

**OFFICE OF POLICY AND LEGAL ANALYSIS
BILL ANALYSIS**

TO: Members, Joint Standing Committee on Criminal Justice and Public Safety

FROM: Jane Orbeton, Legislative Analyst

DATE: April 12, 2021

LD: 696 An Act To Prohibit Solitary Confinement in Maine's Corrections System

Summary

This bill prohibits solitary confinement in jails and prisons in the State. It defines "solitary confinement" to mean that a prisoner is segregated and has contact with another person less than 3 times a day.

Testimony

Proponents:

1. Rep Lookner presented the bill and provided written testimony. Rep Lookner testified against the imposition of solitary confinement in jails and prisons, stating that it violates the 8th Amendment prohibition on cruel and unusual punishment. Rep Lookner suggested that time be taken with this bill to enable interested parties to work with each other and with the Department of Corrections and sheriffs.
2. Zackary Heiden, representing the ACLU, GLAD Legal Defenders and Advocates and the MaineTrans.Net, spoke for the bill and provided written testimony. Mr. Heiden cited the recently enacted New York Halt Solitary Confinement Law and legislation in Massachusetts. Mr. Heiden spoke of solidifying best practices in corrections and bringing Maine's criminal justice practices in line with human rights standards. Mr. Heiden called on the Legislature to strictly prohibit the use of solitary confinement as a form of protective custody and asked that DOC policy permitting prisoners in the solitary confinement unit to access programming inside and outside their cells. Mr. Heiden asked for strict prohibitions on imposing solitary confinement on people with serious mental illness, juveniles and people who are pregnant or who have recently given birth.
3. Tina Nadeau, representing the Maine Association of Criminal Defense Lawyers (MACDL), spoke in support of the bill and asked for the committee to carry it over to 2022 to enable stakeholders to review the New York and Massachusetts laws and to work together.
4. Also speaking for the bill or submitting testimony for, or both, were Lori Swain, Cheryl Mills reading for Norman Kehling, Hannah Longley for NAMI-Maine, Mark Joyce for Disability Rights Maine, Vickie McCarty for the Consumer Council System of Maine, Malory Shaughnessy for the Alliance for Addiction and Mental Health Services, Maine, Nicole Foster, Steven Clark, Cushman Anthony and Larry Dansinger.

Opponents:

None

Neither for nor against:

1. Commissioner Liberty, representing the DOC, spoke neither for nor against, but supporting the spirit of the bill, and submitted testimony. Commissioner Liberty spoke of the use of restrictive housing and practices when it is imposed.
2. Sheriff Ken Mason, Kennebec County, spoke of the differences between the DOC facilities and the jails. Sheriff Mason spoke of the difficulties that jails have with inmates who need mental health or competency examinations and treatment and of the shortage of available beds at Riverview Psychiatric Center.
3. John Pelletier, representing the Criminal Law Advisory Commission (CLAC), spoke neither for nor against and provided written testimony. Mr. Pelletier noted the need for a better definition that works for DOC facilities and for jails of the term solitary confinement and cautioned against defining the term in Title 34-A (DOC) and just cross-referring in Title 30-A (jails).
4. Janet Drew of York testified neither for nor against and submitted testimony. Ms. Drew spoke of the need for data on cumulative stays in solitary, self-harming behavior in solitary and the need for an ombudsman to oversee DOC facilities and jails.