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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- RESTRICTIVE HOUSING AT
CORRECTIONAL FACILITIES ACT

Introduced By: Representatives Diaz, Slater, Kazarian, Ackerman, Potter, Tobon, Alzate,
Giraldo, Cassar, and Barros

Date Introduced: February 24, 2021

Referred To: House State Government & Elections

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 56.4

4 RESTRICTIVE HOUSING AT CORRECTIONAL FACILITIES ACT

5 **42-56.4-1. Legislative intent.**

6 (a) It is the policy of the state of Rhode Island that the department of corrections and the
7 facilities it operates maintain safe, secure housing for all inmates.

8 (b) Restrictive housing should only be used:

9 (1) In circumstances that pose a clear and direct threat to the safety of persons or to the safe
10 and secure operations of the facility;

11 (2) In the absence of alternatives to restrictive housing;

12 (3) For the shortest time possible; and

13 (4) With the least restrictive conditions possible.

14 **42-56.4-2. Definitions.**

15 As used in this chapter, unless the context indicates a different meaning or intent:

16 (1) "Administrative confinement" means any status or classification, except for disciplinary
17 confinement, for prisoners whose conduct may pose a serious threat to life, self, staff, other
18 prisoners, or the facility's security or orderly operation.

- 1 (2) "Department" means the department of corrections.
- 2 (3) "Director" means the director of the department of corrections.
- 3 (4) "Disciplinary confinement" means punitive confinement of a prisoner based on
4 violation of departmental rules, whether in the general population, a specialized housing unit, or
5 elsewhere.
- 6 (5) "General population" means classification to maximum, medium, or minimum security
7 with no restrictions placed on activities.
- 8 (6) "Member of a vulnerable population" means someone who:
- 9 (i) Is twenty-two (22) years of age or younger;
- 10 (ii) Is fifty-five (55) years of age or older;
- 11 (iii) Has a serious and persistent mental illness, as defined by the department of corrections,
12 or a mental disability, as defined in § 40.1-5-2;
- 13 (iv) Has a developmental disability, as defined in § 40.1-1-8.1;
- 14 (v) Is pregnant, in the postpartum period, or has recently suffered a miscarriage or
15 terminated a pregnancy; or
- 16 (vi) Has a significant auditory or visual impairment, or a serious medical condition that
17 cannot be adequately treated in restrictive housing.
- 18 (7) "Protective custody" means any form of separation from a prison's general population
19 for prisoners requiring additional protection for their own safety.
- 20 (8) "Restrictive housing" means any type of detention that involves:
- 21 (i) Removal of a prisoner from the general population, voluntarily or involuntarily;
- 22 (ii) Placement in a locked room or cell, whether alone or with another prisoner; or
- 23 (iii) The inability to leave the room or cell for the vast majority of the day, typically
24 eighteen (18) hours or more, to include all forms of disciplinary confinement and administrative
25 confinement.
- 26 (9) "Step-down plan" means an individualized program, developed by a coordinated,
27 multidisciplinary team to include mental health, case management, and security practitioners, that
28 describes:
- 29 (i) The specific behaviors that resulted in placement in restrictive housing;
- 30 (ii) The programs and services available to the prisoner to address that behavior and
31 promote general rehabilitation;
- 32 (iii) An estimated timeframe for returning to a less-restrictive classification;
- 33 (iv) Incentives available in order that prisoners can earn additional privileges and an
34 accelerated return to the general population; and

1 (v) A schedule for regular review of the plan and the prisoner's classification.

2 **42-56.4-3. Restrictive housing, generally.**

3 (a) Each prisoner entering restrictive housing must be seen and assessed by a qualified
4 mental health professional or health care professional within seventy-two (72) hours of placement
5 and at least every fourteen (14) days thereafter.

6 (b) For each placement in restrictive housing, the department shall document:

7 (1) The nature of the threat to safety and security posed by the prisoner;

8 (2) The impact any restrictions in conditions of confinement may have on their health; and

9 (3) All alternatives that may be available to safely deal with the threat, other than restrictive
10 housing.

11 (c) Living conditions in restrictive housing must approximate those in the general
12 population, including equal access to programming and services, contact with family, access to the
13 library and reading materials, personal belongings in-cell, and medical and mental health care, with
14 no major differences except for reasons of danger to life, health, or safety.

15 (d) Prisoners in restrictive housing shall receive a daily visit from the senior correctional
16 supervisor in charge of the unit, daily visits from a qualified health care professional, and visits
17 from members of the program staff at least weekly.

18 **42-56.4-4. Discipline; Disciplinary confinement.**

19 (a) The department shall establish maximum penalties for each level of offense. These
20 penalties should always include alternatives to disciplinary confinement.

21 (b) All penalties shall be proportioned to the offense.

22 (c) Disciplinary confinement shall only be considered for offenses involving violence,
23 involving escape, or posing a threat to institutional safety by encouraging others to engage in such
24 misconduct.

25 (d) All prisoners in disciplinary confinement shall receive a minimum of two (2) hours out-
26 of-cell each day.

27 (e) No prisoner shall serve more than fifteen (15) days at a time in disciplinary confinement,
28 for any single rule violation or any series of related rule violations. Any policy implementing this
29 provision will require a break of at least fifteen (15) days between disciplinary detention sanctions.

30 (f) No member of a vulnerable population shall be placed in disciplinary confinement for
31 any period of time unless the individual presents an immediate and present danger and there is no
32 reasonable alternative for placement. Such placement shall last only as long as necessary to find an
33 alternative housing placement.

34 (g) A prisoner should not be placed in restrictive housing pending investigation of a

1 disciplinary offense unless their presence in the general population would pose a danger to
2 themselves, staff, other prisoners, or the public. A prisoner's placement in restrictive housing
3 pending investigation shall be reviewed within twenty-four (24) hours by the warden or the
4 warden's designee. No prisoner shall remain in investigative segregation for a longer period of time
5 than the maximum term of disciplinary segregation permitted for the most serious offense charged.

6 **42-56.4-5. Transitional disciplinary confinement.**

7 (a) If, after completing a fifteen (15) day term of disciplinary confinement, a prisoner's
8 immediate return to the general population would pose an imminent threat to the security of the
9 institution, the director or the director's designee may place such prisoner in transitional disciplinary
10 confinement for the limited purpose of addressing the root cause of the threat posed.

11 (b) All prisoners in transitional disciplinary confinement shall be offered programming
12 tailored to the nature of the threat that would be posed by their immediate return to general
13 population. No prisoner shall be placed in transitional disciplinary confinement unless such
14 programming is made available to him or her.

15 (c) Upon release from transitional disciplinary confinement, prisoners may continue and
16 complete any programming that they began in transitional disciplinary confinement.

17 (d) No prisoner shall spend more than thirty (30) days at a time in transitional disciplinary
18 confinement.

19 (e) All prisoners in transitional disciplinary confinement must receive a minimum of two
20 (2) hours recreation each day. Programming time shall not count towards the two (2) hour minimum
21 recreation time.

22 **42-56.4-6. Administrative confinement; Protective custody.**

23 (a) Placement in administrative confinement is limited to individuals who pose an
24 imminent threat to the security of the institution, shall only be considered when it serves a specific
25 penological purpose, and must last no longer than necessary to address the specific reason(s) for
26 placement.

27 (b) All prisoners in administrative confinement shall receive a minimum of four (4) hours
28 out-of-cell each day.

29 (c) Each prisoner in administrative confinement must have their status reviewed by the
30 classification board, warden, or warden's designee every seven (7) days for the first sixty (60) days
31 of the prisoner's placement and at least every thirty (30) days after the first sixty (60) days.

32 (d) The department shall create an individualized step-down plan, as defined in § 42-56.4-
33 2, no later than fourteen (14) days after each placement in administrative confinement. This step-
34 down plan shall be shared with the prisoner unless specifically articulable security concerns require

1 otherwise.

2 (e) Where possible, prisoners with serious mental illness should be diverted from
3 administrative confinement and placed in a clinically appropriate alternative form of housing. Any
4 prisoner with a serious mental illness placed in administrative confinement must receive intensive,
5 clinically appropriate mental health treatment for the entirety of the placement in administrative
6 confinement.

7 (f) No prisoner classified to protective status may be held in conditions more restrictive
8 than those in administrative confinement.

9 **42-56.4-7. Transitional administrative confinement and step-down housing.**

10 (a) The department shall create a system of step-down and transitional housing and
11 programming for prisoners who require additional assistance in transitioning from administrative
12 confinement into the general population.

13 (b) Conditions in transitional step-down and transitional housing shall mirror, to the extent
14 possible, those in the general population.

15 (c) At a minimum, prisoners in step-down and transitional housing shall receive six (6)
16 hours of out-of-cell time each day.

17 **42-56.4-8. Reporting.**

18 The department of corrections shall issue a report to be made publicly available on the
19 department's website one year after the passage of this act and by January 31 of each year thereafter,
20 indicating the following, broken out by disciplinary, administrative, and transitional confinement:

21 (1) The number of prisoners in each institution placed in restrictive housing during the past
22 year;

23 (2) The nature of the infractions and behaviors leading to the use of restrictive housing;

24 (3) The lengths of terms served in restrictive housing, including terms served consecutively
25 and cumulatively;

26 (4) The race, ethnicity, gender, and religion of all prisoners placed in restrictive housing;
27 and

28 (5) The number of members of a vulnerable population placed in restrictive housing, by
29 category promulgated in the definition thereof listed in § 42-56.4-2(6)(i) through (6)(vi).

30 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- RESTRICTIVE HOUSING AT
CORRECTIONAL FACILITIES ACT

- 1 This act would establish conditions, policies and procedures for the restrictive housing of
- 2 inmates at correctional facilities in Rhode Island with the least restrictive conditions possible.
- 3 This act would take effect upon passage.

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