

**Administrative Status, Disciplinary Segregation Status,  
Protective Custody Status, Disciplinary Restriction Special  
Management Housing, Administrative Control Unit  
And Related Restrictive Housing, Whether In Cell Or In A Defined  
Unit  
and  
Solitary Cell Confinement Amendment #2**

- 1. Define and ban solitary cell confinement, more than 20 hours.**

17-A. Solitary cell confinement. "Solitary cell confinement" means confinement alone in a cell or room for more than 20 hours per 24-hour day, with less than 4 hours per day out of the cell in congregate programming and recreation.

**Solitary cell confinement.** The use of solitary cell confinement is prohibited in a correctional or detention facility.

- 2. Restrict solitary cell confinement for vulnerable populations.** The use of solitary cell confinement of 17 or more hours in a 24-hour day for those under 21, over 65, disabled, pregnant or within 2 months postpartum is prohibited.

- 3. Confinement ombudsman.** The Governor shall employ one person full-time to act as

a confinement ombudsman and to ensure compliance with this section and all relevant state and federal constitutional provisions, the standards used by the U.S. Attorney General in enforcing the Civil Rights for Institutionalized Persons Act (CRIPA), the Americans With Disabilities Act, and relevant state laws, including Title 34-A, section 1208, subsection 8 (as proposed by this bill) for persons in administrative status,

disciplinary segregation status, protective custody status, disciplinary restriction special management housing, the administrative control unit and in any related restrictive housing, whether in cell or in a defined unit. The confinement ombudsman shall oversee: assignment to, review processes for retention or reassignment; access and adequacy of individualized medical, mental health, behavioral health care; access and adequacy of programming, rehabilitation and re-entry services; and other conditions of confinement. This applies to Maine Department of Corrections correctional facilities and county, regional and municipal jails, holding facilities and short-term detention areas, including county facilities that use different terminology for restrictive housing. The confinement ombudsman shall work independently of the department.

**4. Administrative Status, Disciplinary Segregation Status, Protective Custody Status, Disciplinary Restriction, Special Management Housing, Administrative Control Unit and/or any Related Restrictive Housing, Whether in a Cell or in a Defined Unit Board of Review - member.** Any of the preceeding status, housing, restrictive housing or special management unit review boards must have an outside, independent mental health professional on it who is a voting member.

**5. Reporting** - Require reporting which gives cumulative data on individuals who are confined to their cell more than 17 hours a day;

a. **Monthly reports.** The department shall publish monthly reports on its website and semi-annual and annual cumulative reports of the totals of residents assigned to administrative status, disciplinary segregation status, protective custody status, disciplinary restriction, special management housing, the administrative control unit and in any related restrictive housing, whether in cell or in a defined unit on the first day of each month. The reports shall breakdown the numbers of residents by:

**Demographics** :age; race; gender, gender identity, sexual orientation(if known), disability, pregnancy status;

**Medical and mental health status:** mental health diagnosis; mental health treatment level; special health accommodations or needs; participation in substance use disorder programs, waitlists for rehabilitative and medical and mental health, and substance use treatment;

**Cumulative reporting:** cumulative reporting for each individual assigned to administrative status, disciplinary segregation status, protective custody status,

disciplinary restriction, special management housing, the administrative control unit and in any related restrictive housing, whether in cell or in a defined unit as to the total number of days spent in segregation during their current term of incarceration, as well as length of stay in the past 60 days; number of days assigned to **segregated confinement**;

**Reason:** The report will list all incidents resulting in assignment to administrative status, disciplinary segregation status, protective custody status, disciplinary restriction, special management housing, the administrative control unit and in any related restrictive housing, whether in cell or in a defined unit by unit, facility and date of occurrence; and the number of incarcerated individuals in the same by unit and facility.

**Self-harm:** The report will also list all incidents of self harm, suicide attempts and deaths for individuals assigned to administrative status, disciplinary segregation status, protective custody status, disciplinary restriction, special management housing, the administrative control unit and in any related restrictive housing, whether in cell or in a defined unit in each facility.

**Rehabilitative programming:** The report will list hours of daily rehabilitative programming per person, type of programming, and whether the programming was delivered via tablet or in person. Entertainment provided by television, radio, tablet, any other device or in person is not to be regarded as rehabilitative programming.

b. **Annual report.** The department shall publish an annual public report regarding all aspects of administrative status, disciplinary segregation status, protective custody status, disciplinary restriction, special management housing, the administrative control unit and in any related restrictive housing, whether in cell or in a defined unit; and shall include recommendations to local correctional facilities, the Governor, and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety. The report shall cover policies and practices regarding placement of persons, special populations, cumulative length of time spent in segregated confinement for each person, hearings and procedures, conditions, programs, services, care and treatment, and assessments, rehabilitation plans and discharge procedures. The report will also list all incidents of self harm, suicide attempts and completions for each unit in each facility.

## 6. Solitary Confinement Study Commission

### **Resolve to Establish a Commission to Study Restricted or Segregated Confinement**

Consider the process for using forms of restricted and/or segregated confinement. Identify best practices and make recommendations for their use in Maine Correctional facilities and jails, including the process of transition back to the general population.

COMMITTEE AMENDMENT, L.D. 696, "An Act To Ban Solitary Confinement in Maine's Correctional Facilities"

Amend the bill by adding the following:

**'Resolve, To Create the Commission To Examine Administrative Status, Disciplinary Segregation Status, Protective Custody Status, Disciplinary Restriction Special Management Housing, Administrative Control Unit And Related Restrictive Housing, Whether In Cell Or In A Defined Unit And Solitary Cell Confinement and make Recommendations Regarding its Use and Considerations of Mental Health'**

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and Whereas, this legislation creates the **Commission To Examine Administrative Status, Disciplinary Segregation Status, Protective Custody Status, Disciplinary Restriction Special Management Housing, Administrative Control Unit And Related Restrictive Housing, Whether In Cell Or In A Defined Unit And Solitary Cell Confinement and make Recommendations Regarding its Use and Considerations of Mental Health**

and

Whereas, the study must be initiated before the 90-day period expires in order that the study may be completed and a report submitted in time for submission to the next legislative session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Commission established.

Resolved: That the **Commission To Examine Administrative Status, Disciplinary Segregation Status, Protective Custody Status, Disciplinary Restriction Special Management Housing, Administrative Control Unit And Related Restrictive Housing, Whether In Cell Or In A Defined Unit And Solitary Cell Confinement and make Recommendations Regarding its Use and Considerations of Mental Health'**, referred to in this resolve as "the commission," is established.

Sec. 2. Commission membership.

Resolved: That the commission consists of 15 members as follows:

1. Two members of the Senate appointed by the President of the Senate, including one member from each of the 2 parties holding the largest number of seats in the Legislature;
2. Three members of the House of Representatives appointed by the Speaker of the House, including at least one member from each of the 2 parties holding the largest number of seats in the Legislature;
3. The Commissioner of Corrections or the commissioner's designee;
4. President of the Maine Sheriff's Association or the president's designee;
5. A representative of a statewide organization advocating for the interests of people who are incarcerated, appointed by the President of the Senate;
6. A representative of a statewide organization advocating for the interests of people with mental health concerns, appointed by the President of the Senate;
7. A representative of a statewide organization advocating for the interests of people with disabilities, appointed by the President of the Senate;

8. A representative of an organization advocating for the interests of racial minorities, appointed by the Speaker of the House;
9. A representative of a statewide organization representing the medical community, appointed by the Speaker of the House;
10. A representative of a statewide organization advocating for the interests of LGBTQ minorities, appointed by the Speaker of the House.
11. A representative with public health and data expertise of a statewide organization advocating for public health, appointed by the President of the Senate
12. The confinement Ombudsman described in this amendment

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair 16 and the first-named House of Representatives member is the House chair of the commission.

Sec. 4. Appointments; convening of commission. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the commission. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the commission to meet and conduct its business.

Sec. 5. Duties. Resolved: That the commission shall examine Administrative Status, Disciplinary Segregation Status, Protective Custody Status, Disciplinary Restriction Special Management Housing, Administrative Control Unit And Related Restrictive Housing, Whether In Cell Or In A Defined Unit And Solitary Cell Confinement and make Recommendations Regarding its Use and Considerations of Mental Health as it currently operates in this State and in other states, the benefits and drawbacks of isolation, different models of discipline, how segregation fits in with the overall framework of the Maine Corrections System, the effect of segregation on residents of

correctional facilities, the costs and savings of instituting alternative rehabilitative programs and the elements of a plan to implement such a system.

Sec. 6. Staff assistance. Resolved: That the Legislative Council shall provide necessary staffing services to the commission, except that the Legislative Council staff support is not authorized when the Legislature is in regular or special session.

Sec. 7. Consultants. Resolved: That the commission may request that individuals with specific expertise in segregation and alternative rehabilitative systems, including but not limited to the current members of the Department of Corrections and Maine Sheriffs Association as consultants to the commission.

Sec. 8. Report. Resolved: That, no later than December 1, 2022, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, to the Joint Standing Committee on Criminal Justice and Public Safety, which may report out legislation to the First Regular Session of the 131st Legislature.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY This amendment replaces the bill with a resolve that establishes the **Commission To Examine Administrative Status, Disciplinary Segregation Status, Protective Custody Status, Disciplinary Restriction Special Management Housing, Administrative Control Unit And Related Restrictive Housing, Whether In Cell Or In A Defined Unit And Solitary Cell Confinement and make Recommendations Regarding its Use and Considerations of Mental Health**, consisting of 15 members, 5 of whom are Legislators. The commission may request the current members of the Department of Corrections, Maine Sheriffs Association as well as others to serve as consultants to the commission. The commission must report to the Joint Standing Committee on Criminal Justice and Public Safety by December 1, 2022.