

MAR 06 2020

SENATE RESOLUTION

REQUESTING ANNUAL REPORTS ON THE SEGREGATION AND SOLITARY
CONFINEMENT OF INDIVIDUALS IN CORRECTIONAL FACILITIES AND A
PLAN TO CEASE THE IMPOSITION OF SOLITARY CONFINEMENT ON
MEMBERS OF VULNERABLE POPULATIONS.

1 WHEREAS, segregation of a correctional facility inmate
2 means confinement in a cell that is separated from the general
3 inmate population; and

4
5 WHEREAS, administrative segregation means the temporary
6 segregation of an inmate, on the order of a watch commander or
7 higher authority, when the inmate's continued presence in the
8 general inmate population presents an immediate threat to the
9 safety of the inmate or others, jeopardizes the integrity of an
10 investigation of alleged serious misconduct or criminal
11 activity, or endangers institutional security; and

12
13 WHEREAS, disciplinary segregation means the segregation of
14 an inmate by placement of the inmate in a designated segregation
15 housing unit in a cell separated from the general inmate
16 population after the inmate is found guilty of a misconduct
17 violation and issued a sanction by a formal adjustment committee
18 hearing; and

19
20 WHEREAS, disciplinary segregation includes the loss of
21 certain privileges as authorized by appropriate authorities; and

22
23 WHEREAS, solitary confinement is a form of segregation that
24 confines an inmate alone for twenty-two hours or more in any
25 given day without meaningful human contact; and

26
27 WHEREAS, the use of solitary confinement was introduced to
28 Hawaii by the United States, which began using it in the early
29 nineteenth century; and

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31 WHEREAS, a stated intention for the use of isolation at
32 that time, as at present in Hawaii, was to rehabilitate
33 prisoners; and

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1 WHEREAS, in 1890, the United States Supreme Court noted
2 that solitary confinement was ineffective for prisoner safety
3 and caused a concerning number of prisoners to become "semi-
4 fatuous", or somewhat demented; and

5
6 WHEREAS, in December 2015, the United Nations adopted "The
7 Nelson Mandela Rules", which provide a set of guidelines for the
8 proper treatment of prisoners; and

9
10 WHEREAS, the Nelson Mandela Rules are particularly critical
11 of indefinite solitary confinement and prolonged solitary
12 confinement, which are classified among "torture or other cruel,
13 inhuman or degrading" treatments and punishments; and

14
15 WHEREAS, the Nelson Mandela Rules recommend prohibiting
16 prolonged solitary confinement, which the rules consider as
17 solitary confinement for a time period in excess of fifteen
18 consecutive days; and

19
20 WHEREAS, the Nelson Mandela Rules also recommend
21 prohibiting indefinite solitary confinement; and

22
23 WHEREAS, the United Nations Special Rapporteur, who helped
24 to ensure that the aforementioned recommendations on prolonged
25 solitary confinement and indefinite solitary confinement were
26 included in the Nelson Mandela Rules, also noted that fifteen
27 days of solitary confinement are more than twice the amount of
28 time that, according to some studies, can have a "long-term
29 psychological impact" on people; and

30
31 WHEREAS, the Nelson Mandela Rules recommend prohibiting
32 solitary confinement for individuals having mental disabilities
33 when their conditions would be exacerbated by that confinement;
34 and

35
36 WHEREAS, the Nelson Mandela Rules reaffirm other United
37 Nations standards that recommend prohibitions on the use of
38 solitary confinement on juveniles; and

39
40 WHEREAS, since 2017, an alarming number of individuals in
41 Hawaii correctional facilities, after spending time in solitary
42 confinement or other types of inmate segregation, have committed



1 suicide shortly after their returns to the general inmate
2 population; and

3
4 WHEREAS, in January 2016, the United States Department of
5 Justice released a report on restrictive housing that included
6 individuals with mental illness and juveniles among those who
7 warranted special consideration, and included the former among
8 vulnerable populations; and

9
10 WHEREAS, the Legislature finds that members of a vulnerable
11 population should not be isolated from human contact for any
12 reason, and among those vulnerable individuals are persons:

- 13
14 (1) Twenty-one years of age or younger;
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16 (2) Sixty-five years of age or older;
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18 (3) Who have a mental or physical disability, a history of
19 psychiatric hospitalization, or have recently
20 exhibited conduct, including serious self-mutilation,
21 indicating the need for further observation or
22 evaluation to determine the presence of mental
23 illness;
24
25 (4) Who have a developmental disability;
26
27 (5) Who have significant auditory or visual impairment;
28
29 (6) Who have a serious medical condition that cannot be
30 effectively treated in isolated confinement;
31
32 (7) Who are pregnant, are in the postpartum period, or
33 have recently suffered a miscarriage or terminated
34 pregnancy; or
35
36 (8) Who are perceived to be lesbian, gay, bisexual,
37 transgender, or intersex; and
38

39 WHEREAS, the Legislature is cognizant of the State's
40 responsibility and liability for the care of individuals in the
41 custody of the State; and
42



1 WHEREAS, Article 1 of the Convention against Torture and
2 Other Cruel, Inhuman or Degrading Treatment or Punishment, which
3 has been ratified by and is legally binding on the United
4 States, defines "torture" in part as "any act by which severe
5 pain or suffering, whether physical or mental, is intentionally
6 inflicted on a person for such purposes as . . . punishing him
7 for an act he or are third person has committed or is suspected
8 of having committed"; and

9
10 WHEREAS, it is the Legislature's responsibility to prevent
11 segregation and solitary confinement from becoming forms of
12 torture and to understand how policies on segregation and
13 solitary confinement are being implemented; now, therefore,

14
15 BE IT RESOLVED by the Senate of the Thirtieth Legislature
16 of the State of Hawaii, Regular Session of 2020, that the
17 Corrections Division of the Department of Public Safety and the
18 Hawaii Youth Correctional Facilities of the Department of Human
19 Services are requested to submit to the Governor and to the
20 Legislature no later than twenty days prior to the convening of
21 the Regular Sessions of 2021 and each year thereafter a joint
22 report on segregation and solitary confinement; and

23
24 BE IT FURTHER RESOLVED that it is requested that each
25 annual report submitted to the Governor and the Legislature
26 include aggregated data from the most recently completed fiscal
27 year on:

- 28
29 (1) The number of individuals who were sent to
30 administrative or disciplinary segregation, and the
31 number from among those individuals who were placed in
32 solitary confinement;
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34 (2) The number of individuals sent to administrative or
35 disciplinary segregation who were members of
36 vulnerable populations, and the number from among
37 those individuals who were placed in solitary
38 confinement;
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40 (3) The reasons why individuals were sent to
41 administrative or disciplinary segregation and, if
42 applicable, placed in solitary confinement;



- 1 (4) The number of individuals who were sent to
- 2 administrative or disciplinary segregation more than
- 3 once, the total number of times those individuals were
- 4 placed in administrative or disciplinary segregation,
- 5 and corresponding statistics on their placement in
- 6 solitary confinement, if applicable;
- 7
- 8 (5) The amount of time that individuals remained in
- 9 administrative or disciplinary segregation or solitary
- 10 confinement; and
- 11
- 12 (6) Alternatives used to avoid administrative or
- 13 disciplinary segregation or solitary confinement; and
- 14

15 BE IT FURTHER RESOLVED that it is requested that each
 16 annual report submitted to the Governor and the Legislature also
 17 include a plan and the status of implementation of that plan to
 18 cease the imposition of solitary confinement upon members of
 19 vulnerable populations; and

20
 21 BE IT FURTHER RESOLVED that certified copies of this
 22 Resolution be transmitted to the Governor; Director of Public
 23 Safety; Director of Human Services; Deputy Director of the
 24 Corrections Division, Department of Public Safety; and Executive
 25 Director of the Office of Youth Services, Department of Human
 26 Services.

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 29 OFFERED BY: Clarence K. Richman

[Handwritten signatures: Clarence K. Richman, Ronald H. Baker, Kal R. Mohr, D. K. ...]

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