
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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ISAACSON, HANBIDGE, McNEILL, RABB, KINSEY, KHAN, BURGOS,
PARKER, FLEMING, WARREN, KRAJEWSKI, CEPEDA-FREYTIZ AND GREEN,
AUGUST 7, 2023

REFERRED TO COMMITTEE ON JUDICIARY, AUGUST 7, 2023

AN ACT

1 Amending Title 61 (Prisons and Parole) of the Pennsylvania
2 Consolidated Statutes, providing for solitary confinement.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Title 61 of the Pennsylvania Consolidated
6 Statutes is amended by adding a chapter to read:

7 CHAPTER 51

8 SOLITARY CONFINEMENT

9 Sec.

10 5101. Definitions.

11 5102. Methods and procedures of solitary confinement.

12 5103. Members of vulnerable populations.

13 5104. Risk of harm in solitary confinement.

14 5105. Solitary confinement authorized.

15 5106. Use of solitary confinement pending investigation.

16 5107. Duties of secretary.

17 5108. Alternative disciplinary measures to solitary

1 confinement.
2 5109. Rehabilitation after release from solitary confinement.
3 5110. Independent investigator.
4 5111. Solitary confinement misconduct hearings.
5 5112. Additional relief.
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8 § 5101. Definitions.

9 The following words and phrases when used in this chapter
10 shall have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Chief administrator." The warden, superintendent or other
13 officer in charge of a correctional institution or facility.

14 "Correctional institution or facility." A State correctional
15 institution, county correctional institution, a facility that
16 confines a juvenile under 42 Pa.C.S. Ch. 63 (relating to
17 juvenile matters), an institution that detains inmates in
18 accordance with Chapter 71 (relating to interstate compacts) or
19 an intergovernmental service agreement or other contract with
20 any Federal, State or county agency, including United States
21 Immigration and Customs Enforcement.

22 "Emergency confinement." The solitary confinement of an
23 inmate in a correctional institution or facility when there is
24 reasonable cause to believe that the confinement is necessary
25 for reducing a substantial risk of imminent serious harm to the
26 inmate or others as evidenced by recent conduct.

27 "Member of a vulnerable population." Any of the following:

- 28 (1) An inmate who is 21 years of age or younger.
29 (2) An inmate who is 55 years of age or older.
30 (3) An inmate who is pregnant or in the postpartum

1 period.

2 (4) An inmate who has recently suffered a miscarriage or
3 terminated a pregnancy.

4 (5) An inmate who is perceived to be lesbian, gay,
5 bisexual, transgender or intersex.

6 (6) An inmate with the mental health classification of C
7 Code or D Code.

8 (7) An inmate with intellectual or developmental
9 disabilities.

10 "Solitary confinement." The confinement of an inmate in a
11 correctional institution or facility due to disciplinary,
12 administrative, protective, investigative, medical or other
13 classification, in a cell or similarly confined holding or
14 living space, alone or with other inmates for approximately 20
15 hours or more per day, with severely restricted activity,
16 movement and social interaction.

17 § 5102. Methods and procedures of solitary confinement.

18 (a) Conditions.--An inmate may not be placed in solitary
19 confinement unless the following conditions are met:

20 (1) There is reasonable cause to believe that the inmate
21 would create a substantial risk of immediate serious harm to
22 himself or herself or another, as evidenced by recent threats
23 or conduct, and a less restrictive intervention would be
24 insufficient to reduce the risk. The correctional institution
25 or facility shall bear the burden of establishing this
26 standard by clear and convincing evidence.

27 (2) The inmate is subject to a disciplinary sanction.

28 (3) The inmate received a personal and comprehensive
29 medical and mental health examination conducted by a
30 clinician. In the case of an inmate detained at a county

1 correctional institution or facility, a preliminary
2 examination shall be conducted by a member of the medical
3 staff within 12 hours of the inmate being placed in solitary
4 confinement and a clinical examination shall be conducted
5 within 48 hours of the inmate being placed in solitary
6 confinement.

7 (4) The decision to place an inmate in solitary
8 confinement is made by the chief administrator.

9 (b) Hearing.--An inmate shall only be held in solitary
10 confinement in accordance with a hearing which provides timely,
11 fair and meaningful opportunities for the inmate to contest the
12 confinement. The hearing shall be conducted in accordance with
13 the following:

14 (1) The inmate shall receive the hearing within 72 hours
15 of placement in solitary confinement and a review every 15
16 days after the hearing if the inmate remains in solitary
17 confinement.

18 (2) In the absence of exceptional circumstances,
19 unavoidable delays or reasonable postponements, the inmate
20 shall be permitted to appear at the hearing.

21 (3) The inmate shall be represented by legal counsel at
22 the hearing.

23 (4) The hearing shall be conducted by an independent
24 hearing officer.

25 (5) The inmate shall be provided with a written
26 statement of the reasons for the decision to place the inmate
27 in solitary confinement at the hearing.

28 (c) Prohibition.--An inmate may not be placed or retained in
29 solitary confinement under the following circumstances:

30 (1) If the chief administrator determines that the

1 inmate no longer meets the standards for solitary
2 confinement.

3 (2) For no more than 15 consecutive days.

4 (3) For no more than 20 days in a 60-day period.

5 (d) Evaluation.--A clinician shall evaluate an inmate placed
6 in solitary confinement on a daily basis, in a confidential
7 setting outside of the cell whenever possible, to determine
8 whether the inmate is a member of a vulnerable population. In
9 the case of an inmate detained at a county correctional
10 institution or facility, the inmate shall be evaluated by a
11 member of the medical staff as frequently as necessary, but not
12 less than once every seven days while the inmate is in solitary
13 confinement. An inmate determined to be a member of a vulnerable
14 population by a clinician shall be immediately removed from
15 solitary confinement and moved to an appropriate placement.

16 (e) Disciplinary sanctions.--A disciplinary sanction of
17 solitary confinement which has been imposed on an inmate who is
18 removed from solitary confinement shall be deemed to be
19 satisfied.

20 (f) Lockdown.--During a correctional institution or facility
21 lockdown, an inmate may not be placed in solitary confinement
22 for more than 15 consecutive days or for more than 20 days
23 during any 60-day period.

24 (g) Inmate treatment.--

25 (1) Cells or other holding or living space used for
26 solitary confinement shall be properly ventilated, lit,
27 temperature-controlled, clean and equipped with properly
28 functioning sanitary fixtures.

29 (2) A correctional institution or facility shall
30 maximize the amount of time that an inmate held in solitary

1 confinement spends outside of the cell by providing, as
2 appropriate, access to recreation, education, clinically
3 appropriate treatment therapies, skill-building activities
4 and social interaction with staff and other inmates.

5 (3) An inmate held in solitary confinement may not be
6 denied access to food, water or any other basic necessity.

7 (4) An inmate held in solitary confinement may not be
8 denied access to appropriate medical care, including
9 emergency medical care.

10 (5) An inmate may not be directly released from solitary
11 confinement to the public during the last 180 days of the
12 inmate's term of incarceration, unless it is necessary for
13 the safety of the inmate, staff, other inmates or the public.

14 (6) A restraint chair, chemical agents or shackles may
15 not be used on an inmate.

16 § 5103. Members of vulnerable populations.

17 (a) Prohibition.--An inmate who is a member of a vulnerable
18 population may not be placed in solitary confinement.

19 (b) Younger inmates.--

20 (1) An inmate who is a member of a vulnerable population
21 because the inmate is 21 years of age or younger may not be
22 subject to discipline for refusing treatment or medication or
23 for self-harm or threats of self-harm.

24 (2) An inmate who is a member of a vulnerable population
25 because the inmate is 21 years of age or younger and who
26 would otherwise be placed in solitary confinement shall be
27 screened by a correctional institution or facility clinician
28 or the appropriate screening service and, if found to meet
29 the standards of civil commitment, shall be placed in a
30 specialized unit, as designated by the secretary, or civilly

1 committed to the least restrictive appropriate short-term
2 care or psychiatric facility designated by the Department of
3 Human Services.

4 (c) Other inmates.--An inmate who is a member of a
5 vulnerable population because the inmate is 55 years of age or
6 older, pregnant, in the postpartum period or has recently
7 suffered a miscarriage or terminated a pregnancy, who would
8 otherwise be placed in isolated confinement, shall be placed in
9 a specialized unit as designated by the secretary.

10 (d) Applicability.--This subsection shall not apply to a
11 county correctional institution or facility.

12 § 5104. Risk of harm in solitary confinement.

13 An inmate shall not be placed in solitary confinement with
14 one or more inmates if there is reasonable cause to believe that
15 there is a risk of harm or harassment, intimidation or extortion
16 or other physical or emotional abuse.

17 § 5105. Solitary confinement authorized.

18 A correctional institution or facility may place an inmate in
19 solitary confinement under the following circumstances:

20 (1) The chief administrator determines that a
21 correctional institution or facility lockdown is required to
22 ensure the safety of inmates. The facility administrator
23 shall document specific reasons for the lockdown if the
24 lockdown lasts more than 24 hours and why less restrictive
25 interventions are insufficient to accomplish the safety goals
26 of the correctional institution or facility. Within six hours
27 of a decision to extend a lockdown for more than 24 hours,
28 the chief administrator shall provide the secretary with the
29 reasons specified under this paragraph for publication on the
30 publicly accessible Internet website of the department. Upon

1 request, the chief administrator shall provide the reasons
2 specified under this paragraph to the General Assembly.

3 (2) The chief administrator determines, based on a
4 personal examination by a physician or, in the case of a
5 county correctional institution or facility, a decision to
6 place an inmate in medical isolation shall be made by a
7 member of the medical staff, that an inmate should be placed
8 in emergency confinement and the emergency confinement is
9 conducted in accordance with the following:

10 (i) The inmate may not be held in emergency
11 confinement for more than 24 hours.

12 (ii) The inmate held in emergency confinement shall
13 receive an initial medical and mental health evaluation
14 within two hours and a personal and comprehensive medical
15 and mental health evaluation within 24 hours. In the case
16 of a county correctional institution or facility, a
17 preliminary examination shall be conducted by a member of
18 the medical staff within 12 hours of confinement and a
19 comprehensive medical and mental health evaluation within
20 48 hours. Reports of these evaluations shall be provided
21 to the chief administrator upon completion.

22 (iii) A clinical review shall be conducted on the
23 inmate at least every six hours and as clinically
24 indicated.

25 (iv) The inmate shall be placed in a mental health
26 unit as designated by the secretary.

27 (v) In the case of a county correctional institution
28 or facility, a decision to place an inmate in solitary
29 confinement shall be made by a member of the medical
30 staff and be based on a personal examination and a

1 clinical review shall be conducted within 48 hours of the
2 inmate being placed in solitary confinement and then as
3 clinically indicated.

4 (3) The chief administrator determines that an inmate
5 should be placed in protective custody and the inmate is
6 placed in protective custody in accordance with the
7 following:

8 (i) Except as provided under subparagraph (ii), the
9 inmate must provide informed, voluntary, written consent
10 to be placed in protective custody and there is
11 reasonable cause to believe that protective custody is
12 necessary to prevent reasonably foreseeable harm.

13 (ii) The inmate may be placed in involuntary
14 protective custody only when there is clear and
15 convincing evidence that confinement is necessary to
16 prevent reasonably foreseeable harm and that a less
17 restrictive intervention would not be sufficient to
18 prevent the harm.

19 (iii) In a safe manner, an inmate placed in
20 protective custody shall receive comparable opportunities
21 for activities, movement and social interaction as other
22 inmates in the general population of the correctional
23 institution or facility.

24 (iv) An inmate subject to removal from protective
25 custody shall be provided with a timely, fair and
26 meaningful opportunity to contest the removal.

27 (v) An inmate who is eligible to be placed or
28 currently is in voluntary protective custody may opt out
29 of that eligibility by providing an informed, voluntary
30 written refusal.

1 (vi) The chief administrator shall place an inmate
2 in a less restrictive intervention, including transfer to
3 the general population of another institution or to a
4 special-purpose housing unit for inmates who face similar
5 threats, before placing the inmate in protective custody
6 unless the inmate poses an extraordinary security risk so
7 that transferring the inmate would be insufficient to
8 ensure the inmate's safety.

9 (4) A member of a vulnerable population may not be
10 placed in solitary confinement with one or more inmates,
11 except with the inmate's informed, voluntary, written
12 consent.

13 § 5106. Use of solitary confinement pending investigation.

14 (a) Authorized use.--An inmate may not be placed in solitary
15 confinement pending investigation of a disciplinary violation
16 unless any of the following occur:

17 (1) The inmate's presence in the general population
18 poses a danger to the inmate, staff, other inmates or the
19 public. In making the determination, the chief administrator
20 shall consider the seriousness of the alleged offense,
21 including whether the offense involved violence or escape or
22 posed a threat to institutional safety by encouraging other
23 inmates to engage in misconduct.

24 (2) The chief administrator has granted approval in an
25 emergency situation.

26 (b) Review.--An inmate's placement in solitary confinement
27 pending investigation of a disciplinary violation shall be
28 reviewed within 24 hours by a supervisory employee who was not
29 involved in the initial placement decision.

30 (c) Release.--An inmate who has been placed in solitary

1 confinement pending investigation of a disciplinary offense
2 shall be considered for release to the general population if the
3 inmate demonstrates good behavior while confined. If the inmate
4 is found guilty of the disciplinary violation, the inmate's good
5 behavior shall be considered in determining the appropriate
6 penalty.

7 § 5107. Duties of secretary.

8 The secretary shall have the following duties:

9 (1) Developing policies and implementing procedures for
10 the review of inmates placed in solitary confinement and
11 promulgating regulations as specified under section 5113
12 (relating to regulations).

13 (2) Initiating a review of each inmate placed in
14 solitary confinement under the policies and procedures
15 developed and implemented under paragraph (1).

16 (3) Developing a plan for providing step-down and
17 transitional units, programs and staffing patterns to
18 accommodate inmates currently placed in solitary confinement,
19 inmates who will be placed in solitary confinement and
20 inmates who receive an intermediate sanction in lieu of being
21 placed in isolated confinement. Staffing patterns for
22 correctional and program staff shall be set at levels
23 necessary to ensure the safety of staff and inmates in
24 accordance with the provisions of this chapter.

25 § 5108. Alternative disciplinary measures to solitary
26 confinement.

27 A correctional institution or facility shall implement
28 alternative disciplinary measures to solitary confinement. The
29 alternative disciplinary measures may include the following:

30 (1) Limiting contact visits.

1 (2) Restricting visitors to only the inmate's immediate
2 family.

3 (3) The loss of work opportunities.

4 (4) Assigning additional unpaid work duties for no more
5 than 14 days.

6 (5) No more than 14 days of the loss of telephone,
7 entertainment or yard time privileges.

8 (6) No more than 14 days of the loss of commissary
9 privileges.

10 (7) Confining an inmate to the inmate's own cell in the
11 general population area.

12 (8) A reprimand or warning.

13 § 5109. Rehabilitation after release from solitary confinement.

14 An inmate released from solitary confinement shall be
15 rehabilitated in accordance with the following:

16 (1) The inmate shall be gradually acclimated into the
17 general population by temporarily being transferred into a
18 single cell.

19 (2) The inmate shall receive weekly meetings with a
20 licensed mental health professional and a certified peer
21 specialist.

22 (3) The inmate shall have access to classes and
23 educational materials.

24 (4) The inmate shall have access to familial and outside
25 contact.

26 § 5110. Independent investigator.

27 (a) Independent investigator.--The department shall
28 designate an independent investigator to monitor each
29 correctional institution or facility to ensure compliance with
30 the provisions of this chapter. The independent investigator

1 shall have the following duties:

2 (1) Conducting interviews with inmates in solitary
3 confinement and reporting any abuse to the department.

4 (2) Reviewing any documents regarding inmates necessary
5 to determine the implementation of solitary confinement.

6 (b) Use of information.--Information gathered under
7 subsection (a) may be used in a misconduct hearing conducted
8 under section 5111 (relating to solitary confinement misconduct
9 hearings).

10 § 5111. Solitary confinement misconduct hearings.

11 (a) Hearing review board.--The department shall establish a
12 hearing review board to conduct hearings on solitary confinement
13 misconduct by correctional institutions or facilities. The
14 hearing review board shall consist of the following:

15 (1) A licensed psychologist or psychiatrist.

16 (2) A licensed mental health professional with a
17 counseling background.

18 (3) A licensed social worker.

19 (b) Guidelines.--A hearing on solitary confinement by a
20 correctional institution or facility shall be initiated and
21 governed by guidelines specified in regulations promulgated
22 under section 5113 (relating to regulations).

23 (c) Misconduct hearings.--A hearing on solitary confinement
24 misconduct by a correctional institution or facility shall be
25 administered in accordance with the following:

26 (1) Unless prohibited by the hearing review board for
27 cause shown, a witness may be called at the misconduct
28 hearing by the inmate or correctional institution or
29 facility.

30 (2) An inmate may call on an inmate advocate or legal

1 counsel to be present during the misconduct hearing.

2 (3) The inmate and correctional institution or facility
3 may present evidence, including video evidence, at the
4 misconduct hearing. An inmate shall be given access to video
5 evidence from the correctional institution or facility no
6 later than 24 hours before the commencement of the misconduct
7 hearing.

8 (d) Relief.--If the hearing review board finds solitary
9 confinement misconduct by the correctional institution or
10 facility, the correctional institution or facility shall release
11 the inmate from solitary confinement.

12 § 5112. Additional relief.

13 In addition to the relief provided by the hearing review
14 board under section 5111 (relating to solitary confinement
15 misconduct hearings), an individual adversely affected by any
16 manner of law, rule, regulation or other action promulgated or
17 enforced by a correctional institution or facility as it relates
18 to the use of isolated confinement in violation of this chapter
19 may seek declarative and injunctive relief and the actual
20 damages attributable to the violation in an appropriate court of
21 jurisdiction. The court shall award reasonable expenses to an
22 individual adversely affected if the action results in a final
23 determination by a court in favor of the individual adversely
24 affected.

25 § 5113. Regulations.

26 The secretary shall promulgate regulations necessary to
27 administer the provisions of this chapter. The regulations shall
28 include, but not be limited to, the following:

29 (1) Reducing separation from other inmates.

30 (2) Reducing the burden of transferring inmates to a

1 different correctional institution or facility.

2 (3) Establishing any nonisolated confinement sanction
3 authorized by the department's regulations.

4 (4) Easing restrictions on religious, mail and telephone
5 privileges, visit contacts and outdoor and recreation access.
6 A correctional institution or facility may not restrict basic
7 necessities from an inmate in solitary confinement.

8 (5) Requiring training of disciplinary staff and all
9 staff working with inmates in solitary confinement. The
10 training shall include the following:

11 (i) Standards for solitary confinement, including
12 that solitary confinement shall only be imposed when an
13 inmate commits an offense involving violence, escapes or
14 attempts to escape or poses a threat to institutional
15 safety.

16 (ii) The maximum amount of time an inmate may be in
17 solitary confinement and the available less restrictive
18 interventions.

19 (iii) The identification of developmental
20 disabilities, the symptoms of mental illness, including
21 trauma disorders, and methods of safe responses to
22 inmates in distress.

23 (6) Requiring documentation of all decisions, procedures
24 and reviews of inmates placed in solitary confinement.

25 (7) Monitoring of compliance with the provisions of this
26 chapter.

27 (8) Fair and equitable guidelines for the administration
28 of misconduct hearings under section 5111 (relating to
29 solitary confinement misconduct hearings).

30 § 5114. Report.

1 The commission shall post quarterly reports on the
2 department's publicly accessible Internet website on the use of
3 solitary confinement, including all of the following:

4 (1) The age, sex, gender identity, ethnicity and type of
5 confinement status for each inmate. No identifiable
6 information shall be included in the report.

7 (2) The total number of inmates in solitary confinement.

8 (3) The total number of incidences of emergency
9 confinement, solitary confinement as a result of a lockdown,
10 inmate self-harm or suicide and assault in solitary
11 confinement units.

12 Section 2. This act shall take effect in 60 days.