

SENATE BILL 861

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CF HB 787

By: **Senators Gladden, Benson, Conway, Feldman, Ferguson, Forehand,
Madaleno, Manno, Montgomery, Muse, and Raskin**

Introduced and read first time: January 31, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Corrections – Isolated Confinement Study

FOR the purpose of requiring the Special Joint Commission on Public Safety and Security in State and Local Correctional Facilities to appoint an independent third party to conduct a certain review of correctional facilities relating to isolated confinement; requiring a correctional facility to provide access to all data necessary for the review to the independent third party; requiring the independent third party to develop certain recommendations; requiring the independent third party to submit an initial report on its findings and recommendations for a certain period to the Governor and the Special Joint Commission on or before a certain date; requiring the independent third party to submit follow-up reports on or before a certain date for a certain period of time; defining certain terms; providing for the termination of this Act; and generally relating to studying isolated confinement in correctional facilities.

Preamble

WHEREAS, The rate of isolated confinement in Maryland is approximately 8.5%, which is significantly higher than most other states; and

WHEREAS, A number of psychological experts and studies have demonstrated the profoundly deleterious effect on mental functioning associated with long-term isolated confinement caused by both the isolation and the severe restriction of environmental and social stimulation associated with it; and

WHEREAS, The United Nations Special Rapporteur on Torture has defined long-term confinement as 14 days or more; and

WHEREAS, Juveniles and those with serious mental illness are particularly vulnerable to the adverse psychological impact of isolated confinement, with cases

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



resulting in self-mutilation and suicide, and United Nations treaties and conventions have consistently mandated that isolated confinement not be used on these vulnerable populations; and

WHEREAS, A number of states, including Maine, Mississippi, and Washington, have reduced their use of long-term isolated confinement by using alternative strategies and other best practices; and

WHEREAS, Reductions in the use of long-term isolated confinement have been shown to reduce overall prison violence and costs; and

WHEREAS, In the 2012 U.S. Senate hearing on federal use of isolated confinement, the American Bar Association (ABA) submitted testimony that isolated confinement should “be imposed in the most limited manner possible” and the ABA further advocated for an “investigation as to how the use of long-term solitary confinement may be restricted so as to promote the safe, efficient, and humane operation of prisons”; and

WHEREAS, While Maryland’s overall rate of use for isolated confinement is high, additional information is needed to better understand the landscape and the best approaches for reducing the usage rate; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

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

(2) “Correctional facility” means:

(i) a facility operated by or under contract with the Maryland Department of Public Safety and Correctional Services;

(ii) a facility operated by a local government for the confinement of a person arrested for, charged with, or convicted of a criminal offense; or

(iii) a public or private juvenile secure detention facility, including a facility operated by the Department of Juvenile Services.

(3) (i) “Isolated confinement” means prolonged cell confinement of 22 hours or more per day with limited out-of-cell time and severely restricted activity, movement, and social interaction, whether pursuant to disciplinary, administrative, or classification action.

(ii) “Isolated confinement” includes:

1. housing referred to as “disciplinary segregation”, “administrative segregation”, “special housing”, or “super–maximum security housing”; and

2. prolonged cell confinement described under subparagraph (i) of this paragraph in a double or multiple bed cell.

(4) “Juvenile” means a person 18 years of age or younger.

(5) (i) “Serious mental illness” means a substantial disorder of thought or mood that significantly impairs a person’s judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(ii) “Serious mental illness” includes:

1. a condition in which a person has symptoms of or receives treatment for the following:

- A. schizophrenia, including all subtypes;
- B. delusional disorder;
- C. schizophreniform disorder;
- D. schizoaffective disorder;
- E. brief psychotic disorder;
- F. substance–induced psychotic disorder, excluding intoxication and withdrawal;
- G. psychotic disorder not otherwise specified;
- H. major depressive disorders; or
- I. bipolar disorder I and II; and

2. a diagnosis of:

A. a mental disorder that includes being actively suicidal;

B. a mental disorder that is frequently characterized by breaks with reality or perceptions of reality that lead the person to significant functional impairment;

C. an organic brain syndrome which results in a significant functional impairment if not treated;

D. a severe personality disorder that is manifested by frequent episodes of psychosis or depression and results in significant functional impairment;

E. mental retardation with significant functional impairment; or

F. a traumatic brain injury.

(b) (1) The Special Joint Commission on Public Safety and Security in State and Local Correctional Facilities shall appoint an independent third party to conduct a review of correctional facilities in the State regarding the facilities' use of isolated confinement.

(2) The review conducted under this subsection shall include:

(i) interviews of inmates and correctional staff, if necessary;
and

(ii) a review of:

1. the conditions for inmates in isolated confinement;
and

2. the frequency of the facility's usage of isolated confinement.

(c) A correctional facility shall provide access to all data necessary for the independent third party to conduct its review to the independent third party appointed under subsection (b) of this section.

(d) The independent third party shall develop recommendations on:

(1) ways to reduce the use of isolated confinement in correctional facilities;

(2) improving conditions for inmates in isolated confinement; and

(3) diverting juveniles and persons with serious mental illness from isolated confinement.

(e) (1) On or before June 1, 2017, the independent third party shall submit an initial report on its findings and recommendations to the Governor and, in

accordance with § 2–1246 of the State Government Article, the Special Joint Commission on Public Safety and Security in State and Local Correctional Facilities.

(2) The initial report submitted under paragraph (1) of this subsection shall review the period between January 1, 2016, and December 31, 2016.

(f) On or before June 1 of 2018, 2019, and 2020, the independent third party shall submit follow-up reports reviewing calendar years 2017, 2018, and 2019, respectively, and providing the independent third party's findings and recommendations for each year to the Governor and, in accordance with § 2–1246 of the State Government Article, the Special Joint Commission on Public Safety and Security in State and Local Correctional Facilities.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014. It shall remain effective for a period of 7 years and, at the end of September 30, 2021, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.