



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF CORRECTIONS
111 STATE HOUSE STATION
AUGUSTA MAINE
04333-0111

RANDALL A. LIBERTY
COMMISSIONER

TESTIMONY OF

**ANTHONY CANTILLO, DEPUTY COMMISSIONER
MAINE DEPARTMENT OF CORRECTIONS**

March 24, 2025

Neither for nor against:

LD 405, An Act to Define "Solitary Confinement" for the Laws Governing Jails and Correctional Facilities

Senator Beebe-Center, Representative Hasenfus and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, I am Tony Cantillo, Deputy Commissioner for the Maine Department of Corrections (DOC) providing testimony today neither for nor against LD 405, An Act to Define "Solitary Confinement" for the Laws Governing Jails and Correctional Facilities.

This proposal is a repeat of a bill this committee dealt with during both the 131st and 130th Legislatures. The department's position on this proposal remains the same as it was for each of the prior versions. While the department doesn't take any issue with defining the term "solitary confinement," we do not understand what purpose this proposal is trying to serve and do not agree that it is needed.

Currently, the only place where the term "solitary confinement" appears in the Maine Revised Statutes is 34-A MRSA §3032, which outlines requirements related to segregation and "punishment." Because LD 405 merely defines the term "solitary confinement" and provides no additional relevant legal obligations, it is unclear what this bill is actually trying to accomplish. From a legal perspective, it is highly abnormal to define a term in statute and then not tie that definition to any other requirement or purpose.

From a practical perspective, Maine Department of Corrections does not employ practices that look like what the average person would think of when they hear the words "solitary confinement." While there are many different ways that researchers have defined "solitary confinement" there are few commonly agreed upon aspects: it typically involves significant periods of time per day (22-24 hours) spent alone and idle in a cell without meaningful social contact.

Maine Department of Corrections does not have any housing that is akin to that description. There are certain levels of custody within our general population, such as "close custody", that require close monitoring for the safety of both residents and staff. Those at the "close custody" classification have either engaged in serious misconduct while incarcerated (such as violent or threatening behavior or drug trafficking), have a history or risk of escape, or have a criminal conviction that indicates the potential for a serious risk to themselves or others. The department makes routine out of cell recreation and social time available for those residents daily, and allows additional out of cell time for attending medical appointments, or pursuing work or programming, such as education. Residents in the Maine State Prison close custody unit, for example, also have access to visits, telephones, mail, and text messaging on tablets, so long as the tablets are not misused. For those who find themselves in a restrictive housing setting, our officers are available and readily accessible to meet the needs of residents in those units. The minimum out of cell recreation time provided is 2.5 hours daily. When we do not need to manage resident conflicts, that time is increased as much as staffing will allow. There are, however, instances where that standard is not able to be met, and when that happens it is typically due to lack of adequate staffing, mental health acuity, or serious security risk factors.



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF CORRECTIONS
111 STATE HOUSE STATION
AUGUSTA MAINE
04333-0111

RANDALL A. LIBERTY
COMMISSIONER

It's also important to note that the department never uses restrictive housing or custody as a form of punishment. That is an approach that simply does not fall within the Maine Model of Corrections. Our primary responsibility is to keep our staff and the people in our care safe, and to do that we sometimes have to make adjustments to appropriately manage the individual needs of each person in our system.

That being said, if the committee chooses to move forward with this proposal, we would like to offer more precise language to ensure the definition does not unintentionally encompass circumstances that are not reasonably understood to be "solitary confinement."

First, the title of the bill references both jails and state correctional facilities, however if the definition is meant to capture both types of facilities, there also needs to be language in Title 30-A for it to apply to county jails. The language we've proposed below only amends Title 34-A, as those are the provisions directly relevant to DOC. Second, in the language shown below, we've taken out the word "detained" as this is generally only used to refer to individuals being held pre-trial, which is rare for the DOC. However, if you include a definition within Title 30-A, you may want to include the word "detained" there. You'll also notice that we've taken out the reference to "other place" in the language and replaced the term with more specific language. A term as general as "other place" would include the DOC's infirmary or medical detox, for example, suggesting that someone in medical detox would be considered in "solitary confinement," which does not seem to fit within the scope of what this proposal is trying to address. A few other exceptions are also added to further refine what "solitary confinement" actually means.

34-A MRS §1001, sub-§17-A is enacted to read:

17-A. Solitary confinement. Solitary confinement means the isolation of a resident from other residents of the correctional facility by confining the resident to a cell or other single housing and preventing the resident from having contact with other residents for more than 22 hours within a 24-hour period, unless:

- A. The confinement is for medical reasons as determined necessary by the facility's treating physician, physician assistant, or nurse practitioner;
- B. The confinement is for mental health reasons as determined necessary by the facility's treating psychiatrist, psychologist, or other licensed clinician;
- C. The resident is confined for up to 5 days based on reasonable suspicion that the resident has ingested a contraband item or inserted a contraband item into a body cavity; or
- D. There is a likelihood of serious injury to self or others if the resident is allowed out of the confinement during the 24-hour period.

It is not considered solitary confinement if an entire housing unit or facility is locked down due to an emergency situation.

We believe that the language above both achieves the aims of defining solitary confinement without unintentionally including situations where appropriate steps are taken to ensure the safety of both residents and staff alike.



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF CORRECTIONS
111 STATE HOUSE STATION
AUGUSTA MAINE
04333-0111

RANDALL A. LIBERTY
COMMISSIONER

For the reasons stated above, the department respectfully presents this testimony neither for nor against this proposal.

This concludes my testimony.

I am happy to answer any questions.

Anthony Cantillo
Deputy Commissioner
Maine Department of Corrections