



## Solitary Confinement: A Survey of Legislative Reform Efforts

As of 2/5/14

### California

**AB1652:** This bill would restore the ability of prisoners placed in solitary confinement because of gang validation to receive earned-time credits toward their release from prison. This bill would also prohibit prisoners who are placed in solitary confinement for gang-validation purposes from receiving indeterminate segregation terms and would instead place a three-year limit on such terms.

- Introduced: 2/14/14
- Status: Read on Assembly floor

**SB61:** This bill would prohibit solitary confinement of juvenile detainees as a form of punishment or coercion. SB61 provides that minors may only be held in solitary confinement only if the minor poses an immediate and substantial risk of harm to others or to the security of the facility, and all other less restrictive options have been exhausted. Even under these circumstances, the bill would require that confinement be only for the minimum time required to address the safety risk and not compromise the mental or physical health of the minor. Further, SB61 would require juvenile facilities to investigate and document any use of solitary confinement against minors in their custody. Finally, the bill would mandate that each county's juvenile justice commission have at least two parents or guardians of previously or currently incarcerated youth and one expert in adolescent development.

- Introduced: 1/8/13
- Status: Passed Senate; Passed Assembly Public Safety and Appropriations Committees; Ordered to Assembly Inactive File

**SB1363:** This bill contained essentially the same restrictions contained in SB61 (above) with the additional requirement that any minor placed in solitary confinement be evaluated face to face by a clinician within one hour of placement and every four hours thereafter. This bill would have also placed additional restrictions on the use of solitary confinement for minors who exhibited suicidal behavior.

- Introduced: 2/24/12
- Status: Died in Senate Public Safety Committee

### Colorado

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**SB14-021:** This bill would extend the repeal date of a legislative oversight committee concerning the treatment of mental illness in the criminal and juvenile justice systems and would add to the committee's duties the responsibility to consider issues related to the administrative segregation of persons with mental illness, especially concerning safety and direct release into the community.

- Introduced: 1/8/14
- Status: Referred to Senate Appropriations Committee

**SB11-176:** This bill would have prevented the placement of prisoners with serious mental illnesses in administrative segregation. Further, the bill would have required that prisoners placed in administrative segregation be reintegrated into general population at least six months prior to being released from prison. The amended version of the bill that was ultimately signed into law, however, stripped these provisions. As signed by the Governor, this law imposes reporting requirements on the use of administrative segregation and states that association with a prison gang or security-threat group alone shall not be sufficient for placement in administrative segregation. The signed law also allows prisoners in administrative segregation to receive full earned time credits after his or her first 90 days in this segregation. At the same time, however, the Colorado Department of Corrections separately conducted a review of their segregation procedures and implemented reforms to significantly reduce the use of administrative segregation.

- Introduced: 2/21/11
- Status: Amended and signed into law

### **Florida**

**SB812/ HB959:** This bill would have created the "Youth in Solitary Confinement Reduction Act," which would have prohibited placing prisoners under age 18 in solitary confinement, with limited exceptions. The bill would have limited the use of "emergency isolation" of minors to a maximum of 24 hours for those youth who present an immediate and serious threat to security, to themselves, or to others. Even under these circumstances, the bill would have required that minors only be placed in emergency isolation if all other less-restrictive options had exhausted and only for the shortest time required to address the safety risk. Youthful prisoners in emergency isolation would have been given a mental health evaluation within one hour of placement and every four hours thereafter. The bill further would have restricted the use of "disciplinary cell confinement" to a maximum of 72 hours after a finding that the minor committed a major rule violation. Minors under disciplinary cell confinement, under the bill, would have received status checks every 15 minutes as well as two hours of daily exercise. Finally, the bill would have reduced the isolation of youthful prisoners who require protective custody by providing access to numerous privileges available to general population youthful prisoners.

- Introduced: Senate, 2/12/13; House, 2/21/13
- Status: Died in Senate Criminal Justice Subcommittee

### **Maine**

**LD1611/ HP1139; Resolve 216:** As introduced, this bill would have set minimum standards for the humane treatment of "special management prisoners," including a 45 day limitation on placement in "special management units" unless the prisoner had committed certain rules

violations within the previous 45 days. This bill also would have prevented the use of special management units for mentally ill prisoners as well as prohibited the use of corporal punishment against special management prisoners. Lastly, this bill would have required the Commissioner of Corrections to conduct a review of its use of special management units. Though the bill did not ultimately pass, the Governor issued a “resolve” requiring the Department of Corrections to conduct a review of these units and submit a report to the Legislature.

- Introduced: 12/23/09
- Status: Passed Senate and House, but signed in alternate form by Governor (as “resolve”)

### **Massachusetts**

**SB1133/ HB1486:** This bill would allow segregation of prisoners who pose a substantial threat to the safety of others, of damaging or destroying property, or to the operation of the facility. The bill would, however, require segregated housing to be the briefest term and under the least restrictive conditions practicable. Further, the bill would require prisoners placed in segregated housing to receive notice and a hearing within 15 days, and then every 90 days, regarding the reasons and evidence for the segregation. The bill would limit segregation to a maximum of six months “except in the most extraordinary circumstances” and set minimum standards for the humane treatment of prisoners in segregated housing.

- Introduced: 12/11/13
- Status: Referred to Senate Committee on Public Safety and Homeland Security, and House Judiciary Committee

### **Montana**

**HB536:** This bill would have prohibited long-term solitary confinement for protective custody, special management, or non-punitive administrative purposes, as well as for prisoners under age 18 or prisoners with serious mental illnesses. “Long-term” was defined as any period extending more than three consecutive days within a 30 day period. The bill also would have banned long-term solitary confinement for prisoners within one year of their release dates, except under limited circumstances. Further, HB536 would have limited the use of long-term solitary confinement to those prisoners determined through due process to pose a significant risk to the safety of themselves, others, or the facility, and only then if all other less-restrictive options had been exhausted. HB536 described in detail the due process required to place a prisoner in solitary confinement as well as the minimum standard of conditions which must be afforded to solitary confinement prisoners. Finally, this bill would have banned solitary confinement of any prisoner for more than 90 consecutive days and would have required prison administrators to maintain, and make available to the public, records relating to the use of solitary confinement.

- Introduced: 2/18/13
- Status: Died in House Standing Committee

### **Nevada**

**SB107:** As introduced, this bill would have prohibited the use of solitary confinement against prisoners unless the prisoner presented a serious and immediate risk of harm to himself or herself, others, or the security of the facility, and all other less-restrictive options had been exhausted. The introduced bill further would have prohibited the use of solitary confinement for the purpose of punishing a prisoner and provided that if a prisoner is held in solitary confinement, the period of the confinement must be the minimum time required to address the

threat and must end if the mental or physical health of the prisoner is compromised. The bill, however, was amended before signed into law. The amended bill excluded the above provisions as they would have applied to adult offenders and substituted a set of standards relating to the “corrective room restriction” of minor offenders. As adopted, the bill allows such restriction of minors only if all other less-restrictive options have been exhausted and only for the purposes of modifying negative behavior of the minor, holding the minor accountable for a rule violation, or ensuring the safety of the minor, others, or the institution. The adopted bill also defines conditions which must be present when a minor is held in corrective room restriction and states that minors may not be held on this restriction for more than 72 consecutive hours.

- Introduced: 2/11/13
- Status: Amended and signed into law

### **New Hampshire**

**HB480:** This bill would prohibit the use of solitary confinement for prisoners under age 18 as well as prisoners with serious mental illnesses. “Mental illness” is defined in the bill to include being actively suicidal. The bill would also limit the use of solitary confinement such that no prisoner may be held in confinement for more than six weeks for a disciplinary infraction, which may only include those offenses which involve violent behavior whereby the prisoner in question poses a danger to himself or herself or others. The bill would also require that, prior to being placed in solitary confinement, a prisoner be given a hearing and an evaluation by a mental health clinician. Lastly, the bill would establish a new committee to assess the use, impact, and effectiveness of solitary confinement in New Hampshire.

- Introduced: 1/3/13
- Status: Retained in House Committee on Criminal Justice and Public Safety

### **New Mexico**

**HM62/ SM40:** This “memorial” established an interim committee to convene a working group to gather information about the use of solitary confinement, its conditions, its impact on prisoners, and its effectiveness at reducing prison problems and costs. Under this bill, the working group, which includes members from advocacy organizations, produced a report of its findings and recommendations in 2012, and a final report in 2013.

- Introduced: 3/5/11
- Status: Passed

### **New York**

**AB8588/ SB6466:** This bill, which would create the “Humane Alternatives to Long-Term Solitary Confinement Act” or “HALT,” lays out extensive and detailed alternatives to New York’s current solitary confinement system. Specifically, the bill differentiates between “emergency confinement,” “short-term and extended segregated confinement,” and “residential rehabilitation units,” and creates varying standard with regard to each. First, the bill states that no prisoner age 21 or younger, age 55 or older, or with a physical or mental disability may be placed in segregated confinement for any period of time. Next, the bill would prohibit keeping most prisoners in segregated housing “for longer than necessary” and never more than 15 consecutive days nor 20 total days within a 60 day period. This bill would require that prisoners kept in segregated confinement or rehabilitation units be kept in the least restrictive environment necessary for the safety of others and the facility and would prohibit housing prisoners in

segregated confinement for protective purposes. The bill would also establish specific procedures for the regular evaluation of the programming needs, mental and physical health, and any continued reasons for confinement of any prisoner kept in segregated confinement or rehabilitation units. The bill would generally create presumptions that a person should be released from segregated confinement after set periods of time unless there exist specific reasons for continued confinement, but still places maximum caps on the length of time most prisoners may be confined. Lastly, the bill would create standards for training of correctional staff that interact with segregated prisoners, for monthly public reporting on the use of solitary confinement, and for external oversight on compliance with the provisions of the bill.

- Introduced: 1/24/14
- Status: Referred to Corrections Committee

**SB1401:** This bill would prohibit the use of segregated confinement for any disciplinary, administrative, protective, or other reason unless the prisoner to be confined has engaged in highly dangerous, violent, or serious escape-related behavior while incarcerated at that facility. SB1401 also would set a maximum period of segregated confinement at 90 days, except for prisoners whose behavior “exposes a pattern of extreme violence or danger,” in which case prisoner would nonetheless be reviewed by an independent board every 90 days to determine whether continued need for segregation exists. The bill also would create a diversion system to direct prisoners with serious mental illnesses to residential mental health treatment units.

- Introduced: 1/9/13
- Status: Referred to Senate Corrections Committee

**SB5906:** This bill would have created the exact provisions currently outlined in SB1401 above.

- Introduced: 10/5/11
- Status: Died in Senate Corrections Committee

**AB9342/ SB6422:** This bill, which created the “SHU Exclusion Law” in 2008, requires the Department of Corrections to remove prisoners with serious mental illness from solitary confinement whenever possible and establishes mental health treatment units for the care of mentally ill prisoners who have previously been held in solitary confinement. The bill also requires the Department to provide documentation when mentally ill prisoners are kept in solitary confinement and explain the security or other concerns preventing the release of these prisoners from such confinement. The bill also establishes that mentally ill prisoners in solitary confinement must be treated with a higher standard of care and must be periodically assessed to determine whether any less-restrictive options would be appropriate.

- Introduced: 7/17/07
- Status: Signed into law

## Texas

**SB1802/ HB686:** This bill would require the Department of Corrections to annually submit a report regarding the number of prisoners referred to mental health services from both general population and administrative segregation, the number of suicide attempts in both general population and administrative segregation, the number of prisoners confined to administrative segregation immediately prior to their release from prison, the rates of recidivism and post-release employment among prisoners in relation to their placement in administrative segregation,

the length of and reasons for placement in administrative segregation, and information regarding the activity of gangs and security threat groups. The bill also would require the Department to submit a plan regarding its use of administrative segregation and including certain minimum access to programming, mental health services, and social interaction.

- Introduced: 3/8/13
- Status: Referred to Senate Criminal Justice Committee

**SB 1357:** This bill would require Texas counties to establish standards regarding their use of administrative segregation or seclusion. These standards would include the requirement that jails first evaluate the suitability of using less-restrictive means of confinement, especially for minors and prisoners with mental health issues, and provide the prisoner with a mental health evaluation. The bill also would prohibit county jails from placing prisoners under age 18 in administrative segregation for more than four hours unless the confinement is due to an actual or attempted assault or escape. Lastly, this bill would require counties to annually submit a report documenting the number of prisoners confined in administrative segregation or seclusion, the length of each prisoner's segregation, the reasons for each prisoner's segregation, a summary of demographics of confined prisoners, and any mental illnesses or incidents of self-harm among prisoners kept in segregation.

- Introduced: 3/7/13
- Status: Referred to Senate Criminal Justice Committee

**SB1003/ HB1266:** This bill defines "disciplinary seclusion" as separation of a prisoner from other prisoners for disciplinary reasons for a period of 90 minutes or more and requires juvenile facilities to collect data regarding the number and length of placements in disciplinary seclusion, and to make that data publically available. The bill further requires the appointment of an independent third party to conduct a review of administrative segregation in Texas correctional facilities and to produce a report and recommendations aimed at reducing administrative segregation placements, diverting mentally ill prisoners from segregation, and decreasing the length of time individuals spend in segregation.

- Introduced: 3/1/13
- Status: Signed into law

**HB 3303:** This bill would prohibit the detention of children in solitary confinement unless solitary confinement is necessary to ensure the physical or mental health or safety of the child or another child in the same facility.

- Introduced: 3/11/11
- Status: Referred to House Judiciary and Civil Jurisprudence Committee

### **Virginia**

**HJ126/ SJ93:** This joint resolution would have ordered a legislative study on the use of solitary confinement, including the costs of such confinement, the impact of prolonged solitary confinement on prisoners, the effect of solitary confinement on prison safety, and the possibility of limiting the use of long-term confinement. The study was to have taken special notice of the impact of solitary confinement on mentally ill prisoners.

- Introduced: 1/11/12
- Status: Tabled in House Rules Committee

## **Federal**

**US S 744:** This bill, which creates the “Border Security, Economic Opportunity, and Immigration Modernization Act,” defined solitary confinement as cell confinement for 22 hours or more per day and limits the length of solitary confinement to 14 consecutive days unless the Department of Homeland Security determines that further placement is justified by an extreme disciplinary infraction or is the least restrictive means of protecting the prisoner or others. This bill also bans the use of solitary confinement for prisoners under age 18 and severely restricts the use of solitary confinement for prisoners with serious mental illnesses. It also prohibits the use of solitary confinement for protective custody purposes.

- Introduced: 4/17/13
- Status: Passed Senate

**US S 162:** This bill, which would have created the “Justice and Mental Health Collaboration Act,” would have authorized the Attorney General to award grants to enhance the capacities of correctional facilities to create, implement, and improve alternatives to solitary confinement and segregated housing. The bill would have specifically authorized such grants for the implementation and enhancement of mental health screening and treatment for prisoners placed in solitary confinement.

- Introduced: 1/28/13
- Status: Placed on Senate Legislative Calendar on 6/20/13

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