

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

1 AN ACT concerning

2 **Corrections – Isolated Confinement Study**

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

15 Preamble

16 WHEREAS, The rate of isolated confinement in Maryland is approximately
17 8.5%, which is significantly higher than most other states; and

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

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

24 WHEREAS, Juveniles and those with serious mental illness are particularly
25 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.



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

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

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

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

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

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

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

21 (2) “Correctional facility” means:

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

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

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

28 (3) (i) “Isolated confinement” means prolonged cell confinement of
29 22 hours or more per day with limited out-of-cell time and severely restricted activity,
30 movement, and social interaction, whether pursuant to disciplinary, administrative, or
31 classification action.

32 (ii) “Isolated confinement” includes:

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

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

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

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

10 (ii) “Serious mental illness” includes:

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

13 A. schizophrenia, including all subtypes;

14 B. delusional disorder;

15 C. schizophreniform disorder;

16 D. schizoaffective disorder;

17 E. brief psychotic disorder;

18 F. substance–induced psychotic disorder, excluding
19 intoxication and withdrawal;

20 G. psychotic disorder not otherwise specified;

21 H. major depressive disorders; or

22 I. bipolar disorder I and II; and

23 2. a diagnosis of:

24 A. a mental disorder that includes being actively
25 suicidal;

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

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

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

6 E. mental retardation with significant functional
7 impairment; or

8 F. a traumatic brain injury.

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

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

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

16 (ii) a review of:

17 1. the conditions for inmates in isolated confinement;
18 and

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

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

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

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

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

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

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

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

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

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

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