

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL DRH30357-ND-101

Short Title: Limitations on Use of Solitary Confinement. (Public)

Sponsors: Representatives Insko, Harrison, Black, and Montgomery (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO LIMIT THE USE OF SOLITARY CONFINEMENT FOR PERSONS WITH
3 MENTAL ILLNESS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 2 of Chapter 148 is amended by adding a new section to read:
6 "§ 148-23.3. Limitations on use of restrictive housing.

7 (a) Definitions. – As used in this section, the following definitions apply:

8 (1) Exigent circumstances. – Circumstances that pose an immediate and
9 substantial threat to the safety of an inmate or other individuals.

10 (2) Mental health professional. – A staff member trained in the delivery of
11 medical or mental health services.

12 (3) Serious mental illness. – Any of the following:

13 a. A diagnosis of a psychotic disorder.

14 b. A diagnosis of a personality disorder, anxiety disorder, or
15 posttraumatic stress disorder that results in a significant functional
16 impairment.

17 c. A diagnosis of an intellectual or developmental disability, a traumatic
18 brain injury, or other cognitive disorder that results in a significant
19 functional impairment.

20 (4) Significant functional impairment. – Acts of self-harm or credible threats of
21 self-harm or consistent difficulty in the ability to engage in activities of daily
22 living, including eating, grooming, and personal hygiene, maintenance of
23 housing area, participation in recreation, and ambulation.

24 (5) Solitary confinement. – Isolation of an inmate from the general population
25 through confinement to a cell or other place for 22 or more hours within a
26 24-hour period and includes Restrictive Housing for Control Purposes,
27 Restrictive Housing for Administrative Purposes, and Restrictive Housing for
28 Disciplinary Purposes.

29 (b) Prohibition. – An inmate with serious mental illness may not be housed in solitary
30 confinement except in exigent circumstances and only when placement in restrictive housing will
31 significantly reduce the safety threat that created the exigent circumstances.

32 (c) Process in Exigent Circumstances. – When exigent circumstances exist that require
33 placement in restrictive housing, the inmate shall not be housed in restrictive housing for more
34 than 15 days without an evaluation conducted by a mental health professional to determine
35 whether the inmate should be moved to a more appropriate setting. The mental health
36 professional conducting the evaluation shall summarize the evaluation in writing, and the



1 summary must be placed in the inmate's medical records. If the mental health professional
2 determines that continued housing in restrictive housing poses a serious risk of harm to the
3 inmate, the inmate must be removed from restrictive housing within 24 hours of the
4 determination and placed in a Therapeutic Diversion Unit or an inpatient facility."

5 **SECTION 2.** Subpart A of Part 2 of Article 13 of Chapter 143B of the General
6 Statutes is amended by adding a new section to read:

7 "**§ 143B-707.5. Report on prisoners with mental illness.**

8 Beginning July 1, 2021, the Department of Public Safety shall report annually to the Joint
9 Legislative Oversight Committee on Justice and Public Safety on the following information:

- 10 (1) The total number of incarcerated individuals with a diagnosed mental illness.
- 11 (2) Aggregate information as to the type of confinement (regular, inpatient, or
12 restrictive) for inmates with a diagnosed mental illness.
- 13 (3) Aggregate information for inmates with mental illness housed in restrictive
14 housing broken down by mental health code.
- 15 (4) The average length of stay in restrictive housing for inmates with mental
16 illness broken down by mental health code.
- 17 (5) The types of mental health treatment provided to inmates with mental illness.
- 18 (6) The use of Therapeutic Division Units."

19 **SECTION 3.** The Department of Public Safety shall review and update the Safe
20 Alternatives to Segregation initiative conducted by VERA Institute of Justice in order to make
21 recommendations to implement a program of intensive outpatient services such as treatment
22 malls for inmates diagnosed with mental illness. The Department shall report its findings and
23 recommendations to the Joint Legislative Oversight Committee on Justice and Public Safety no
24 later than February 1, 2020.

25 **SECTION 4.(a)** The Department of Public Safety shall study ways to attract and
26 retain qualified staff for all prison positions including correctional officers and behavioral health
27 specialists. The study shall include assessing the feasibility and efficacy of across-the-board
28 salary increases. As part of the study, the Department shall:

- 29 (1) Compare compensation for correctional staff in other states with similar
30 prison populations.
- 31 (2) Review incentive options to complement salary compensation.
- 32 (3) Estimate the cost to increase salaries to a level that would result in
33 substantially fewer vacancies and increased retention.

34 **SECTION 4.(b)** The Department shall report its findings and recommendations to
35 the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2020.

36 **SECTION 5.** Notwithstanding any other provision of law, behavioral health
37 positions located in a State correctional facility that routinely interact with the offender
38 population shall not be transferred or converted to another position within the Department of
39 Public Safety unless the position has been vacant for over 365 days and the Secretary approves
40 the action. The Director of the Division of Adult Corrections and Juvenile Justice shall report
41 any transfer or conversion made under this section to the chairs of the Joint Legislative Oversight
42 Committee on Justice and Public Safety and the Fiscal Research Division within 30 days of the
43 action.

44 **SECTION 6.** Sections 1 and 2 of this act become effective October 1, 2019. Section
45 5 becomes effective July 1, 2019, and expires July 1, 2021. The remainder of this act is effective
46 when it becomes law.