

JAN 17 2020

A BILL FOR AN ACT

RELATING TO CORRECTIONAL FACILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that incarcerated
2 individuals with mental health issues are more likely to be
3 placed in solitary confinement than other incarcerated
4 individuals. According to the University of Massachusetts,
5 incarcerated individuals with mental health issues are thirty-
6 six per cent more likely to be placed in solitary confinement.
7 Additionally, based on an analysis of 63,772 incarcerated
8 individuals between January 2008 and January 2012, the
9 University of Cincinnati Corrections Institute found higher
10 rates of recidivism among those incarcerated individuals who
11 were subjected to more severe punishments.

12 Accordingly, the purpose of this Act is to establish
13 procedures for the use of administrative and disciplinary
14 segregation in correctional facilities.

15 SECTION 2. Chapter 353, Hawaii Revised Statutes, is
16 amended by adding a new section to part I to be appropriately
17 designated and to read as follows:



- 1 "§353- Administrative segregation; disciplinary
2 segregation; restrictions on use; training. (a) Administrative
3 and disciplinary segregation shall only be used when less severe
4 forms of punishment are not available and when a committed
5 person commits an offense involving violence; escapes or
6 attempts to escape; or poses a serious threat to the safety of
7 other committed persons or correctional facility staff, or both.
- 8 (b) The use of administrative segregation in correctional
9 facilities shall be restricted as follows:
- 10 (1) The maximum length of time that a committed person may
11 be held in administrative segregation shall be
12 fourteen days during any thirty-day period;
- 13 (2) On every third day, or sooner, following initial
14 placement in administrative segregation, the facility
15 program committee shall hold a hearing to determine if
16 continued placement in administrative segregation is
17 warranted; and
- 18 (3) A committed person held in administrative segregation
19 shall not be denied food; water; access to appropriate
20 medical care, including emergency services; or any
21 other basic necessities.



1 (c) To the extent possible, each correctional facility
2 shall provide all committed persons in administrative
3 segregation with:

4 (1) In-cell programming;

5 (2) Frequent face-to-face interaction with correctional
6 facility staff;

7 (3) Access to:

8 (A) Television or radio, or both;

9 (B) Telephone communications and other forms of
10 correspondence; and

11 (C) Reading materials;

12 (4) The ability to earn additional privileges and fewer
13 restrictions, regardless of whether the committed
14 person remains in administrative segregation;

15 (5) Except during a period of inclement weather, access to
16 the outdoors for exercise;

17 (6) The following amenities in the committed person's
18 cell:

19 (A) A mattress that is supported by a bedframe;

20 (B) A desk, with seating, that is suitable for
21 writing;



- 1 (C) A storage compartment;
- 2 (D) Natural light; and
- 3 (E) A source of light that is sufficient to permit
- 4 reading; and

5 (7) For committed persons being considered for long-term
6 segregation, a hearing conducted to determine whether
7 long-term segregation is necessary and appropriate.

8 The director may adopt rules pursuant to chapter 91 as may be
9 necessary to implement this subsection.

10 (d) The use of disciplinary segregation in correctional
11 facilities shall be restricted as follows:

12 (1) The maximum length of time that a committed person may
13 be held in disciplinary segregation shall be sixty
14 days during any one hundred eighty-day period;

15 (2) On every tenth day, or sooner, of disciplinary
16 segregation, an adjustment committee shall hold a
17 hearing, and any recommendation to extend the
18 disciplinary segregation shall be approved by the
19 institution's division administrator, medical
20 director, and staff psychiatrist; and



1 (3) A committed person held in disciplinary segregation
2 shall not be denied food; water; access to appropriate
3 medical care, including emergency services; or any
4 other basic necessities.

5 (e) The use of administrative or disciplinary segregation
6 on a committed person deemed to be a member of a vulnerable
7 population shall be restricted as follows:

8 (1) Administrative or disciplinary segregation shall not
9 be used unless the correctional facility has
10 previously attempted all other less restrictive forms
11 of punishment;

12 (2) The committed person shall undergo a mental and
13 physical examination and be cleared by the appropriate
14 medical staff before being placed in administrative or
15 disciplinary segregation; and

16 (3) The committed person shall be evaluated by health and
17 mental health clinicians daily while in segregation.

18 (f) Each correctional facility shall:

19 (1) Instruct any committed person placed in administrative
20 or disciplinary segregation of the requirements to
21 return to the general prison population;



- 1 (2) Notify any committed person placed in administrative
2 or disciplinary segregation that the purpose of the
3 administrative or disciplinary segregation is for
4 rehabilitative treatment and not punishment; and
5 (3) Generate and maintain records of all committed persons
6 who have been subjected to administrative or
7 disciplinary segregation; provided that these records
8 shall include the dates and length of time of
9 segregation, names and identification numbers of the
10 committed person, justification for segregation, and
11 alternative forms of punishment sought; provided
12 further that the correctional facility shall make
13 these records available for inspection by the
14 legislature and the Hawaii correctional system
15 oversight commission during normal business hours.
16 (g) No correctional facility shall subject any committed
17 person to:
18 (1) Indefinite administrative or disciplinary segregation;
19 (2) Prolonged administrative or disciplinary segregation;
20 or
21 (3) Placement in a continuously dark or lit cell.



1 (h) All correctional facilities' staff who work with
2 committed persons held in administrative or disciplinary
3 segregation shall undergo appropriate training as determined by
4 the department to develop the skills necessary to protect the
5 mental and physical health of committed persons held in
6 segregation.

7 (i) Nothing in this section shall be construed as
8 authorizing the use of any tortuous, cruel, inhuman, or
9 degrading punishments.

10 (j) As used in this section:

11 "Administrative segregation" means temporary segregation of
12 a committed person on the order of a watch commander or higher
13 authority, when the committed person's continued presence in
14 general prison population presents an immediate threat to the
15 safety of self or others, jeopardizes the integrity of an
16 investigation of alleged serious misconduct or criminal
17 activity, or endangers institutional security.

18 "Disciplinary segregation" means segregation of a committed
19 person by placement of the committed person in a designated
20 segregation housing unit in a cell separated from the general
21 prison population after being found guilty of a misconduct



1 violation and issued a sanction by a formal adjustment committee
2 hearing. "Disciplinary segregation" includes the loss of
3 certain privileges consistent with the department's policies and
4 as authorized by the appropriate corrections officer.

5 "Member of a vulnerable population" means a committed
6 person who:

- 7 (1) Is twenty-one years of age or younger;
- 8 (2) Is sixty-five years of age or older;
- 9 (3) Has a mental or physical disability or a history of
10 psychiatric hospitalization, or has recently exhibited
11 conduct, including but not limited to serious self-
12 mutilation, that indicates the need for further
13 observation or evaluation to determine the presence of
14 mental illness;
- 15 (4) Has a developmental disability;
- 16 (5) Has significant auditory or visual impairment;
- 17 (6) Has a serious medical condition that cannot be
18 effectively treated in isolated confinement;
- 19 (7) Is pregnant, is in the postpartum period, or has
20 recently suffered a miscarriage or terminated
21 pregnancy; or



1 (8) Is perceived to be lesbian, gay, bisexual,
2 transgender, or intersex.

3 "Segregation" means confinement of a committed person in a
4 cell that is separated from the general prison population."

5 SECTION 3. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

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S.B. NO. 2520

Report Title:

Department of Public Safety; Prisons; Committed Persons;
Corrections; Administrative Segregation; Disciplinary
Segregation

Description:

Establishes procedures for the use of administrative and
disciplinary segregation in correctional facilities.

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