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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 880 Session of  
2023

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INTRODUCED BY KANE, MUTH, COLLETT, HAYWOOD, FONTANA,  
TARTAGLIONE, COSTA, CAPPELLETTI, KEARNEY AND SCHWANK,  
AUGUST 16, 2023

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REFERRED TO JUDICIARY, AUGUST 16, 2023

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AN ACT

1 Amending Title 61 (Prisons and Parole) of the Pennsylvania  
2 Consolidated Statutes, providing for solitary confinement.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Title 61 of the Pennsylvania Consolidated  
6 Statutes is amended by adding a chapter to read:

7 CHAPTER 51

8 SOLITARY CONFINEMENT

9 Sec.

10 5101. Definitions.

11 5102. Methods and procedures of solitary confinement.

12 5103. Members of vulnerable populations.

13 5104. Risk of harm in solitary confinement.

14 5105. Solitary confinement authorized.

15 5106. Use of solitary confinement pending investigation.

16 5107. Duties of secretary.

17 5108. Alternative disciplinary measures to solitary

1           confinement.  
2   5109. Rehabilitation after release from solitary confinement.  
3   5110. Independent investigator.  
4   5111. Solitary confinement misconduct hearings.  
5   5112. Additional relief.  
6   5113. Regulations.  
7   5114. Report.  
8   § 5101. Definitions.

9       The following words and phrases when used in this chapter  
10 shall have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12       "Chief administrator." The warden, superintendent or other  
13 officer in charge of a correctional institution or facility.

14       "Correctional institution or facility." A State correctional  
15 institution, county correctional institution, a facility that  
16 confines a juvenile under 42 Pa.C.S. Ch. 63 (relating to  
17 juvenile matters), an institution which detains inmates in  
18 accordance with Chapter 71 (relating to interstate compacts) or  
19 an intergovernmental service agreement or other contract with  
20 any Federal, state or county agency, including United States  
21 Immigration and Customs Enforcement.

22       "Emergency confinement." The solitary confinement of an  
23 inmate in a correctional institution or facility when there is  
24 reasonable cause to believe that the confinement is necessary  
25 for reducing a substantial risk of imminent serious harm to the  
26 inmate or others as evidenced by recent conduct.

27       "Member of a vulnerable population." Any of the following:

- 28           (1) An inmate who is 21 years of age or younger.  
29           (2) An inmate who is 55 years of age or older.  
30           (3) An inmate who is pregnant or in the postpartum

1 period.

2 (4) An inmate who has recently suffered a miscarriage or  
3 terminated a pregnancy.

4 (5) An inmate who is perceived to be lesbian, gay,  
5 bisexual, transgender or intersex.

6 (6) An inmate with the mental health classification of C  
7 Code or D Code.

8 (7) An inmate with intellectual or developmental  
9 disabilities.

10 "Solitary confinement." The confinement of an inmate in a  
11 correctional institution or facility due to disciplinary,  
12 administrative, protective, investigative, medical or other  
13 classification, in a cell or similarly confined holding or  
14 living space, alone or with other inmates for approximately 20  
15 hours or more per day, with severely restricted activity,  
16 movement and social interaction.

17 § 5102. Methods and procedures of solitary confinement.

18 (a) Conditions.--An inmate may not be placed in solitary  
19 confinement unless the following conditions are met:

20 (1) There is reasonable cause to believe that the inmate  
21 would create a substantial risk of immediate serious harm to  
22 himself or herself or another, as evidenced by recent threats  
23 or conduct, and a less restrictive intervention would be  
24 insufficient to reduce the risk. The correctional institution  
25 or facility shall bear the burden of establishing this  
26 standard by clear and convincing evidence.

27 (2) The inmate is subject to a disciplinary sanction.

28 (3) The inmate received a personal and comprehensive  
29 medical and mental health examination conducted by a  
30 clinician. In the case of an inmate detained at a county

1 correctional institution or facility, a preliminary  
2 examination shall be conducted by a member of the medical  
3 staff within 12 hours of the inmate being placed in solitary  
4 confinement and a clinical examination shall be conducted  
5 within 48 hours of the inmate being placed in solitary  
6 confinement.

7 (4) The decision to place an inmate in solitary  
8 confinement is made by the chief administrator.

9 (b) Hearing.--An inmate shall only be held in solitary  
10 confinement in accordance with a hearing which provides timely,  
11 fair and meaningful opportunities for the inmate to contest the  
12 confinement. The hearing shall be conducted in accordance with  
13 the following:

14 (1) The inmate shall receive the hearing within 72 hours  
15 of placement in solitary confinement and a review every 15  
16 days after the hearing if the inmate remains in solitary  
17 confinement.

18 (2) In the absence of exceptional circumstances,  
19 unavoidable delays or reasonable postponements, the inmate  
20 shall be permitted to appear at the hearing.

21 (3) The inmate shall be represented by legal counsel at  
22 the hearing.

23 (4) The hearing shall be conducted by an independent  
24 hearing officer.

25 (5) The inmate shall be provided with a written  
26 statement of the reasons for the decision to place the inmate  
27 in solitary confinement at the hearing.

28 (c) Prohibition.--An inmate may not be placed or retained in  
29 solitary confinement under the following circumstances:

30 (1) If the chief administrator determines that the

1 inmate no longer meets the standards for solitary  
2 confinement.

3 (2) For no more than 15 consecutive days.

4 (3) For no more than 20 days in a 60-day period.

5 (d) Evaluation.--A clinician shall evaluate an inmate placed  
6 in solitary confinement on a daily basis, in a confidential  
7 setting outside of the cell whenever possible, to determine  
8 whether the inmate is a member of a vulnerable population. In  
9 the case of an inmate detained at a county correctional  
10 institution or facility, the inmate shall be evaluated by a  
11 member of the medical staff as frequently as necessary, but not  
12 less than once every seven days while the inmate is in solitary  
13 confinement. An inmate determined to be a member of a vulnerable  
14 population by a clinician shall be immediately removed from  
15 solitary confinement and moved to an appropriate placement.

16 (e) Disciplinary sanctions.--A disciplinary sanction of  
17 solitary confinement which has been imposed on an inmate who is  
18 removed from solitary confinement shall be deemed to be  
19 satisfied.

20 (f) Lockdown.--During a correctional institution or facility  
21 lockdown, an inmate may not be placed in solitary confinement  
22 for more than 15 consecutive days or for more than 20 days  
23 during any 60-day period.

24 (g) Inmate treatment.--

25 (1) Cells or other holding or living space used for  
26 solitary confinement shall be properly ventilated, lit,  
27 temperature-controlled, clean and equipped with properly  
28 functioning sanitary fixtures.

29 (2) A correctional institution or facility shall  
30 maximize the amount of time that an inmate held in solitary

1 confinement spends outside of the cell by providing, as  
2 appropriate, access to recreation, education, clinically  
3 appropriate treatment therapies, skill-building activities  
4 and social interaction with staff and other inmates.

5 (3) An inmate held in solitary confinement may not be  
6 denied access to food, water or any other basic necessity.

7 (4) An inmate held in solitary confinement may not be  
8 denied access to appropriate medical care, including  
9 emergency medical care.

10 (5) An inmate may not be directly released from solitary  
11 confinement to the public during the last 180 days of the  
12 inmate's term of incarceration, unless it is necessary for  
13 the safety of the inmate, staff, other inmates or the public.

14 (6) A restraint chair, chemical agents or shackles may  
15 not be used on an inmate.

16 (7) Lights in solitary confinement cells shall be  
17 operated on the same schedule as lights in other housing  
18 units at the correctional facility. In no case shall lights  
19 in a solitary confinement cell be on for 24 hours a day  
20 unless a physician or psychiatrist believes, in his or her  
21 professional written opinion, that this step is necessary to  
22 prevent suicide or self-harm. The physician's or  
23 psychiatrist's professional written opinion that confirms a  
24 risk of suicide or self-harm shall be placed and kept in the  
25 inmate's medical records. If the physician or psychiatrist  
26 believes that an inmate is at risk of suicide or self-harm, a  
27 dimmer shall be used in the solitary confinement cell to  
28 adjust the lights to protect an inmate's safety while  
29 promoting sleep and mental and physical wellness.

30 § 5103. Members of vulnerable populations.

1 (a) Prohibition.--An inmate who is a member of a vulnerable  
2 population may not be placed in solitary confinement.

3 (b) Younger inmates.--

4 (1) An inmate who is a member of a vulnerable population  
5 because the inmate is 21 years of age or younger may not be  
6 subject to discipline for refusing treatment or medication or  
7 for self-harm or threats of self-harm.

8 (2) An inmate who is a member of a vulnerable population  
9 because the inmate is 21 years of age or younger and who  
10 would otherwise be placed in solitary confinement shall be  
11 screened by a correctional institution or facility clinician  
12 or the appropriate screening service and, if found to meet  
13 the standards of civil commitment, shall be placed in a  
14 specialized unit, as designated by the secretary, or civilly  
15 committed to the least restrictive appropriate short-term  
16 care or psychiatric facility designated by the Department of  
17 Human Services.

18 (c) Other inmates.--An inmate who is a member of a  
19 vulnerable population because the inmate is 55 years of age or  
20 older, pregnant, in the postpartum period or has recently  
21 suffered a miscarriage or terminated a pregnancy, who would  
22 otherwise be placed in isolated confinement, shall be placed in  
23 a specialized unit as designated by the secretary.

24 (d) Applicability.--This subsection shall not apply to a  
25 county correctional institution or facility.

26 § 5104. Risk of harm in solitary confinement.

27 An inmate shall not be placed in solitary confinement with  
28 one or more inmates if there is reasonable cause to believe that  
29 there is a risk of harm or harassment, intimidation or extortion  
30 of other physical or emotional abuse.

1 § 5105. Solitary confinement authorized.

2 A correctional institution or facility may place an inmate in  
3 solitary confinement under the following circumstances:

4 (1) The chief administrator determines that a  
5 correctional institution or facility lockdown is required to  
6 ensure the safety of inmates. The facility administrator  
7 shall document specific reasons for the lockdown if the  
8 lockdown lasts more than 24 hours and why less restrictive  
9 interventions are insufficient to accomplish the safety goals  
10 of the correctional institution or facility. Within six hours  
11 of a decision to extend a lockdown for more than 24 hours,  
12 the chief administrator shall provide the secretary with the  
13 reasons specified under this paragraph for publication on the  
14 publicly accessible Internet website of the department. Upon  
15 request, the chief administrator shall provide the reasons  
16 specified under this paragraph to the General Assembly.

17 (2) The chief administrator determines, based on a  
18 personal examination by a physician or, in the case of a  
19 county correctional institution or facility, a decision to  
20 place an inmate in medical isolation shall be made by a  
21 member of the medical staff, that an inmate should be placed  
22 in emergency confinement and the emergency confinement is  
23 conducted in accordance with the following:

24 (i) The inmate may not be held in emergency  
25 confinement for more than 24 hours.

26 (ii) The inmate held in emergency confinement shall  
27 receive an initial medical and mental health evaluation  
28 within two hours and a personal and comprehensive medical  
29 and mental health evaluation within 24 hours. In the case  
30 of a county correctional institution or facility, a



1 preliminary examination shall be conducted by a member of  
2 the medical staff within 12 hours of confinement and a  
3 comprehensive medical and mental health evaluation within  
4 48 hours. Reports of these evaluations shall be provided  
5 to the chief administrator upon completion.

6 (iii) A clinical review shall be conducted on the  
7 inmate at least every six hours and as clinically  
8 indicated.

9 (iv) The inmate shall be placed in a mental health  
10 unit as designated by the secretary.

11 (v) In the case of a county correctional institution  
12 or facility, a decision to place an inmate in solitary  
13 confinement shall be made by a member of the medical  
14 staff and be based on a personal examination and a  
15 clinical review shall be conducted within 48 hours of the  
16 inmate being placed in solitary confinement and then as  
17 clinically indicated.

18 (3) The chief administrator determines that an inmate  
19 should be placed in protective custody and the inmate is  
20 placed in protective custody in accordance with the  
21 following:

22 (i) Except as provided under subparagraph (ii), the  
23 inmate must provide informed, voluntary, written consent  
24 to be placed in protective custody and there is  
25 reasonable cause to believe that protective custody is  
26 necessary to prevent reasonably foreseeable harm.

27 (ii) The inmate may be placed in involuntary  
28 protective custody only when there is clear and  
29 convincing evidence that confinement is necessary to  
30 prevent reasonably foreseeable harm and that a less

1 restrictive intervention would not be sufficient to  
2 prevent the harm.

3 (iii) In a safe manner, an inmate placed in  
4 protective custody shall receive comparable opportunities  
5 for activities, movement and social interaction as other  
6 inmates in the general population of the correctional  
7 institution or facility.

8 (iv) An inmate subject to removal from protective  
9 custody shall be provided with a timely, fair and  
10 meaningful opportunity to contest the removal.

11 (v) An inmate who is eligible to be placed or  
12 currently is in voluntary protective custody may opt out  
13 of that eligibility by providing an informed, voluntary  
14 written refusal.

15 (vi) The chief administrator shall place an inmate  
16 in a less restrictive intervention, including transfer to  
17 the general population of another institution or to a  
18 special-purpose housing unit for inmates who face similar  
19 threats, before placing the inmate in protective custody  
20 unless the inmate poses an extraordinary security risk  
21 such that transferring the inmate would be insufficient  
22 to ensure the inmate's safety.

23 (4) A member of a vulnerable population may not be  
24 placed in solitary confinement with one or more inmates,  
25 except with the inmate's informed, voluntary, written  
26 consent.

27 § 5106. Use of solitary confinement pending investigation.

28 (a) Authorized use.--An inmate may not be placed in solitary  
29 confinement pending investigation of a disciplinary violation  
30 unless any of the following occur:

1       (1) The inmate's presence in the general population  
2 poses a danger to the inmate, staff, other inmates or the  
3 public. In making the determination, the chief administrator  
4 shall consider the seriousness of the alleged offense,  
5 including whether the offense involved violence or escape or  
6 posed a threat to institutional safety by encouraging other  
7 inmates to engage in misconduct.

8       (2) The chief administrator has granted approval in an  
9 emergency situation.

10      (b) Review.--An inmate's placement in solitary confinement  
11 pending investigation of a disciplinary violation shall be  
12 reviewed within 24 hours by a supervisory employee who was not  
13 involved in the initial placement decision.

14      (c) Release.--An inmate who has been placed in solitary  
15 confinement pending investigation of a disciplinary offense  
16 shall be considered for release to the general population if the  
17 inmate demonstrates good behavior while confined. If the inmate  
18 is found guilty of the disciplinary violation, the inmate's good  
19 behavior shall be considered in determining the appropriate  
20 penalty.

21 § 5107. Duties of secretary.

22      The secretary shall have the following duties:

23       (1) Developing policies and implementing procedures for  
24 the review of inmates placed in solitary confinement and  
25 promulgating regulations as specified under section 5113  
26 (relating to regulations).

27       (2) Initiating a review of each inmate placed in  
28 solitary confinement under the policies and procedures  
29 developed and implemented under paragraph (1).

30       (3) Developing a plan for providing step-down and

1 transitional units, programs and staffing patterns to  
2 accommodate inmates currently placed in solitary confinement,  
3 inmates who will be placed in solitary confinement and  
4 inmates who receive an intermediate sanction in lieu of being  
5 placed in isolated confinement. Staffing patterns for  
6 correctional and program staff shall be set at levels  
7 necessary to ensure the safety of staff and inmates in  
8 accordance with the provisions of this chapter.

9 § 5108. Alternative disciplinary measures to solitary  
10 confinement.

11 A correctional institution or facility shall implement  
12 alternative disciplinary measures to solitary confinement. The  
13 alternative disciplinary measures may include the following:

14 (1) Limiting contact visits.

15 (2) Restricting visitors to only the inmate's immediate  
16 family.

17 (3) The loss of work opportunities.

18 (4) Assigning additional unpaid work duties for no more  
19 than 14 days.

20 (5) No more than 14 days of the loss of telephone,  
21 entertainment or yard time privileges.

22 (6) No more than 14 days of the loss of commissary  
23 privileges.

24 (7) Confining an inmate to the inmate's own cell in the  
25 general population area.

26 (8) A reprimand or warning.

27 § 5109. Rehabilitation after release from solitary confinement.

28 An inmate released from solitary confinement shall be  
29 rehabilitated in accordance with the following:

30 (1) The inmate shall be gradually acclimated into the

1 general population by temporarily being transferred into a  
2 single cell.

3 (2) The inmate shall receive weekly meetings with a  
4 licensed mental health professional and a certified peer  
5 specialist.

6 (3) The inmate shall have access to classes and  
7 educational materials.

8 (4) The inmate shall have access to familial and outside  
9 contact.

10 § 5110. Independent investigator.

11 (a) Independent investigator.--The department shall  
12 designate an independent investigator to monitor each  
13 correctional institution or facility to ensure compliance with  
14 the provisions of this chapter. The independent investigator  
15 shall have the following duties:

16 (1) Conducting interviews with inmates in solitary  
17 confinement and reporting any abuse to the department.

18 (2) Reviewing any documents regarding inmates necessary  
19 to determine the implementation of solitary confinement.

20 (b) Use of information.--Information gathered under  
21 subsection (a) may be used in a misconduct hearing conducted  
22 under section 5111 (relating to solitary confinement misconduct  
23 hearings).

24 § 5111. Solitary confinement misconduct hearings.

25 (a) Hearing review board.--The department shall establish a  
26 hearing review board to conduct hearings on solitary confinement  
27 misconduct by correctional institutions or facilities. The  
28 hearing review board shall consist of the following:

29 (1) A licensed psychologist or psychiatrist.

30 (2) A licensed mental health professional with a

1 counseling background.

2 (3) A licensed social worker.

3 (b) Guidelines.--A hearing on solitary confinement by a  
4 correctional institution or facility shall be initiated and  
5 governed by guidelines specified in regulations promulgated  
6 under section 5113 (relating to regulations).

7 (c) Misconduct hearings.--A hearing on solitary confinement  
8 misconduct by a correctional institution or facility shall be  
9 administered in accordance with the following:

10 (1) Unless prohibited by the hearing review board for  
11 cause shown, a witness may be called at the misconduct  
12 hearing by the inmate or correctional institution or  
13 facility.

14 (2) An inmate may call on an inmate advocate or legal  
15 counsel to be present during the misconduct hearing.

16 (3) The inmate and correctional institution or facility  
17 may present evidence, including video evidence, at the  
18 misconduct hearing. An inmate shall be given access to video  
19 evidence from the correctional institution or facility no  
20 later than 24 hours before the commencement of the misconduct  
21 hearing.

22 (d) Relief.--If the hearing review board finds solitary  
23 confinement misconduct by the correctional institution or  
24 facility, the correctional institution or facility shall release  
25 the inmate from solitary confinement.

26 § 5112. Additional relief.

27 In addition to the relief provided by the hearing review  
28 board under section 5111 (relating to solitary confinement  
29 misconduct hearings), an individual adversely affected by any  
30 manner of law, rule, regulation or other action promulgated or

1 enforced by a correctional institution or facility as it relates  
2 to the use of isolated confinement in violation of this chapter  
3 may seek declarative and injunctive relief and the actual  
4 damages attributable to the violation in an appropriate court of  
5 jurisdiction. The court shall award reasonable expenses to an  
6 individual adversely affected if the action results in a final  
7 determination by a court in favor of the individual adversely  
8 affected.

9 § 5113. Regulations.

10 The secretary shall promulgate regulations necessary to  
11 administer the provisions of this chapter. The regulations shall  
12 include, but not be limited to, the following:

13 (1) Reducing separation from other inmates.

14 (2) Reducing the burden of transferring inmates to a  
15 different correctional institution or facility.

16 (3) Establishing any nonisolated confinement sanction  
17 authorized by the department's regulations.

18 (4) Easing restrictions on religious, mail and telephone  
19 privileges, visit contacts and outdoor and recreation access.  
20 A correctional institution or facility may not restrict basic  
21 necessities from an inmate in solitary confinement.

22 (5) Requiring training of disciplinary staff and all  
23 staff working with inmates in solitary confinement. The  
24 training shall include the following:

25 (i) Standards for solitary confinement, including  
26 that solitary confinement shall only be imposed when an  
27 inmate commits an offense involving violence, escapes or  
28 attempts to escape or poses a threat to institutional  
29 safety.

30 (ii) The maximum amount of time that an inmate may

1 be in solitary confinement and the available less  
2 restrictive interventions.

3 (iii) The identification of developmental  
4 disabilities, the symptoms of mental illness, including  
5 trauma disorders, and methods of safe responses to  
6 inmates in distress.

7 (6) Requiring documentation of all decisions, procedures  
8 and reviews of inmates placed in solitary confinement.

9 (7) Monitoring of compliance with the provisions of this  
10 chapter.

11 (8) Fair and equitable guidelines for the administration  
12 of misconduct hearings under section 5111 (relating to  
13 solitary confinement misconduct hearings).

14 § 5114. Report.

15 The commission shall post quarterly reports on the  
16 department's publicly accessible Internet website on the use of  
17 solitary confinement, including all of the following:

18 (1) The age, sex, gender identity, ethnicity and type of  
19 confinement status for each inmate. Identifiable information  
20 may not be included in the report.

21 (2) The total number of inmates in solitary confinement.

22 (3) The total number of incidences of emergency  
23 confinement, solitary confinement as a result of a lockdown,  
24 inmate self-harm or suicide and assault in solitary  
25 confinement units.

26 Section 2. This act shall take effect in 60 days.