with the program within the scope of his or her
175 employment or appointment which may constitute negligence but
176 which acts are not wanton, malicious or grossly negligent as determined
177 by a court of competent jurisdiction.

178 (n) The Office of the Correction Ombuds shall conduct a study
179 regarding the conditions in the state's correctional facilities and halfway
180 houses. Not later than October 1, 2022, and annually thereafter, the
181 Correction Ombuds shall submit a report, in accordance with section 11-
182 4a to the joint standing committee of the General Assembly having
183 cognizance of matters relating to corrections regarding the conditions of
184 confinement in the state's correctional facilities and halfway houses.

185 Sec. 2. Section 18-96b of the general statutes is repealed and the
186 following is substituted in lieu thereof (*Effective July 1, 2022*):

187 (a) As used in this section:

188 (1) "Abuse" means any act or omission by a department employee or
189 a person working under a contract or as a volunteer with the
190 department who acts or fails to act knowingly, recklessly or
191 intentionally, each as defined in section 53a-3, and which act or omission
192 caused, or could have caused mental harm, physical injury or death to
193 an incarcerated person;

194 [(1)] (2) "Administrative segregation status" means the Department of
195 Correction's practice of placing an inmate on restrictive housing status
196 following a determination that such inmate can no longer be safely
197 managed within the general inmate population of the correctional
198 facility; [and]

199 (3) "Commissioner" means the Commissioner of Correction;

200 (4) "De-escalation" means to effectively defuse a crisis without the use
201 of force by using tactics learned through training to recognize and

202 respond to emotions;

203 (5) "Department" means the Department of Correction;

204 (6) "Form and phase of housing" means any status, restrictive or
205 otherwise, that an incarcerated person may experience while in the
206 custody of the commissioner;

207 (7) "Incarcerated person" means a person confined and in the custody
208 and care of the Commissioner of Correction, including those persons in
209 pretrial, presentencing or post-conviction confinement;

210 (8) "Isolated confinement" means confinement of an incarcerated
211 person in a cell, alone or with others, for more than sixteen hours per
212 day;

213 (9) "Life-threatening physical restraint" means any physical restraint
214 or hold of a person that (A) restricts the flow of air into a person's lungs,
215 whether by chest compression or any other means, or (B) immobilizes
216 or reduces the free movement of a person's arms, legs or head while the
217 person is in the prone position;

218 (10) "Medical professional" means (A) A physician licensed under
219 chapter 370; (B) a physician assistant licensed under chapter 370; or (C)
220 an advanced practice registered nurse, registered nurse or practical
221 nurse licensed under chapter 378;

222 (11) "Member of a vulnerable population" means any incarcerated
223 person who:

224 (A) Is twenty-one years of age or younger, or sixty-five years of age
225 or older;

226 (B) Has a mental disability, as defined in section 53a-181i, a history of
227 psychiatric hospitalization, or has recently exhibited self-harming
228 conduct, including, but not limited to, self-mutilation;

229 (C) Has a developmental disability, as defined in section 17b-28;

230 (D) Has a serious medical condition that cannot be effectively treated
231 in isolated confinement;

232 (E) Is pregnant, is in the postpartum period, or has recently suffered
233 a miscarriage or terminated a pregnancy; or

234 (F) Has a significant auditory or visual impairment;

235 (12) "Neglect" means a negligent act or omission by any staff member
236 or volunteer which caused, or may have caused, injury or death to an
237 incarcerated person;

238 (13) "Pharmacological restraint" means a drug or medication when
239 used to manage a person's behavior or restrict a person's freedom of
240 movement and not as a standard treatment or administered in a dosage
241 appropriate for the patient's condition;

242 (14) "Physician" means a physician, licensed pursuant to chapter 370;

243 (15) "Psychiatric emergency" means an event during which a person
244 poses a substantiated threat of imminent physical harm to himself or
245 herself or another person due to an acute disturbance of behavior,
246 thought or mood;

247 (16) "Physical Restraint" means any mechanical device used to control
248 the movement of an incarcerated person's body or limbs, including, but
249 not limited to, flex cuffs, soft restraints, hard metal handcuffs, a black
250 box, leg irons, belly chains, a security chain or a convex shield, but does
251 not include any medical device or helmet, mitt or similar device used to
252 prevent self-injury when the device is part of a documented treatment
253 plan and is the least restrictive means available to prevent such self-
254 injury;

255 (17) "Seclusion" means involuntary confinement of an incarcerated
256 person as a patient in a separate room, subject to close medical
257 supervision for the purpose of protecting the patient and others from
258 harm;

- 259 (18) "Serious incident" means any of the following:
- 260 (A) An attack on a department building or facility conducted from
261 outside of the building or facility;
- 262 (B) A significant breach of a department building or facility
263 perimeter;
- 264 (C) Possession of firearms, ammunition or explosives by an
265 incarcerated person or a visitor to a department building or facility;
- 266 (D) A death of an on-duty department employee, a person working
267 under a contract or as a volunteer with the department or a visitor to a
268 department building or facility or an unnatural death of an incarcerated
269 person;
- 270 (E) An injury to an on-duty department employee, a person working
271 under a contract or as a volunteer with the department, a visitor to a
272 department building or facility or an incarcerated person that results in
273 such person's admission to an acute care hospital;
- 274 (F) A riot or hostage situation at a department building or facility;
- 275 (G) A major fire at a department building or facility;
- 276 (H) A bomb threat directed at a department building or facility;
- 277 (I) A suspected bio-chemical contamination of a department building
278 or facility;
- 279 (J) Any suspected, attempted or confirmed escape of an incarcerated
280 person from a correctional facility or work detail or during transport,
281 including any such escape reported by a member of the public;
- 282 (K) Any incident requiring a unit to be placed on alert or mobilized
283 in response to an emergency at a department building or facility;
- 284 (L) An intentional or accidental discharge of a firearm at a
285 department building or facility, other than during training;

286 (M) Use of a category 2 chemical agent at a department building or
287 facility, as categorized in standards adopted by the federal Occupational
288 Safety and Health Administration, for purposes other than those
289 approved for building, facility or equipment maintenance;

290 (N) An event that seriously impacts normal operation of the
291 department such as a health emergency, power outage, any major
292 destruction or disablement of state property or an incident requiring an
293 unplanned lockdown of a department facility;

294 (O) A terrorist threat or intelligence of suspected terrorist activity;

295 (P) An instance of workplace violence or threat of workplace violence
296 in any workplace or as part of any work detail requiring the immediate
297 separation of incarcerated persons due to an imminent threat of
298 violence;

299 (Q) A reported sexual abuse of an incarcerated person or a
300 department employee or a person working under a contract or as a
301 volunteer with the department committed on or by an incarcerated
302 person or a staff member or a person working as a volunteer with the
303 department, where there is immediate evidence or indication that sexual
304 abuse has occurred; or

305 (R) A suicide attempt by an incarcerated person requiring immediate
306 life-saving measures;

307 (19) "Restraint" includes any pharmacological restraint, physical
308 restraint or soft restraint;

309 [(2)] (20) "Restrictive housing status" means [the designation of an
310 inmate by the Department of Correction that provides for closely
311 regulated management and separation of such inmate from other
312 inmates.] any classification that requires closely regulated management
313 and separation of an incarcerated person and includes, but is not limited
314 to, following correctional statuses: Administrative segregation, punitive
315 segregation, transfer detention, administrative detention, security risk
316 group, chronic discipline, special needs and protective custody;

317 (21) "Soft restraint" means any physical restraint constructed of
318 padded, quilted or pliable materials, but does not include, flex cuffs,
319 handcuffs, a black box, leg irons, a belly chain or a security chain;

320 (22) "Staff member" means an employee, contractor or subcontractor
321 of the department;

322 (23) "Therapist" means any (A) physician licensed pursuant to
323 chapter 370 who specializes in psychiatry, (B) psychologist licensed
324 pursuant to chapter 383, (C) marital and family therapist licensed
325 pursuant to chapter 383a, (D) clinical social worker or master social
326 worker licensed pursuant to chapter 383b, or (E) professional counselor
327 licensed pursuant to chapter 383c;

328 (24) "Unique individual" means a person who, for data collection
329 purposes, is associated with a unique identifier that is anonymized; and

330 (25) "Use of force" means the use of physical force or deadly physical
331 force, as defined in section 53a-3, by a staff member to compel
332 compliance by an incarcerated person. "Use of force" includes, but is not
333 limited to, the use of restraints, chemical agents, canines, chokeholds or
334 munitions or forceable extraction from a cell.

335 (b) (1) Each incarcerated person shall have the opportunity to be
336 outside of his or her cell for at least eight hours each day, except in the
337 case of an incarcerated person held in seclusion pursuant to subsection
338 (d) of this section or except as provided in subdivision (2) of this
339 subsection or in response to (A) a serious incident resulting in a
340 correctional facility-wide lockdown, (B) a substantiated threat of
341 imminent physical harm to another person as evidenced by recent
342 conduct; or (C) an incarcerated person's request for segregation for such
343 person's protection.

344 (2) Prior to holding any incarcerated person in isolated confinement
345 due to one of the situations described in subparagraph (A), (B) or (C) of
346 subdivision (1) of this subsection, (A) a physician shall personally
347 conduct a physical examination and a therapist shall personally conduct

348 a mental health evaluation to determine whether such person is a
349 member of a vulnerable population, and (B) the department shall
350 attempt to defuse the instant situation by using de-escalation methods
351 and less restrictive measures. Only if such methods and measures fail to
352 defuse the instant situation may the department hold a person in
353 isolated confinement.

354 (3) If holding an incarcerated person in isolated confinement, the
355 department shall:

356 (A) Ensure continuous monitoring to ensure the person's safety and
357 well-being;

358 (B) Ensure that any person held in isolated confinement shall have
359 sufficient and regular access to a toilet, water, food, light, air and heat;

360 (C) Continue de-escalation efforts; and

361 (D) End isolated confinement of the person as soon as the threat of
362 the serious incident or of imminent physical harm to others has passed
363 or such person no longer requests segregation for such person's
364 protection.

365 (4) The department shall not subject any incarcerated person to
366 isolated confinement (A) because of the incarcerated person's race,
367 creed, color, national origin, nationality, ancestry, age, marital status,
368 domestic partnership or civil union status, affectional or sexual
369 orientation, genetic information, pregnancy or breastfeeding status, sex,
370 gender identity or expression, disability or atypical hereditary cellular
371 or blood trait, or (B) for any continuous period longer than seventy-two
372 hours, or for more than seventy-two hours during any fourteen-day
373 period.

374 (5) No staff member with a rank lower than captain may order an
375 incarcerated person to be held in isolated confinement. A staff member
376 with a rank of captain or higher or the commissioner or deputy
377 commissioner may order an incarcerated person to be held in isolated
378 confinement for an initial period of not more than eight hours. Only a

379 staff member with a rank of deputy warden or warden or the
380 commissioner or deputy commissioner may order the continuation of a
381 period of isolated confinement in increments of no more than eight
382 hours and not more than a total of forty-eight hours. Only the
383 commissioner or deputy commissioner may order the continuation of a
384 period of isolated confinement of not more than a total of seventy-two
385 hours.

386 (c) (1) The department shall not subject an incarcerated person to the
387 use of (A) life-threatening restraints, (B) pharmacological restraints,
388 except as provided in subsection (d) of this section, or (C) physical
389 restraints except as provided in subsection (d) of this section or
390 subdivisions (2) and (3) of this subsection for the purpose of (i)
391 transporting the incarcerated person between units or outside the
392 correctional facility, or (ii) responding to a substantiated threat of
393 imminent physical harm to another person as evidenced by recent
394 conduct.

395 (2) Prior to subjecting any incarcerated person to the use of physical
396 restraints pursuant to clause (ii) of subparagraph (C) of subdivision (1)
397 of this subsection and subdivision (3) of this subsection, the department
398 shall attempt to defuse the instant situation by using de-escalation
399 methods and less restrictive measures. Only if such methods and
400 measures fail to defuse the instant situation may the department subject
401 a person to the use of physical restraints, except as restricted pursuant
402 to section 18-69c.

403 (3) If subjecting an incarcerated person to physical restraints
404 pursuant to clause (ii) of subparagraph (C) of subdivision (1) of this
405 subsection, the department shall:

406 (A) Ensure continuous monitoring to ensure the person's safety and
407 well-being, including requiring a medical professional to check the
408 imposition of restraints and every two hours thereafter to ensure
409 adequate circulation and range of movement to avoid pain and to
410 permit the incarcerated person to perform necessary bodily functions,
411 including breathing, eating, drinking, standing, lying down, sitting and

412 using the toilet;

413 (B) Ensure that no physical restraints are imposed upon an
414 incarcerated inmate who is showering or exercising;

415 (C) Continue de-escalation efforts; and

416 (D) End the use of physical restraints on the incarcerated person as
417 soon as the threat of the serious incident or imminent physical harm to
418 others has passed.

419 (4) No staff member with a rank lower than captain may subject an
420 incarcerated person to the use of physical restraints. A staff member
421 with a rank of captain or higher may order an incarcerated person to be
422 subjected to the use of physical restraints for an initial period of not
423 more than two hours. Only a staff member with a rank of deputy
424 warden or warden or the commissioner or deputy commissioner may
425 order the use of physical restraints upon such person for an additional
426 period of not more than two hours, provided no incarcerated person is
427 subjected to physical restraints for more than four hours in any twenty-
428 four-hour period.

429 (d) (1) The department may subject an incarcerated person to the use
430 of seclusion or restraints in response to a psychiatric emergency
431 pursuant to subdivisions (2) and (3) of this subsection, provided a
432 therapist attempts to defuse the instant situation by using de-escalation
433 methods and less restrictive measures and such methods and measures
434 fail to defuse the instant situation.

435 (2) If subjecting an incarcerated person to seclusion or restraints in
436 response to a psychiatric emergency pursuant to this subsection, the
437 department shall:

438 (A) Ensure any such seclusion occurs or restraints are imposed only
439 within medical units of the correctional facility;

440 (B) Ensure that the only restraints employed are soft restraints or
441 pharmacological restraints;

442 (C) Ensure that no (i) soft restraints be employed if pharmacological
443 restraints have already been administered and have alleviated the risk
444 of a serious incident or imminent physical harm, and (ii)
445 pharmacological restraints may be administered if soft restraints have
446 already been employed and have alleviated such risk;

447 (D) Ensure a medical professional checks the imposition of restraints
448 and every two hours thereafter checks to ensure adequate circulation
449 and range of movement to avoid pain and that a medical professional
450 continually monitors, through direct observation, such person while
451 such person is subject to restraints under this subsection;

452 (E) Continue de-escalation efforts; and

453 (F) End the use of seclusion or restraints on the incarcerated person
454 as soon as the threat of the serious incident or imminent physical harm
455 has passed.

456 (3) Only a therapist may order an incarcerated person to be subjected
457 to the use of restraints pursuant to this subsection. After an in-person
458 evaluation by a therapist of an incarcerated person and a determination
459 by the therapist that restraints are necessary to prevent a substantiated
460 threat of imminent physical harm by an incarcerated person to himself
461 or herself or others due to an acute disturbance of behavior, thought or
462 mood, the therapist may order such person to be subjected to restraints
463 for an initial period of not more than two hours. A therapist may only
464 order an incarcerated person to be subjected for an additional period of
465 restraint that is not longer than two hours if such therapist, after an in-
466 person evaluation, determines that restraints remain necessary to
467 prevent a substantiated threat of imminent physical harm by an
468 incarcerated person to himself or herself or others due to an acute
469 disturbance of behavior, thought or mood.

470 (4) The department shall develop standards to enable staff members
471 to determine whether the use of restraints or seclusion is
472 contraindicated for each incarcerated person, based on such person's
473 medical and psychiatric status. The department shall inform each

474 incarcerated person of their restraint or seclusion status and shall
475 maintain such person's restraint or seclusion status in a place easily
476 visible to staff members in the event that an emergency response is
477 necessary.

478 (e) (1) Any time the department restrains or confines a person
479 pursuant to subsection (b), (c) or (d) of this section, the department shall:

480 (A) Video and audio record each such incident from the moment the
481 use of restraints or confinement is imposed until the conclusion of such
482 usage; and

483 (B) Document de-escalation methods attempted, the cause for the
484 imposition of use of restraints or confinement and the method and
485 duration of any restraint used.

486 (2) The department shall retain any video or audio record or
487 document created pursuant to subdivision (1) of this subsection for a
488 period of not less than five years from the date of its creation.

489 [(b)] (f) The Department of Correction shall publish on its Internet
490 web site (1) the formula for calculating an inmate's mental health score,
491 [and] (2) a description of any form and phase of housing employed at
492 any of its correctional facilities for [inmates on restrictive housing status]
493 incarcerated persons held in isolated confinement, (3) any report
494 pursuant to subsection (g) of this section, and (4) data used in such
495 report in a downloadable, sortable format.

496 [(c)] (g) The Department of Correction shall at least annually submit
497 to the Criminal Justice Policy and Planning Division established under
498 section 4-68m a report containing as [aggregated] disaggregated and
499 anonymized the following data:

500 (1) The number of [inmates on restrictive housing status] incarcerated
501 persons in isolated confinement in this state's correctional facilities, as
502 of the first day of each of the twelve months preceding the date of the
503 submission of the report [. The department shall report and
504 disaggregate such data based on an inmate's age, gender identity,

505 ethnicity, mental health score as calculated by the department, if any,
506 and the form and phase of housing in which such inmate is held on
507 restrictive housing status] and the total number of persons subjected to
508 isolated confinement during the twelve months preceding the date of
509 submission of the report;

510 [(2) The number of inmates on administrative segregation status who
511 have spent the following cumulative durations of time on
512 administrative segregation status:

513 (A) One to fifteen days;

514 (B) Sixteen to thirty days;

515 (C) Thirty-one to one hundred eighty days;

516 (D) One hundred eighty-one to three hundred sixty-five days;

517 (E) Three hundred sixty-six to seven hundred thirty days;

518 (F) Seven hundred thirty-one to one thousand ninety-five days;

519 (G) One thousand ninety-six to one thousand four hundred sixty
520 days;

521 (H) One thousand four hundred sixty-one to one thousand eight
522 hundred twenty-five days;

523 (I) One thousand eight hundred twenty-six to two thousand one
524 hundred ninety days;

525 (J) Two thousand one hundred ninety-one to two thousand five
526 hundred fifty-five days;

527 (K) Two thousand five hundred fifty-six to two thousand nine
528 hundred twenty days;

529 (L) Two thousand nine hundred twenty-one to three thousand two
530 hundred eighty-five days;

531 (M) Three thousand two hundred eighty-six to three thousand six
532 hundred fifty days; and

533 (N) More than three thousand six hundred fifty days;

534 (3) For each correctional facility, the number of inmates who, during
535 the twelve months preceding the date of the submission of the report,
536 spent more than fifteen days, cumulative, on administrative segregation
537 status. The department shall report and disaggregate such data based
538 on an inmate's age, gender identity, ethnicity, mental health score as
539 calculated by the department, if any, and the form and phase of
540 restricted housing in which such inmate is held; and]

541 (2) A list of unique individuals in the custody of the department in
542 the twelve months preceding the date of the submission of the report
543 subjected to any form of isolated confinement. The list shall include the
544 following information for each person: Age, gender identity, ethnicity,
545 reason for placement in isolation, total number of days spent in isolated
546 confinement in the previous calendar year, total number of days spent
547 in isolated confinement over the course of the entire period of
548 incarceration, specific restrictive housing status, if any, and mental
549 health score as calculated by the department, if any;

550 (3) A list of unique individuals in the custody of the department in
551 the twelve months preceding the date of the submission of the report
552 subjected to restraints. The list shall include the following information
553 for each person: Age, gender identity, ethnicity, total number of hours
554 spent in restraints in the previous calendar year, specific restrictive
555 housing status, if any, and mental health score as calculated by the
556 department, if any;

557 (4) The number of incidents, broken down by correctional facility, for
558 each of the following in the previous calendar year and categorized as:

559 (A) Suicides;

560 (B) Attempted suicides;

561 (C) Self-harm;

562 (D) Use of force by staff members against incarcerated persons;

563 (E) Assaults by incarcerated persons on staff members; and

564 (F) Assaults between incarcerated persons;

565 (5) The number of incarcerated persons subjected to more than
566 seventy-two hours of isolated confinement in the previous calendar year
567 as categorized by the following periods of time:

568 (A) Up to fifteen days;

569 (B) Sixteen to thirty days;

570 (C) Thirty-one to seventy-nine days; or

571 (D) Eighty or more days; and

572 ~~[(4)]~~ (6) Actions taken by the department during the twelve months
573 preceding the date of the submission of the report to minimize reliance
574 on administrative segregation status and to mitigate the harmful effects
575 of administrative segregation status on ~~[inmates]~~ incarcerated persons,
576 staff members and the public.

577 ~~[(d)]~~ (h) The department shall not hold any person under eighteen
578 years of age on administrative segregation status.

579 ~~[(e)]~~ (i) Not later than January 1, ~~[2019]~~ 2021, the Commissioner of
580 Correction shall study and submit a report, in accordance with the
581 provisions of section 11-4a, to the joint standing committee of the
582 General Assembly having cognizance of matters relating to ~~[the~~
583 judiciary] corrections regarding the use and oversight of all forms and
584 phases of housing for inmates on restrictive housing status.

585 ~~[(f)]~~ (j) The provisions of subsections (a) to ~~[(d)]~~ (h), inclusive, of this
586 section do not apply to any ~~[inmate]~~ incarcerated person described in
587 subsection (a) of section 18-10b.

588 [(g)] (k) Within available appropriations, the [Department of
589 Correction] department shall provide training to employees of the
590 department who interact with inmates concerning the following:

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

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

593 (3) De-escalation techniques for safely managing individuals with
594 mental illness;

595 (4) Consequences of untreated mental illness;

596 (5) The long and short-term psychological effects of being on
597 administrative segregation status; [and]

598 (6) The recognition of and techniques for mitigating trauma and
599 vicarious trauma; and

600 [(6)] (7) De-escalation and communication techniques to divert
601 inmates from situations that may lead to the inmate being placed on
602 administrative segregation status.

603 [(h)] (l) Within available appropriations, the Department of
604 Correction shall take measures to promote the wellness of employees of
605 the department who interact with inmates. These measures may
606 include, but need not be limited to:

607 (1) Employee assistance programs;

608 (2) Development and use of strategies to prevent and treat trauma-
609 related effects on employees;

610 [(2)] (3) Peer support programs; and

611 [(3)] (4) Stress management training.

612 Sec. 3. Section 18-81gg of the general statutes is repealed and the
613 following is substituted in lieu thereof (*Effective October 1, 2021*):

614 (a) (1) The Commissioner of Correction shall establish visitation
615 policies for [any inmate who is a parent to a child under the age of
616 eighteen] incarcerated persons. Such policies shall;

617 (A) Permit at least one sixty-minute contact social visit per week;

618 (B) Permit visitation by members of an incarcerated person's
619 immediate family, extended family, unmarried coparents, unmarried
620 romantic partners and close personal friends. No person's past criminal
621 conviction shall be the sole or primary basis for denying a person's
622 application to visit;

623 (C) Provide that no incarcerated person may be restrained during a
624 contact social visit; and

625 (D) Provide that no incarcerated person may be deprived of a contact
626 social visit under this subsection without a hearing at which the
627 Department of Correction shall bear the burden of showing by clear and
628 convincing evidence that the denial of contact social visits is necessary
629 (i) to protect against a substantiated threat of imminent physical harm
630 to department employees, the visitor or another person; or (ii) to prevent
631 the introduction of contraband.

632 (2) The department may not deprive an incarcerated person of
633 contact social visits provided for in this subsection for a period in excess
634 of ninety days.

635 (3) Any policies developed pursuant to subdivision (1) of this
636 subsection for any incarcerated person who is a parent to a child under
637 the age of eighteen shall include, but need not be limited to, rules
638 regarding: [(1)] (A) Physical contact, [(2)] (B) convenience and frequency
639 of visits, and [(3)] (C) access to child-friendly visiting areas.

640 (4) For purposes of this subsection, "contact social visit" means an in-
641 person meeting between an incarcerated person and an approved
642 visitor who are not separated from each other by any physical divider,
643 including, but not limited to, a screen or partition.

644 (5) The provisions of this subsection do not apply to any incarcerated
645 person described in subsection (a) of section 18-10b.

646 (b) (1) The commissioner shall establish policies concerning mail to
647 and from incarcerated persons. Such policies shall:

648 (A) Provide that each incarcerated person may write, send and
649 receive letters, without limitation on the number of any such letters such
650 incarcerated person receives, or writes and sends at his or her own
651 personal expense, and

652 (B) Prohibit unnecessary delays in the processing of incoming and
653 outgoing mail to or from an incarcerated person.

654 (2) Each correctional facility commissary shall sell: (A) Stationery,
655 envelopes, postcards, greeting cards and postage; and (B) aerogramme
656 folding letters for foreign air mail letters.

657 (3) The department shall provide each incarcerated person the
658 following items free of charge:

659 (A) Materials and postage needed to send two social letters per week;

660 (B) A writing instrument; and

661 (C) At least twenty sheets of writing paper, per month, and eight
662 letter-size envelopes with postage for eight letters per month, for
663 purposes including, but not limited to, social letters. Additional sheets
664 of paper for letters to the court or attorneys may be authorized upon
665 reasonable requests that demonstrate the need for such items by the
666 incarcerated person.

667 (4) The department may not deprive an incarcerated person the
668 ability to write, send or receive letters provided for in this subsection as
669 a matter of discipline, retaliation or convenience.

670 (c) The commissioner shall establish policies concerning telephone
671 calls to and from incarcerated persons. Such policies shall:

672 (1) Ensure incarcerated persons may make or receive at least two
673 social phone calls per week;

674 (2) Ensure incarcerated persons may make telephone calls that last in
675 total time up to sixty minutes free of charge for social telephone calls;
676 and

677 (3) Prohibit the department from depriving an incarcerated person of
678 telephone calls as provided for in this subsection as a matter of
679 discipline, retaliation or convenience.

680 Sec. 4. Subdivision (16) of section 31-275 of the general statutes is
681 repealed and the following is substituted in lieu thereof (*Effective October*
682 *1, 2021*):

683 (16) (A) "Personal injury" or "injury" includes, in addition to
684 accidental injury that may be definitely located as to the time when and
685 the place where the accident occurred, an injury to an employee that is
686 causally connected with the employee's employment and is the direct
687 result of repetitive trauma or repetitive acts incident to such
688 employment, and occupational disease.

689 (B) "Personal injury" or "injury" shall not be construed to include:

690 (i) An injury to an employee that results from the employee's
691 voluntary participation in any activity the major purpose of which is
692 social or recreational, including, but not limited to, athletic events,
693 parties and picnics, whether or not the employer pays some or all of the
694 cost of such activity;

695 (ii) A mental or emotional impairment, unless such impairment (I)
696 arises from a physical injury or occupational disease, (II) in the case of a
697 police officer of the Division of State Police within the Department of
698 Emergency Services and Public Protection, an organized local police
699 department or a municipal constabulary, or a correction officer
700 employed by the Department of Correction, arises from such [police]
701 officer's use of deadly force or subjection to deadly force in the line of
702 duty, regardless of whether such [police] officer is physically injured,

703 provided such [police] officer is the subject of an attempt by another
704 person to cause such [police] officer serious physical injury or death
705 through the use of deadly force, and such [police] officer reasonably
706 believes such [police] officer to be the subject of such an attempt, or (III)
707 in the case of a police officer, parole officer, correction officer or
708 firefighter, is a diagnosis of post-traumatic stress disorder as defined in
709 section 31-294k, as amended by this act, that meets all the requirements
710 of section 31-294k, as amended by this act. As used in this clause, "in the
711 line of duty" means any action that a police officer or correction officer
712 is obligated or authorized by law, rule, regulation or written condition
713 of employment service to perform, or for which the police officer,
714 correction officer or firefighter is compensated by the public entity such
715 officer serves;

716 (iii) A mental or emotional impairment that results from a personnel
717 action, including, but not limited to, a transfer, promotion, demotion or
718 termination; or

719 (iv) Notwithstanding the provisions of subparagraph (B)(i) of this
720 subdivision, "personal injury" or "injury" includes injuries to employees
721 of local or regional boards of education resulting from participation in a
722 school-sponsored activity but does not include any injury incurred
723 while going to or from such activity. As used in this clause, "school-
724 sponsored activity" means any activity sponsored, recognized or
725 authorized by a board of education and includes activities conducted on
726 or off school property and "participation" means acting as a chaperone,
727 advisor, supervisor or instructor at the request of an administrator with
728 supervisory authority over the employee.

729 Sec. 5. Section 31-294k of the general statutes is repealed and the
730 following is substituted in lieu thereof (*Effective October 1, 2021*):

731 (a) As used in this section:

732 (1) "Correction officer" means a correction officer employed by the
733 Department of Correction;

734 [(1)] (2) "Firefighter" has the same meaning as provided in section 7-
735 313g;

736 [(2)] (3) "In the line of duty" means any action that a police officer,
737 parole officer, correction officer or firefighter is obligated or authorized
738 by law, rule, regulation or written condition of employment service to
739 perform, or for which the officer or firefighter is compensated by the
740 public entity such officer or firefighter serves, except that, in the case of
741 a volunteer firefighter, such action or service constitutes fire duties, as
742 defined in subsection (b) of section 7-314b;

743 [(3)] (4) "Mental health professional" means a board-certified
744 psychiatrist or a psychologist licensed pursuant to chapter 383, who has
745 experience diagnosing and treating post-traumatic stress disorder;

746 [(4)] (5) "Parole officer" means an employee of the Department of
747 Correction who supervises inmates in the community after their release
748 from prison on parole or under another prison release program;

749 [(5)] (6) "Police officer" has the same meaning as provided in section
750 7-294a, except that "police officer" does not include an officer of a law
751 enforcement unit of the Mashantucket Pequot Tribe or the Mohegan
752 Tribe of Indians of Connecticut;

753 [(6)] (7) "Post-traumatic stress disorder" means a disorder that meets
754 the diagnostic criteria for post-traumatic stress disorder as specified in
755 the most recent edition of the American Psychiatric Association's
756 "Diagnostic and Statistical Manual of Mental Disorders"; and

757 [(7)] (8) "Qualifying event" means an event occurring in the line of
758 duty on or after July 1, 2019, in which a police officer, parole officer,
759 correction officer or firefighter:

760 (A) Views a deceased minor;

761 (B) Witnesses the death of a person or an incident involving the death
762 of a person;

763 (C) Witnesses an injury to a person who subsequently dies before or
764 upon admission at a hospital as a result of the injury and not as a result
765 of any other intervening cause;

766 (D) Has physical contact with and treats an injured person who
767 subsequently dies before or upon admission at a hospital as a result of
768 the injury and not as a result of any other intervening cause;

769 (E) Carries an injured person who subsequently dies before or upon
770 admission at a hospital as a result of the injury and not as a result of any
771 other intervening cause; or

772 (F) Witnesses a traumatic physical injury that results in the loss of a
773 vital body part or a vital body function that results in permanent
774 disfigurement of the victim.

775 (b) A diagnosis of post-traumatic stress disorder is compensable as a
776 personal injury as described in subparagraph (B)(ii)(III) of subdivision
777 (16) of section 31-275, as amended by this act, if a mental health
778 professional examines a police officer, parole officer, correction officer
779 or firefighter and diagnoses the officer or firefighter with post-traumatic
780 stress disorder as a direct result of a qualifying event, provided (1) the
781 post-traumatic stress disorder resulted from the officer or firefighter
782 acting in the line of duty and, in the case of a firefighter, such firefighter
783 complied with Federal Occupational Safety and Health Act standards
784 adopted pursuant to 29 CFR 1910.134 and 29 CFR 1910.156, (2) a
785 qualifying event was a substantial factor in causing the disorder, (3)
786 such qualifying event, and not another event or source of stress, was the
787 primary cause of the post-traumatic stress disorder, and (4) the post-
788 traumatic stress disorder did not result from any disciplinary action,
789 work evaluation, job transfer, layoff, demotion, promotion, termination,
790 retirement or similar action of the officer or firefighter. Any such mental
791 health professional shall comply with any workers' compensation
792 guidelines for approved medical providers, including, but not limited to,
793 guidelines on release of past or contemporaneous medical records.

794 (c) Whenever liability to pay compensation is contested by the

795 employer, the employer shall file with the commissioner, on or before
796 the twenty-eighth day after the employer has received a written notice
797 of claim, a notice in accordance with a form prescribed by the
798 chairperson of the Workers' Compensation Commission stating that the
799 right to compensation is contested, the name of the claimant, the name
800 of the employer, the date of the alleged injury and the specific grounds
801 on which the right to compensation is contested. The employer shall
802 send a copy of the notice to the employee in accordance with section 31-
803 321. If the employer or the employer's legal representative fails to file
804 the notice contesting liability on or before the twenty-eighth day after
805 receiving the written notice of claim, the employer shall commence
806 payment of compensation for such injury on or before the twenty-eighth
807 day after receiving the written notice of claim, but the employer may
808 contest the employee's right to receive compensation on any grounds or
809 the extent of the employee's disability within one hundred eighty days
810 from the receipt of the written notice of claim and any benefits paid
811 during the one hundred eighty days shall be considered payments
812 without prejudice, provided the employer shall not be required to
813 commence payment of compensation when the written notice of claim
814 has not been properly served in accordance with section 31-321 or when
815 the written notice of claim fails to include a warning that the employer
816 (1) if the employer has commenced payment for the alleged injury on or
817 before the twenty-eighth day after receiving a written notice of claim,
818 shall be precluded from contesting liability unless a notice contesting
819 liability is filed within one hundred eighty days from the receipt of the
820 written notice of claim, and (2) shall be conclusively presumed to have
821 accepted the compensability of the alleged injury unless the employer
822 either files a notice contesting liability on or before the twenty-eighth
823 day after receiving a written notice of claim or commences payment for
824 the alleged injury on or before such twenty-eighth day. An employer
825 shall be entitled, if the employer prevails, to reimbursement from the
826 claimant of any compensation paid by the employer on and after the
827 date the commissioner receives written notice from the employer or the
828 employer's legal representative, in accordance with the form prescribed
829 by the chairperson of the Workers' Compensation Commission, stating

830 that the right to compensation is contested. Notwithstanding the
831 provisions of this subsection, an employer who fails to contest liability
832 for an alleged injury on or before the twenty-eighth day after receiving
833 a written notice of claim and who fails to commence payment for the
834 alleged injury on or before such twenty-eighth day, shall be conclusively
835 presumed to have accepted the compensability of the alleged injury. If
836 an employer has opted to post an address of where notice of a claim for
837 compensation by an employee shall be sent, as described in subsection
838 (a) of section 31-294c, the twenty-eight-day period set forth in this
839 subsection shall begin on the date when such employer receives written
840 notice of a claim for compensation at such posted address.

841 (d) Notwithstanding any provision of this chapter, workers'
842 compensation benefits for any police officer, parole officer, correction
843 officer or firefighter for a personal injury described in subparagraph
844 (B)(ii)(III) of subdivision (16) of section 31-275, as amended by this act,
845 shall (1) include any combination of medical treatment prescribed by a
846 board-certified psychiatrist or a licensed psychologist, temporary total
847 incapacity benefits under section 31-307 and temporary partial
848 incapacity benefits under subsection (a) of section 31-308, and (2) be
849 provided for a maximum of fifty-two weeks from the date of diagnosis.
850 No medical treatment, temporary total incapacity benefits under section
851 31-307 or temporary partial incapacity benefits under subsection (a) of
852 section 31-308 shall be awarded beyond four years from the date of the
853 qualifying event that formed the basis for the personal injury. The
854 weekly benefits received by an officer or a firefighter pursuant to section
855 31-307 or subsection (a) of section 31-308, when combined with other
856 benefits including, but not limited to, contributory and noncontributory
857 retirement benefits, Social Security benefits, benefits under a long-term
858 or short-term disability plan, but not including payments for medical
859 care, shall not exceed the average weekly wage paid to such officer or
860 firefighter. An officer or firefighter receiving benefits pursuant to this
861 subsection shall not be entitled to benefits pursuant to subsection (b) of
862 section 31-308 or section 31-308a.

863 Sec. 6. Section 31-294h of the general statutes is repealed and the

864 following is substituted in lieu thereof (*Effective October 1, 2021*):

865 Notwithstanding any provision of this chapter, workers'
866 compensation benefits for any correction officer or police officer, as
867 described in subparagraph (B)(ii)(II) of subdivision (16) of section 31-
868 275, as amended by this act, who suffers a mental or emotional
869 impairment arising from such [police] officer's use of deadly force or
870 subjection to deadly force in the line of duty, shall be limited to
871 treatment by a psychologist or a psychiatrist who is on the approved list
872 of practicing physicians established by the chairperson of the Workers'
873 Compensation Commission pursuant to section 31-280.

874 Sec. 7. Section 7-294ff of the general statutes is repealed and the
875 following is substituted in lieu thereof (*Effective October 1, 2021*):

876 (a) Not later than January 1, [2020] 2022, the Police Officer Standards
877 and Training Council, established under section 7-294b, the Department
878 of Correction and the Commission on Fire Prevention and Control shall
879 develop and promulgate a model critical incident and peer support
880 policy to support the mental health care and wellness of police officers,
881 as defined in section 7-294a, parole officers, as defined in section 31-
882 294k, as amended by this act, correction officers employed by the
883 Department of Correction and firefighters, as defined in section 31-294k,
884 as amended by this act.

885 (b) Not later than July 1, [2020] 2022, each law enforcement unit as
886 defined in section 7-294a, the Department of Correction as employer of
887 parole officers and correction officers, each municipal or state paid or
888 volunteer fire department and each municipal entity employing a fire
889 marshal, deputy fire marshal, fire investigator, fire inspector or other
890 class of investigator or inspector for whom the State Fire Marshal and
891 the Codes and Standards Committee, acting jointly, have adopted
892 minimum standards of qualification pursuant to section 29-298, shall (1)
893 adopt and maintain a written policy that meets or exceeds the standards
894 of the model policy developed pursuant to subsection (a) of this section;
895 (2) make peer support available to such officers and firefighters; and (3)
896 refer an officer or firefighter, as appropriate, seeking mental health care

897 services to a mental health professional, as defined in section 31-294k,
898 as amended by this act.

899 Sec. 8. Section 18-82a of the general statutes is repealed and the
900 following is substituted in lieu thereof (*Effective October 1, 2021*):

901 In consultation with the Department of Mental Health and Addiction
902 Services, the Department of Correction shall provide resilience and self-
903 care technique training for each parole officer, as defined in section 31-
904 294k, as amended by this act, hired on or after January 1, 2020, and each
905 correction officer hired on or after January 1, 2022.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2021</i>	18-81jj
Sec. 2	<i>July 1, 2022</i>	18-96b
Sec. 3	<i>October 1, 2021</i>	18-81gg
Sec. 4	<i>October 1, 2021</i>	31-275(16)
Sec. 5	<i>October 1, 2021</i>	31-294k
Sec. 6	<i>October 1, 2021</i>	31-294h
Sec. 7	<i>October 1, 2021</i>	7-294ff
Sec. 8	<i>October 1, 2021</i>	18-82a

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:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Correction, Dept.	GF - Cost	8.2-10.4 million	8.3-10.6 million
State Comptroller - Fringe Benefits ¹	GF - Cost	0.9-1.8 million	0.9-1.8 million
Department of Emergency Services and Public Protection; Correction, Dept.; Judicial Dept.	Technical Services Revolving Fund - Revenue Loss	7.8 million	7.8 million
Governmental Accountability, Off.	GF - Cost	Up to 1.0 million	Up to 1.1 million
State Comptroller - Fringe Benefits	GF - Cost	Up to 419,745	Up to 432,337
Correction, Dept.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes various changes regarding the laws that govern the Department of Correction (DOC) and results in the impact listed below.

Section 1 expands the correction ombuds program to include all inmates in DOC custody and relocates the program to the Office of Governmental Accountability (OGA) resulting in a cost to the OGA. To meet the requirements of the bill the OGA will have to hire up to 12

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 41.3% of payroll in FY 22 and FY 23.

ombudsmen and one administrative assistant resulting in a cost of up to \$1.5 million in FY 22 and FY 23 (costs include salary, other expenses, and fringe benefits).

The current ombuds program is only for juvenile inmates (less than 35 inmates are under 18) and the bill expands this to the entire DOC population, which is 8,965 inmates as of 4/23/21.

Section 2-3 require increased supervision of isolated inmates, decreases the use of restraints, and allows inmates to receive at least 8 hours of out of cell time per day resulting in a cost to DOC. To meet the requirements of these sections DOC will have to hire between 44-88 additional correction officers for a cost of \$3.1-\$6.1 million in FY 22 and \$3.2-\$6.3 million in FY 23 (costs include salary, other expenses, and fringe benefits).²

Section 2 also requires a physician and therapist to conduct a physical examination and mental health evaluation before holding an inmate in isolated confinement resulting in a potential cost to DOC. Physicians and therapists typically work first-shift, Monday-Friday at DOC facilities and are on-call all other times. To the extent this section results in more medical staff being on-call in order to perform evaluations there is a potential cost to the state.

Section 3 requires the DOC to provide writing and postage materials to inmates free of charge resulting in a cost of approximately \$400,000 per year³. The annual cost will depend on the number of inmates in DOC custody and how many letters inmate choose to write.

Section 3 requires the DOC to let inmates make at least two free 60-minute phone calls per week and results in a cost and a revenue loss to the state. Currently, inmates pay for each call and a portion of that money compensates the vendor for providing the service and the remainder goes to the state to fund various programs. It will cost DOC

² The cost assumes each DOC facility will add one to two additional correctional officer posts for the first and second shifts.

³ Cost includes paper, postage, envelopes, and writing instruments.

approximately \$5.7 million per year to allow inmates to make two free 60-minute calls per week. The exact cost will depend on the number of inmates in DOC custody, the number of calls made, and the length of the calls.

The bill results in an approximate \$7.8 million revenue loss to the state in FY 22 and FY 23. This money goes to DOC for expanding inmate educational services and reentry program initiatives, and the remainder pays for criminal justice information system (in DESPP) and for probation staffing in the Judicial Department.

Sections 4-8 result in a potential cost to the DOC to the extent that correction officers apply for Workers' Compensation benefits and meet the conditions of the bill. For reference, there are approximately 3,400 current DOC correction officers, and this bill expands Workers' Compensation benefits to all correction officers suffering from post-traumatic stress injuries (PTSI).

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the number of inmate telephone calls.

OLR Bill Analysis**sSB 1059*****AN ACT CONCERNING THE OFFICE OF THE CORRECTION OMBUDS, THE USE OF ISOLATED CONFINEMENT, SECLUSION AND RESTRAINTS, SOCIAL CONTACTS FOR INCARCERATED PERSONS AND TRAINING AND WORKERS' COMPENSATION BENEFITS FOR CORRECTION OFFICERS.*****SUMMARY**

This bill makes numerous changes in the laws related to the Department of Correction (DOC). Specifically, it:

1. expands the current correction ombuds program to include everyone in DOC custody and provides additional services and grants additional powers, including (a) receiving complaints from individuals in DOC custody, (b) evaluating the delivery of services to incarcerated individuals, and (c) providing assistance on the incarcerated person's behalf;
2. relocates the correction ombuds program from DOC to the Office of Governmental Accountability (OGA) and adds that the ombuds must act independently of any department in performing its duties;
3. generally requires that each incarcerated person have the opportunity to be outside his or her cell for at least eight hours a day;
4. limits the instances of, and places new requirements on, the use of isolated confinement, seclusion, or restraints (e.g., limiting the amount of time and who can order these methods, requiring various evaluations, documentation, and specific reporting when they are used);

5. establishes certain visitation rights for incarcerated individuals, including generally allowing at least one 60-minute contact social visit and prohibiting the taking away of an incarcerated person's ability to write, send, or receive letters as discipline, retaliation, or for convenience; and
6. extends to DOC correction officers certain workers' compensation benefits for post-traumatic stress disorder (PTSD) developed due to certain qualifying events in the line of duty.

EFFECTIVE DATE: October 1, 2021, except the provisions on isolated confinement, restraints, and seclusion are effective July 1, 2022.

§ 1 — CORRECTION OMBUDS

The bill expands the current correction ombuds program to include (1) everyone in DOC custody, rather than just those under age 18, and (2) additional services.

Under the bill, the Correction Ombuds Office is moved from DOC to OGA. As under current law, the person seeking ombuds services must have reasonably pursued a resolution of the complaint through any existing internal DOC grievance appeals procedures.

Appointment

By October 1, 2021, and any time the position is vacant, the bill requires the governor to nominate a person qualified by training and experience to perform and lead the correction ombuds office. The bill eliminates the requirement that the DOC commissioner (1) hire a person to provide ombudsman services and the ombudsman's ability to hire an executive assistant and (2) annually report that person's name to the Judiciary Committee.

Legislative Confirmation

Under the bill, any gubernatorial nomination for correction ombuds appointment must be referred, without debate, to the Judiciary Committee, which must report on each appointment within 30 days after that. Each General Assembly appointment must be by concurrent

resolution in each chamber.

Upon any vacancy, if the General Assembly is not in session, the candidate the governor chooses serves as acting correction ombuds and is entitled to the compensation, privileges, and powers of the ombuds until the General Assembly meets to act on the appointment. The person appointed as correction ombuds must serve for an initial two-year term and may be reappointed for succeeding terms.

Independence and Authority to Hire Staff

Regardless of any state law, the correction ombuds must act independently of any department in performing the office's duties. The correction ombuds may, within available funds, appoint staff as deemed necessary. Staff duties may include the correction ombud's duties and powers if performed under his or her direction.

Appropriations and Report

The bill requires the General Assembly to annually appropriate the amount needed to pay staff salaries and office expenses and other actual expenses the ombuds incurred in performing his or her duties. Any legal or court fees the state obtains in actions the ombuds brought must be deposited in the General Fund.

Under the bill, the correction ombuds must annually submit to the governor and the Judiciary, Public Health, and Human Services committees a detailed report analyzing the office's work.

"Ombuds" Services

The bill renames current law's "ombudsman services" as "ombuds services" and expands the services to include:

1. evaluating services for incarcerated individuals by DOC, its contractors, and other entities that provide services to people detained in state-funded correctional institutions or halfway houses;
2. periodically reviewing, with a view toward incarcerated

individuals' rights, DOC procedures established to carry out correctional institution and DOC laws;

3. reviewing the operation of facilities and procedures used at the facilities where in DOC custody a person may be housed;
4. helping, including to advocate with DOC, service providers, or others on an incarcerated person's behalf; and
5. taking all possible actions, including conducting public education programs, legislative advocacy, and making proposals for systemic reform and formal legal action, in order to secure and ensure the rights of individuals in DOC custody.

As under current law, but extended to everyone in DOC custody, the services include:

1. receiving complaints from individuals in DOC custody regarding department decisions, actions, omissions, policies, procedures, rules, or regulations;
2. investigating these complaints and rendering a decision on their merits and communicating the decision to the complainant;
3. recommending to the DOC commissioner a resolution of any complaint found to have merit; and
4. publishing a quarterly report of all ombuds services and activities.

Confidentiality and Exceptions

Under the bill, in performing his or her responsibilities, the ombuds may communicate privately with any person in DOC custody and these communications must be confidential under certain circumstances.

Under current law, there are confidentiality provisions that protect communication between someone 18 years old and younger who is in DOC custody and the correction ombudsman. The bill extends these

protections to everyone in DOC custody, with certain exceptions. Under the bill, all oral and written communications and related records between an individual in custody and the correction ombuds, or a member of the ombuds' staff, are confidential and may not be disclosed without the individual's consent. However, the ombuds may disclose, without the individual's consent, communications and related records (e.g., the identity of a complainant, the details of a complaint, and the ombudsman's investigative findings and conclusions) that are necessary (1) for the ombuds to conduct an investigation and (2) to support any recommendations the ombuds may make. The ombuds may also disclose, without the individual's consent, the formal disposition of a complaint when requested in writing by a court hearing an application for a writ of habeas corpus filed after the ombudsman's adverse finding on the complaint.

Regardless of any provision of state law concerning confidentiality of records and information, the ombuds must have access to, including the right to inspect and copy, any records needed to carry out the his or her responsibilities. If the ombuds is denied access to any of these records, he or she may issue a subpoena for their (see below).

Under the bill, the name, address, and other personally identifiable information of a person who makes a complaint to the ombuds and all information or confidential records the office obtains or generates when investigating are generally confidential and not subject to Freedom of Information Act disclosure. Except the information and records, other than confidential information concerning a pending law enforcement investigation or a pending prosecution, may be disclosed if the ombuds determines that it is (1) in the general public interest, or (2) needed for the ombuds to perform his or her responsibilities.

Disclosure of Criminal Acts or Threats to Health and Safety

Regardless of the confidentiality provisions, the bill requires the ombuds to notify the DOC commissioner or a facility administrator when, in the course of providing ombuds services, the ombuds or a member of the ombuds' staff becomes aware of the commission or

planned commission of a criminal act or a threat to the health and safety of anyone or the security of a correctional facility. If the commissioner reasonably believes that an individual in DOC custody has made or given to the ombuds an oral or written communication about a safety or security threat within the department or directed against a DOC employee, the ombuds must give the commissioner all oral or written communications relevant to the threat. Under current law, these provisions apply to those age 18 or younger, but the bill applies them to everyone in DOC custody.

Subpoena Power

The bill allows the correction ombuds to issue subpoenas to compel the attendance and testimony of witnesses or the production of books, papers, and other documents and to administer oaths to witnesses in any matter under his or her investigation. If any person to whom the subpoena is issued fails to appear or, having appeared, refuses to give testimony or fails to produce the evidence required, the ombuds may apply to the Superior Court for the Hartford judicial district, which will have jurisdiction to order the person to appear and give testimony or to produce the evidence, as the case may be.

Grants, Gifts, and Bequests

The bill allows the ombuds to apply for and accept grants, gifts, and bequests of funds from other states, federal and interstate agencies, and independent authorities and private firms, individuals, and foundations, to carry out his or her responsibilities. The bill establishes a Correction Ombuds account within the General Fund, which is a separate nonlapsing account. Any funds received under this provision must, upon deposit in the General Fund, be credited to the account and the ombuds may use it in performing his or her duties.

Retaliation Prohibited

The bill prohibits state or municipal agencies from discharging, or discriminating in any manner or retaliating against, any employee who in good faith makes a complaint to the correction ombuds or cooperates with the office in an investigation.

Immunity

Under the bill, the state must protect and hold harmless any attorney, director, investigator, social worker, or other person the Correction Ombuds Office employs and any volunteer the ombuds appoints. The bill protects them from financial loss and expense, including legal fees and costs, if any, arising out of any claim, demand, or suit for damages resulting from acts or omissions committed in discharging their duties within the scope of their employment or appointment that may constitute negligence, but are not wanton, malicious, or grossly negligent as a court determines.

Study

The bill requires the Correction Ombuds Office to conduct a study on the conditions in the state's correctional facilities and halfway houses. By October 1, 2022, and each year after, the ombuds must submit a report to the Judiciary Committee on the conditions of confinement in these facilities and houses.

§ 2 — ISOLATED CONFINEMENT, RESTRAINTS, AND SECLUSION

The bill limits the instances of, and places new requirements for using, isolated confinement, seclusion, or restraints. The bill specifies that these policies do not apply to any incarcerated person convicted of capital felony or murder with special circumstances. As under existing law, DOC is prohibited from placing any individual under age 18 on administrative segregation status (i.e., placing an inmate on restrictive housing status after determining the inmate can no longer be safely managed within the general inmate population of the correctional facility).

Right to Be Outside the Cell

The bill requires each incarcerated person to have the opportunity to be outside his or her cell for at least eight hours a day, except when held in (1) seclusion or (2) isolated confinement in response to certain situations. These situations are: (1) a serious incident resulting in a correctional facility-wide lockdown, (2) a substantiated threat of imminent physical harm to another person based on recent conduct; or

(3) an incarcerated person's request for segregation for the person's protection.

Under the bill, a "serious incident" means any of the following:

1. an attack on a DOC building or facility conducted from outside of the building or facility;
2. a significant breach of a DOC building or facility perimeter;
3. possession of firearms, ammunition, or explosives by an incarcerated person or a visitor to a DOC building or facility;
4. a death or injury to an on-duty DOC employee, a DOC contractor or volunteer, or a visitor to a DOC building or facility, or an unnatural death or admission to an acute care hospital of an incarcerated person;
5. a riot or hostage situation, major fire, or bomb threat at a DOC building or facility;
6. a suspected bio-chemical contamination of a DOC building or facility;
7. any suspected, attempted, or confirmed escape of an incarcerated person from a correctional facility or work detail or during transport, including any escape a public member reports;
8. any incident requiring a unit to be placed on alert or mobilized in response to an emergency at a DOC building or facility;
9. an intentional or accidental firearm discharge at a DOC building or facility, other than during training;
10. use of a category 2 chemical agent at a DOC building or facility, as categorized by the federal Occupational Safety and Health Administration standards, for purposes other than those approved for building, facility, or equipment maintenance;

11. an event that seriously impacts normal DOC operations such as a health emergency, power outage, any major destruction or disablement of state property, or an incident requiring an unplanned lockdown of a DOC facility;
12. a terrorist threat or intelligence of suspected terrorist activity;
13. an instance or threat of workplace violence in any workplace or as part of any work detail requiring the immediate separation of incarcerated individuals due to an imminent threat of violence;
14. a suicide attempt by an incarcerated person requiring immediate life-saving measures; or
15. a reported sexual abuse of an incarcerated person or a DOC employee, contractor, or volunteer committed on or by these individuals where there is immediate evidence or indication that sexual abuse occurred.

Isolated Confinement

Under the bill, before holding any incarcerated person in isolated confinement (i.e., in a cell, alone or with others, for more than 16 hours per day) due to one of the situations described above, a physician and therapist (i.e., a licensed physician specializing in psychiatry, psychologist, marital and family therapist, clinical or master social worker, or professional counselor) must, respectively, conduct a physical examination and a mental health evaluation to determine whether the person is a member of a vulnerable population.

Under the bill, a “member of a vulnerable population” is an incarcerated person who:

1. is age 21 or younger, or age 65 or older;
2. has a mental disability, a history of psychiatric hospitalization, or has recently exhibited self-harming conduct, including self-mutilation;

3. has a developmental disability;
4. has a serious medical condition that cannot be effectively treated in isolated confinement;
5. is pregnant, is in the postpartum period, or has recently suffered a miscarriage or terminated a pregnancy; or
6. has a significant auditory or visual impairment.

Additionally, DOC must attempt to defuse the instant situation with de-escalation methods (i.e., to effectively defuse a crisis without the use of force by using tactics learned through training to recognize and respond to emotions) and less restrictive measures. Only if these methods and measures fail to defuse the situation may DOC hold a person in isolated confinement.

Under the bill, if DOC holds an incarcerated person in isolated confinement, it must:

1. ensure continuous monitoring of the person's safety and well-being;
2. ensure that any person held in isolated confinement has sufficient and regular access to a toilet, water, food, light, air, and heat;
3. continue de-escalation efforts; and
4. end the person's isolated confinement as soon as the threat of the serious incident or of imminent physical harm to others has passed or the person no longer requests segregation for his or her own protection.

The bill prohibits DOC from subjecting any incarcerated person to isolated confinement (1) because of the person's race, creed, color, national origin, nationality, ancestry, age, marital status, domestic partnership, or civil union status, affectional or sexual orientation, genetic information, pregnancy or breastfeeding status, sex, gender identity or expression, disability, or atypical hereditary cellular or blood

trait, or (2) for any continuous period longer than 72 hours, or for more than 72 hours during any 14-day period.

The bill prohibits staff members ranked lower than captain from ordering an incarcerated person to be held in isolated confinement. The bill only allows those ranked captain or higher or the commissioner or deputy commissioner to order an incarcerated person to be held in isolated confinement for an initial period of up to eight hours. Only those ranked deputy warden or warden or the commissioner or deputy commissioner may order continued isolated confinement in increments of up to eight hours and not more than 48 hours total. Only the commissioner or deputy commissioner may order continued isolated confinement of up to 72 hours total.

Restraints

The bill prohibits DOC from subjecting incarcerated person to the use of:

1. life-threatening restraints (i.e., any physical restraint or hold of a person that restricts the flow of air into a person's lungs, whether by chest compression or any other means, or immobilizes or reduces the free movement of a person's arms, legs, or head while the person is in the prone position);
2. pharmacological restraints (i.e., a drug or medication used to manage a person's behavior or restrict a person's freedom of movement and not as a standard treatment or administered in a dosage appropriate for the patient's condition), except as when expressly allowed under the bill (see below); or
3. physical restraints, except when the bill allows for the purpose of (a) transporting the incarcerated person between units or outside the correctional facility, or (b) responding to a substantiated threat of imminent physical harm to another person as evidenced by recent conduct.

Under the bill, "physical restraint" means any mechanical device

used to control the movement of an incarcerated person's body or limbs, including, flex cuffs, soft restraints, hard metal handcuffs, a black box, leg irons, belly chains, a security chain, or a convex shield. But it does not include any medical device or helmet, mitt, or similar device used to prevent self-injury when the device is part of a documented treatment plan and is the least restrictive means available to prevent self-injury. The bill defines "soft restraints" as any physical restraint constructed of padded, quilted or pliable materials, but does not include, flex cuffs, handcuffs, a black box, leg irons, a belly chain, or a security chain.

Before subjecting any incarcerated person to physical restraints when responding to a substantiated threat of imminent physical harm, DOC must first attempt to defuse the instant situation by using de-escalation methods and less restrictive measures. DOC may use physical restraints only if these methods and measures fail to defuse the instant situation, except as restricted under the laws for pregnant inmates (CGS § 18-69c).

Under the bill, if DOC subjects an incarcerated person to physical restraints when responding to a substantiated threat of imminent physical harm, DOC must:

1. confirm continuous monitoring to ensure the person's safety and well-being, including requiring a medical professional (i.e., a licensed physician, physician assistant, or advanced practice registered nurse, registered nurse, or practical nurse) to check the restraints and then again every two hours to ensure adequate circulation and range of movement to avoid pain and to allow the incarcerated person to perform necessary bodily functions, including breathing, eating, drinking, standing, lying down, sitting, and using the toilet;
2. ensure that no physical restraints are imposed on an incarcerated inmate who is showering or exercising;
3. continue de-escalation efforts; and
4. end the use of physical restraints on the incarcerated person as

soon as the threat of the serious incident or imminent physical harm to others has passed.

The bill prohibits staff members ranked lower than captain from subjecting an incarcerated person to the use of physical restraints. It only allows those ranked captain or higher to order an incarcerated person to be subjected to the use of physical restraints for an initial period of not more than two hours. Only a deputy warden or warden or the commissioner or deputy commissioner may order the use of physical restraints upon the person for an additional period of up to two hours, provided no incarcerated person is subjected to physical restraints for more than four hours in any 24-hour period.

Use of Restraints or Seclusion

The bill allows DOC to subject an incarcerated person to the use of seclusion (i.e., involuntary confinement of an incarcerated person as a patient in a separate room, subject to close medical supervision for the purpose of protecting the patient and others from harm) or restraints in response to a psychiatric emergency, provided a therapist attempts to defuse the instant situation by using de-escalation methods and less restrictive measures and the methods and measures fail to defuse it. Under the bill, “psychiatric emergency” means an event during which a person poses a substantiated threat of imminent physical harm to himself or herself or another person due to an acute disturbance of behavior, thought, or mood.

The bill only allows a therapist to order an incarcerated person to be subjected to restraints in response to a psychiatric emergency. This may occur after a therapist conducts an in-person evaluation of an incarcerated person and determines that restraints are needed to prevent a substantiated threat of imminent physical harm to the incarcerated person himself or herself or to others because of an acute disturbance of behavior, thought, or mood. The therapist may order the person to be subjected to restraints for a period of up to two hours. A therapist may only order the person to be restrained for an additional period of up to two hours if the therapist, after an in-person evaluation,

determines that restraints remain necessary to prevent the same harm as before.

If DOC subjects an incarcerated person to seclusion or restraints in response to a psychiatric emergency, the department must:

1. ensure that any seclusion that occurs or restraints that are imposed are only within the correctional facility's medical units;
2. ensure that the only restraints employed are soft restraints or pharmacological restraints;
3. ensure that no (a) soft restraints are used if pharmacological restraints have already been administered and have alleviated the risk of a serious incident or imminent physical harm, and (b) pharmacological restraints are administered if soft restraints have already been used and have alleviated the risk;
4. ensure a medical professional check the restraints, and then again, every two hours, to ensure adequate circulation and range of movement to avoid pain and that a medical professional continually monitors, through direct observation, the person while he or she is in restraints;
5. continue de-escalation efforts; and
6. end the use of seclusion or restraints on the incarcerated person as soon as the threat of the serious incident or imminent physical harm has passed.

The bill requires DOC to develop standards to enable staff members to determine whether using restraints or seclusion is contraindicated for each incarcerated person, based on the person's medical and psychiatric status. The department must (1) inform each incarcerated person of his or her restraint or seclusion status and (2) maintain the person's restraint or seclusion status in a place easily visible to staff members if an emergency response is necessary.

Documentation

Under the bill, any time DOC uses isolated confinement or seclusion or restrains a person, the department must:

1. video and audio record each incident from the moment the use of restraints or confinement is imposed until the use concludes; and
2. document de-escalation methods attempted, the cause for the imposition of use of restraints or confinement, and the method and duration of any restraint used.

DOC must retain any video or audio record, or document created for at least five years.

Under current law, DOC must publish on its website a description of any form and phase of housing (i.e., any status, restrictive, or otherwise, that an incarcerated person may experience while in the DOC custody) used at any of its correctional facilities for inmates on restrictive housing status. The bill instead requires DOC to publish this description for incarcerated individuals held in isolated confinement and data used in the report in a downloadable, sortable format.

Restrictive Housing Status

Under current law, “restrictive housing status” means the designation of a DOC inmate that provides for closely regulated management and separation of the inmate from other inmates. The bill instead defines it as any classification that requires closely regulated management and separation of an incarcerated person and includes the following correctional statuses: administrative segregation, punitive segregation, transfer detention, administrative detention, security risk group, chronic discipline, special needs, and protective custody.

Annual Report on Certain Data

Additionally, current law requires DOC to at least annually submit to the Criminal Justice Policy and Planning Division a report containing certain aggregated and anonymized data. The bill instead requires the

data to be disaggregated and provide specific information on isolated confinement, restraints, and seclusion, rather than on just administrative segregation generally.

Under current law, the report must include the number of inmates on administrative housing status for the previous year with disaggregate data with certain personal information, the form and phase of housing the inmate was held in, the durations of time in each status, and a breakdown by correctional facility.

The bill instead requires DOC to report the number of incarcerated individuals who spent any time in isolated confinement during the 12 months before the report's submission.

Under the bill, the data must also include lists of unique individuals in DOC custody during the 12 months before the report's submission who were subjected to any form of isolated confinement or restraints. The lists must include each person's: age, gender identity, ethnicity, total number of days spent in isolated confinement or restraints in the previous calendar year, total number of days spent in isolated confinement or restraints over the course of the entire period of incarceration, specific restrictive housing status, if any, and mental health score as DOC calculated, if any. The isolated confinement list must also include the reason for placement in isolation.

Under the bill, the data must also include the number of incidents, broken down by correctional facility, for the previous calendar year, categorized as:

1. suicides;
2. attempted suicides;
3. self-harm;
4. staff member use of force against incarcerated individuals;
5. incarcerated individuals assaulting staff members; and

6. assaults between incarcerated individuals.

The report must also include the number of incarcerated individuals subjected to more than 72 hours of isolated confinement in the previous calendar year as categorized by the following periods of time (1) up to 15 days, (2) 16 to 30 days, (3) 31 to 79, or (4) 80 or more days.

Restrictive Housing Status Study

By January 1, 2021, the bill requires the DOC commissioner to study and submit a report to the Judiciary Committee on the use and oversight of all forms and phases of housing for inmates on restrictive housing status.

Training and Wellness Measures for DOC Employees

Under current law, DOC, within available appropriations, must provide certain training to, and take measures to promote the wellness of, DOC employees who interact with inmates. The bill expands (1) this training to include the recognition of, and techniques for mitigating, trauma and vicarious trauma, and (2) these measures to include developing and using strategies to prevent and treat trauma-related effects on employees.

§ 3 — VISITATION POLICY AND OTHER INCARCERATED PERSON'S RIGHTS

The bill establishes certain visitation rights for incarcerated people and eliminates the requirement for a separate visitation policy for an inmate who is a parent to a child under age 18. But as under existing law, any policy for such a person must include rules on (1) physical contact, (2) convenience and frequency of visits, and (3) access to child-friendly visiting areas. The bill specifies that this policy does not apply to any incarcerated person convicted of a capital felony or murder with special circumstances.

Under the bill, the visitation policy must:

1. allow at least one 60-minute contact social visit (i.e., an in-person meeting between an incarcerated person and an approved visitor

who are not separated from each other by any physical divider, including, a screen or partition) per week;

2. allow visitation by members of an incarcerated person's immediate family, extended family, unmarried co-parents, unmarried romantic partners, and close personal friends (a person's past criminal conviction must not be the sole or primary basis for denying a person's application to visit);
3. provide that no incarcerated person may be restrained during a contact social visit; and
4. provide that no incarcerated person may be deprived of a contact social visit without a hearing at which DOC bears the burden of showing by clear and convincing evidence that denying contact social visits is needed (a) to protect against a substantiated threat of imminent physical harm to DOC employees, the visitor, or another person; or (b) to prevent contraband from being introduced.

The bill prohibits DOC from depriving an incarcerated person of contact social visits for more than 90 days, except for those convicted of a capital felony or murder with special circumstances.

Mail and Writing

The bill requires the DOC commissioner to establish policies concerning mail to and from incarcerated people. The policies must (1) allow each incarcerated person to write, send, and receive letters without limiting the number of the letters an incarcerated person receives, writes, and sends at his or her own personal expense, and (2) prohibit unnecessary delays in processing an incarcerated person's incoming and outgoing mail.

The bill requires each correctional facility commissary to sell: (1) stationery, envelopes, postcards, greeting cards, and postage; and (2) aerogramme folding letters (i.e., light paper foldable and sealable to form a letter) for foreign air mail letters.

Under the bill, DOC is prohibited from depriving an incarcerated person the ability to write, send, or receive letters for discipline, retaliation, or convenience. The department must provide each incarcerated person the following items free of charge:

1. materials and postage needed to send two social letters per week;
2. a writing instrument; and
3. at least 20 sheets of writing paper, per month, and eight letter-size envelopes with postage for eight letters per month.

Reasonable requests that demonstrate an incarcerated person's need for additional sheets of paper for letters to the court or attorneys may be granted.

Telephone Calls

The bill requires the DOC commissioner to establish policies on telephone calls to and from incarcerated people. The policies must:

1. ensure incarcerated people can make or receive at least two social phone calls per week, which can last up to 60 minutes free of charge; and
2. prohibit DOC from depriving an incarcerated person of telephone calls for discipline, retaliation, or convenience.

§§ 4-8 — DOC EMPLOYEE WORKERS' COMPENSATION

The bill extends to DOC correction officers certain workers' compensation benefits for PTSD developed due to their participation in qualifying events in the line of duty. By law, these benefits are available to police officers, firefighters, and parole officers.

Qualifying Events (§ 5)

Under the bill, a correction officer's PTSD diagnosis is compensable with workers' compensation benefits if a mental health professional examines the officer and diagnoses PTSD as a direct result of a qualifying event. Such an event is one that occurs in the line of duty on

or after July 1, 2019, and in which the officer:

1. views a deceased minor;
2. witnesses (a) a person's death or an incident involving a person's death, (b) an injury to a person who subsequently dies before or upon admission at a hospital as a result of the injury and not any other intervening cause, or (c) a traumatic physical injury that results in the loss of a vital body part or a vital body function that results in the victim's permanent disfigurement; or
3. carries, or has physical contact with and treats, an injured person who subsequently dies before or upon admission at a hospital as a result of the injury and not any other intervening cause.

The diagnosing mental health professional must be a board-certified psychiatrist or a licensed psychologist who has experience diagnosing and treating PTSD.

Additional Eligibility Requirements (§ 5)

The bill also requires that the following conditions be met to qualify for benefits:

1. the PTSD resulted from the officer acting in the line of duty;
2. a qualifying event was a substantial factor in causing the disorder;
3. the qualifying event, and not another source of stress, primarily caused the PTSD; and
4. the PTSD did not result from any disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action concerning the officer.

The diagnosing mental health professional must comply with any workers' compensation guidelines for approved medical providers, including those about releasing past or contemporaneous medical

records.

PTSD Benefits (§ 5)

Regardless of other requirements under the workers' compensation law, the bill requires that the correction officer's benefits include any combination of (1) medical treatment prescribed by a board-certified psychiatrist or a licensed psychologist; (2) temporary total incapacity benefits (i.e., wage replacement); and (3) temporary partial incapacity benefits (i.e., benefits to make up the difference between the employee's regular wage and what he or she earns by working at a reduced capacity).

The bill requires employers to provide these benefits for up to 52 weeks after the diagnosis date. It also prohibits (1) any of these benefits from being awarded beyond four years after the qualifying event that formed the basis for the PTSD and (2) an officer receiving PTSD benefits from receiving workers' compensation permanent partial disability benefits (see BACKGROUND).

The bill further limits an officer's PTSD benefits by prohibiting them from exceeding the officer's average weekly wage when combined with his or her other benefits, including those received from contributory and noncontributory retirement systems, Social Security, and long-term or short-term disability plans. (Presumably, in such instances the officer's PTSD benefits would be reduced by the amount that his or her total combined benefits otherwise exceeds his or her average weekly wage.)

Contested Claims Process (§ 5)

The bill extends to the correction officer's provision the current law's process for employers to contest a claim for PTSD benefits that is generally like the process used for contesting other workers' compensation claims, although with different deadlines.

As under current law, an employer must file a notice contesting the claim with a workers' compensation commissioner on or before the 28th day after the employer receives the employee's written notice of claim. The employer's notice, which must be in accordance with a form

prescribed by the Workers' Compensation Commission chairperson, must state (1) that the right to compensation is contested, (2) the claimant's and employer's names, (3) the date of the alleged injury, and (4) the specific grounds on which the employer is contesting the right to compensation. The employer must send a copy of the notice to the employee using the same methods required for other workers' compensation notices (i.e., personally or by registered or certified mail addressed to the employee at his or her last-known residence or place of business).

The employer must begin paying PTSD benefits no later than 28 days after receiving the employee's notice of claim unless the employer or its legal representative files a notice contesting the claim during that period. However, if the employer does not file the notice within 28 days, it may still contest the claim on any grounds, or the extent of the employee's disability, within 180 days after receiving the employee's notice of claim as long as it began paying the PTSD benefits. Any benefits the employer pays during this period must be considered payments without prejudice.

If an employer fails to start paying benefits or contest liability within 28 days after receiving the employee's notice of claim, the employer is conclusively presumed to have accepted the alleged injury's compensability. If the employer posted an address for where an employee's notice of claim must be sent, as allowed by law, the 28-day deadline begins when the employer receives the notice at that address.

The employer does not have to begin paying benefits if the employee's notice of claim was not properly served or if it did not include a warning that an employer:

1. who begins paying benefits within 28 days after receiving the notice of claim must file a notice contesting liability within 180 days after receiving the notice of claim in order to contest liability and
2. will be conclusively presumed to have accepted the alleged

injury's compensability unless it files a notice contesting liability or begins paying benefits within 28 days after receiving the notice of claim.

As under existing law for other types of contested workers' compensation claims, if an employer contesting PTSD benefits prevails, the employer is entitled to reimbursement from the claimant for any benefits paid by the employer on or after the date when the commissioner receives the employer's written notice contesting the claim.

Approved List for Use of Force Psychiatric Treatment (§ 6)

Regardless of any workers' compensation law, a correction officer who suffer a mental or emotional impairment from the officer's use of deadly force or facing deadly force in the line of duty is limited to treatment by a psychologist or a psychiatrist who is on the approved list of practicing physicians the Workers' Compensation Commission chairperson establishes.

Model Critical Incident and Peer Support Policy (§ 7)

Under current law, the Police Officer Standards and Training Council, DOC, and the Commission on Fire Prevention and Control are required to develop and promulgate a model critical incident and peer support policy to support the mental health care and wellness of police officers, parole officers, and firefighters. The bill extends these policy requirements to correction officers and requires them to be done by January 1, 2022.

The bill also requires that DOC do the following for correction officers, by July 1, 2022:

1. adopt and maintain a written policy that meets or exceeds the model policy's standards;
2. make peer support available to such officers; and
3. refer an officer, as appropriate, seeking mental health care

services to a board-certified psychiatrist or licensed psychologist.

Resilience and Self-Care Technique Training (§ 8)

As under current law for parole officers, the bill requires DOC, in consultation with the Department of Mental Health and Addiction Services, to provide resilience and self-care technique training to each correction officer hired on or after January 1, 2022.

BACKGROUND

Permanent Partial Disability Benefits

Under the state's workers' compensation law, when a physician indicates that a claimant has reached maximum medical improvement from a work-related injury, the claimant may receive permanent partial disability (PPD) benefits if the injury (1) consists of a substantial loss of a body part that results in the body part's permanent partial loss of use, or (2) results in a permanent partial loss of function (CGS § 31-308).

Under certain circumstances, a workers' compensation commissioner may also award a claimant additional PPD benefits to account for the claimant's reduced earning potential due to the injury (CGS § 31-308a).

Related Bills

HB 972 (File 453), favorably reported by the Judiciary Committee, requires DOC to, among other things, provide free telephone services for inmates in correctional facilities.

sHB 6595 (§§ 5-6) (File 463), sSB 1002 (§§ 5-6) (File 464), SB 660 (File 446), all reported favorably by the Labor and Public Employees Committee, contain the same workers' compensation PTSD provisions for correction officers.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 27 Nay 11 (04/08/2021)