

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act SJ 25 STUDY OF SOLITARY CONFINEMENT -- DRAFT BILL FOR DISCUSSION AT THE LAW AND JUSTICE INTERIM COMMITTEE'S SEPTEMBER 2018 MEETING -- Last update 8/23/18."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Policy -- restricted housing.** It is the policy of the state of Montana that restricted housing should be used:

- (1) as a response to the most serious and threatening behavior;
- (2) for the shortest time possible; and
- (3) with the least restrictive conditions possible.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 6], the following definitions apply:

(1) "Administrative housing" means a nonpunitive housing status for inmates who request removal from the general population or require protection for their safety and well-being.

(2) "Department" means the department of corrections provided for in 2-15-2301.

(3) "Disciplinary detention" means a punitive confinement determined by an impartial hearing that separates offenders from the

general population for serious rule violations.

(4) "Exigent circumstances" means circumstances that pose an immediate and substantial threat to the safety of an inmate or other individuals.

(5) "Juvenile" means a person less than 18 years of age.

(6) "Mental disorder" means exhibiting impaired emotional, cognitive, or behavioral functioning that interferes seriously an individual's ability to function adequately except with supportive treatment or services. The individual also must either:

(a) currently have or have had within the past year a diagnosed mental disorder; or

(b) currently exhibit significant signs and symptoms of a mental disorder.

(7) "Mental health professional" has the meaning provided in 53-21-102.

(8) "Prehearing confinement" means a short-term, nonpunitive housing status that is used to safely and securely control high-risk or at-risk inmates.

(9) "Restricted housing" means any form of housing status in which an inmate is separated from the general population in a state prison and that is characterized by single-cell confinement and restricted out-of-cell activities, movement, and social interaction. The term includes but is not limited to administrative housing, disciplinary detention, prehearing confinement, and those cells used to house maximum custody or special needs inmates.

(10) "Solitary confinement" means confinement alone in a cell

for 22 hours or more in a day.

(11) "Special needs inmates" means atypical inmates or inmates who may require accommodations, arrangements or programming different than the general population inmates including but not limited to inmates who may be developmentally disabled, mentally ill, physically handicapped, chronically ill, or chemically dependent.

NEW SECTION. **Section 3. Prohibition on use of solitary confinement for juveniles and pregnant women.** (1) The department may not house a pregnant woman or a juvenile in solitary confinement.

NEW SECTION. **Section 4. Use of solitary confinement.** Except as provided in [section 3 and 6]:

(1) the department may not place an inmate in solitary confinement for more than 20 consecutive days;

(2) an inmate placed in solitary confinement must be evaluated by a mental health professional every 5 days to determine if the inmate should be removed from solitary confinement to previous a serious risk of harm to the inmate; and

(3) an inmate placed in solitary confinement must have access to at least 1 hour of outdoor recreation every 24 hours.

NEW SECTION. **Section 5. Restricted housing policies and procedures.** (1) The department shall review and revise existing policies and procedures to ensure they align with the policy outlined in [section 1] and to:

(a) implement and use step-down programs to help inmates in restricted housing learn behaviors or practice skills that will keep them from further disciplinary violations and can help them succeed in general population units;

(b) involve a prison warden, warden's designee, or director's office staff in reviews of an offender's movement to or from a restrictive housing status;

(c) create a limit for the amount of a time an offender may be placed in administrative housing; and

(d) specify the disciplinary violations for which an offender may be placed in restricted housing.

(2) The department shall involve correctional staff and mental health professionals in developing the policies and procedures required by subsection (1) and identify any additional training that could be provided to correctional officers or other staff to develop and maintain skills to interact more effectively with offenders, including but not limited to those with a mental disorder.

NEW SECTION. **Section 6. Inmates with mental disorder.** (1) Except as provided in subsection (2), the department may not house an inmate with a mental illness in solitary confinement except in exigent circumstances.

(2) The department may not place an inmate with a severe mental disorder in solitary confinement for more than 10 days.

(3) When an inmate with a mental disorder is placed in solitary confinement, the inmate must be assessed by a mental health

professional each day to determine if the inmate should be removed from solitary confinement to prevent a serious risk of harm to the inmate.

(4) When an inmate with a mental disorder is placed in solitary confinement, the inmate must have the opportunity for at least 1 hour of outdoor recreation at least 5 days a week.

NEW SECTION.    **Section 7.    {standard} Codification instruction.**

[Sections 1 through 6] are intended to be codified as an integral part of Title 53, chapter 30, and the provisions of Title 53, chapter 30, apply to [sections 1 through 6].

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{Name :        Rachel J. Weiss  
Title :        Research Analyst  
Agency :      Legislative Services Division  
Phone :        406-444-5367  
E-Mail :        rweiss@mt.gov }