

REFERENCE TITLE: prisoners; isolated confinement; restrictions

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SB 1617

Introduced by
Senators Mendez: Alston, Bowie, Bradley, Contreras, Dalessandro, Gonzales,
Navarrete, Otondo, Peshlakai, Quezada, Rios, Steele

AN ACT

AMENDING TITLE 31, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 31-602; RELATING TO PRISONERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Heading change

3 The chapter heading of title 31, chapter 5, Arizona Revised
4 Statutes, is changed from "RESTRAINTS ON PREGNANT PRISONERS" to
5 "INCARCERATION RESTRICTIONS".

6 Sec. 2. Title 31, chapter 5, article 1, Arizona Revised Statutes,
7 is amended by adding section 31-602, to read:

8 31-602. Isolated confinement restrictions; definitions

9 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, THE USE OF
10 ISOLATED CONFINEMENT IN CORRECTIONAL FACILITIES IS LIMITED AS FOLLOWS:

11 1. AN INMATE MAY NOT BE PLACED IN ISOLATED CONFINEMENT UNLESS THERE
12 IS REASONABLE CAUSE TO BELIEVE THAT THE INMATE WOULD CREATE A SUBSTANTIAL
13 RISK OF SERIOUS HARM TO SELF OR OTHERS, INCLUDING ANOTHER INMATE, A
14 CORRECTIONAL OFFICER OR ANOTHER EMPLOYEE OR VOLUNTEER IN THE CORRECTIONAL
15 FACILITY, AS EVIDENCED BY RECENT THREATS OR CONDUCT, AND A LESS
16 RESTRICTIVE INTERVENTION WOULD BE INSUFFICIENT TO REDUCE THIS RISK.
17 EXCEPT AS OTHERWISE REQUIRED, THE CORRECTIONAL FACILITY HAS THE BURDEN OF
18 ESTABLISHING THIS STANDARD BY CLEAR AND CONVINCING EVIDENCE.

19 2. AN INMATE MAY NOT BE PLACED IN ISOLATED CONFINEMENT FOR
20 NONDISCIPLINARY REASONS.

21 3. AN INMATE MAY NOT BE PLACED IN ISOLATED CONFINEMENT FOR MORE
22 THAN FIFTEEN CONSECUTIVE DAYS OR FOR MORE THAN TWENTY DAYS DURING ANY
23 SIXTY-DAY PERIOD.

24 4. AN INMATE MAY NOT BE PLACED IN ISOLATED CONFINEMENT BEFORE
25 RECEIVING A PERSONAL AND COMPREHENSIVE MEDICAL AND MENTAL HEALTH
26 EXAMINATION CONDUCTED BY A CLINICIAN, EXCEPT THAT IN A COUNTY JAIL, A
27 PRELIMINARY EXAMINATION SHALL BE CONDUCTED BY A MEMBER OF THE MEDICAL
28 STAFF WITHIN TWELVE HOURS AFTER THE CONFINEMENT AND THE CLINICAL
29 EXAMINATION SHALL BE CONDUCTED WITHIN FORTY-EIGHT HOURS AFTER THE
30 CONFINEMENT. IF STAFFING LEVELS REQUIRE, THE PERIOD FOR CONDUCTING A
31 CLINICAL EXAMINATION MAY BE EXTENDED TO SEVENTY-TWO HOURS AFTER
32 CONFINEMENT.

33 5. AN INMATE MAY ONLY BE HELD IN ISOLATED CONFINEMENT PURSUANT TO
34 INITIAL PROCEDURES AND REVIEWS THAT PROVIDE TIMELY, FAIR AND MEANINGFUL
35 OPPORTUNITIES FOR THE INMATE TO CONTEST THE CONFINEMENT. THESE PROCEDURES
36 MUST INCLUDE ALL OF THE FOLLOWING:

37 (a) THE RIGHT TO AN INITIAL HEARING WITHIN FORTY-EIGHT HOURS AFTER
38 PLACEMENT OR, IF EXIGENT CIRCUMSTANCES EXIST, WITHIN SEVENTY-TWO HOURS
39 AFTER PLACEMENT.

40 (b) IN THE ABSENCE OF EXCEPTIONAL CIRCUMSTANCES, UNAVOIDABLE DELAYS
41 OR REASONABLE POSTPONEMENTS, A REVIEW EVERY FIVE DAYS AFTER THE INITIAL
42 HEARING.

43 (c) THE RIGHT TO APPEAR AT THE HEARING.

44 (d) THE RIGHT TO BE REPRESENTED AT THE HEARING.

45 (e) AN INDEPENDENT HEARING OFFICER.

1 (f) A WRITTEN STATEMENT OF REASONS FOR THE DECISION MADE AT THE
2 HEARING.

3 (g) THE RIGHT TO AN APPEAL OF THE PLACEMENT DECISION.

4 6. THE PRISON ADMINISTRATOR SHALL MAKE THE FINAL DECISION TO PLACE
5 AN INMATE IN ISOLATED CONFINEMENT. THE FINAL DECISION MUST BE MADE IN
6 WRITING.

7 7. AN INMATE MAY NOT BE PLACED OR RETAINED IN ISOLATED CONFINEMENT
8 IF THE PRISON ADMINISTRATOR DETERMINES THAT THE INMATE NO LONGER MEETS THE
9 STANDARD FOR THE CONFINEMENT.

10 8. A CLINICIAN SHALL CONDUCT A MENTAL HEALTH AND PHYSICAL HEALTH
11 STATUS EXAMINATION FOR EACH INMATE WHO IS PLACED IN ISOLATED CONFINEMENT
12 ON A DAILY BASIS, IN A CONFIDENTIAL SETTING OUTSIDE OF THE CELL WHENEVER
13 POSSIBLE, TO DETERMINE WHETHER THE INMATE IS A MEMBER OF A VULNERABLE
14 POPULATION, EXCEPT THAT AN INMATE WHO IS IN ISOLATED CONFINEMENT IN A
15 COUNTY JAIL SHALL BE EVALUATED BY A MEMBER OF THE MEDICAL STAFF AS
16 FREQUENTLY AS CLINICALLY INDICATED, BUT AT LEAST ONCE PER WEEK. EXCEPT AS
17 OTHERWISE PROVIDED IN SUBSECTION B OF THIS SECTION, AN INMATE WHO IS
18 DETERMINED TO BE A MEMBER OF A VULNERABLE POPULATION SHALL BE IMMEDIATELY
19 REMOVED FROM ISOLATED CONFINEMENT AND MOVED TO AN APPROPRIATE PLACEMENT.

20 9. A DISCIPLINARY SANCTION OF ISOLATED CONFINEMENT IS DEEMED TO BE
21 SATISFIED IF THE SANCTION WAS IMPOSED ON AN INMATE WHO IS REMOVED FROM
22 ISOLATED CONFINEMENT PURSUANT TO PARAGRAPH 8 OF THIS SUBSECTION.

23 10. DURING A FACILITY-WIDE LOCKDOWN, AN INMATE MAY NOT BE PLACED IN
24 ISOLATED CONFINEMENT FOR MORE THAN TEN CONSECUTIVE DAYS OR FOR MORE THAN
25 TWENTY DAYS DURING ANY SIXTY-DAY PERIOD.

26 11. CELLS OR OTHER HOLDING OR LIVING SPACES THAT ARE USED FOR
27 ISOLATED CONFINEMENT MUST BE PROPERLY VENTILATED, LIT, TEMPERATURE-
28 MONITORED, CLEAN AND EQUIPPED WITH PROPERLY FUNCTIONING SANITARY FIXTURES.

29 12. A CORRECTIONAL FACILITY SHALL MAXIMIZE THE AMOUNT OF TIME THAT
30 AN INMATE WHO IS HELD IN ISOLATED CONFINEMENT SPENDS OUTSIDE OF THE CELL
31 BY PROVIDING, AS MUCH AS POSSIBLE, ACCESS TO RECREATION, EDUCATION,
32 CLINICALLY APPROPRIATE TREATMENT THERAPIES, SKILL-BUILDING ACTIVITIES AND
33 SOCIAL INTERACTION WITH STAFF AND OTHER INMATES.

34 13. AN INMATE WHO IS HELD IN ISOLATED CONFINEMENT MAY NOT BE DENIED
35 ACCESS TO READING MATERIALS, FOOD, WATER OR OTHER BASIC NECESSITY.

36 14. AN INMATE WHO IS HELD IN ISOLATED CONFINEMENT MAY NOT BE DENIED
37 ACCESS TO APPROPRIATE MEDICAL CARE, INCLUDING EMERGENCY MEDICAL CARE.

38 15. AN INMATE WHO IS IN A STATE CORRECTIONAL FACILITY MAY NOT BE
39 DIRECTLY RELEASED FROM ISOLATED CONFINEMENT TO THE COMMUNITY DURING THE
40 FINAL ONE HUNDRED EIGHTY DAYS OF THE INMATE'S TERM OF INCARCERATION,
41 UNLESS THERE IS CLEAR AND CONVINCING EVIDENCE THAT IT IS NECESSARY FOR THE
42 SAFETY OF THE INMATE, STAFF, OTHER INMATES OR THE PUBLIC. AN INMATE IN A
43 COUNTY JAIL MAY NOT BE DIRECTLY RELEASED FROM ISOLATED CONFINEMENT TO THE
44 COMMUNITY DURING THE FINAL THIRTY DAYS OF THE INMATE'S TERM OF
45 INCARCERATION, UNLESS THERE IS CLEAR AND CONVINCING EVIDENCE THAT IT IS

1 NECESSARY FOR THE SAFETY OF THE INMATE, STAFF, OTHER INMATES OR THE
2 PUBLIC. IF AN EXCEPTION APPLIES, THE DETERMINATION MUST BE DOCUMENTED AND
3 SIGNED BY THE PRISON ADMINISTRATOR.

4 16. AN INMATE MAY NOT BE HELD IN ISOLATED CONFINEMENT BASED ON THE
5 INMATE'S RACE, RELIGION, CREED, COLOR, NATIONAL ORIGIN, NATIONALITY,
6 ANCESTRY, AGE, MARITAL STATUS, DOMESTIC PARTNERSHIP OR CIVIL UNION STATUS,
7 AFFECTIONAL OR SEXUAL ORIENTATION, GENETIC INFORMATION, PREGNANCY OR
8 BREASTFEEDING STATUS, SEX, GENDER IDENTITY OR EXPRESSION, DISABILITY OR
9 ATYPICAL HEREDITARY CELLULAR OR BLOOD TRAIT.

10 17. AN INMATE WHO IS A MEMBER OF A VULNERABLE POPULATION MAY NOT BE
11 PLACED IN ISOLATED CONFINEMENT.

12 18. AN INMATE MAY NOT BE PLACED IN ISOLATED CONFINEMENT OR IN ANY
13 OTHER CELL OR OTHER HOLDING OR LIVING SPACE WITH ONE OR MORE INMATES IF
14 THERE IS REASONABLE CAUSE TO BELIEVE THAT THERE IS A RISK OF HARM OR
15 HARASSMENT, INTIMIDATION, EXTORTION OR OTHER PHYSICAL OR EMOTIONAL ABUSE
16 TO THAT INMATE OR ANOTHER INMATE IN THAT PLACEMENT.

17 B. THE USE OF ISOLATED CONFINEMENT IS ALLOWED UNDER THE FOLLOWING
18 LIMITED CIRCUMSTANCES:

19 1. THE PRISON ADMINISTRATOR OR DESIGNATED SHIFT COMMANDER
20 DETERMINES THAT A FACILITY-WIDE LOCKDOWN IS REQUIRED TO ENSURE THE SAFETY
21 OF INMATES IN THE FACILITY UNTIL THE ADMINISTRATOR OR SHIFT COMMANDER
22 DETERMINES THAT THESE CIRCUMSTANCES NO LONGER EXIST. THE PRISON
23 ADMINISTRATOR OR SHIFT COMMANDER SHALL DOCUMENT SPECIFIC REASONS WHY ANY
24 LOCKDOWN IS NECESSARY FOR MORE THAN TWENTY-FOUR HOURS AND WHY LESS
25 RESTRICTIVE INTERVENTIONS ARE INSUFFICIENT TO ACCOMPLISH THE FACILITY'S
26 SAFETY GOALS. WITHIN FIFTEEN DAYS AFTER THE LOCKDOWN, THE DIRECTOR SHALL
27 PUBLISH THE REASONS ON THE DEPARTMENT'S WEBSITE AND PROVIDE MEANINGFUL
28 NOTICE OF THE REASONS FOR THE LOCKDOWN TO THE LEGISLATURE.

29 2. THE PRISON ADMINISTRATOR DETERMINES THAT AN INMATE SHOULD BE
30 PLACED IN EMERGENCY CONFINEMENT, EXCEPT THAT:

31 (a) AN INMATE MAY NOT BE HELD IN EMERGENCY CONFINEMENT FOR MORE
32 THAN TWENTY-FOUR HOURS.

33 (b) AN INMATE WHO IS HELD IN EMERGENCY CONFINEMENT IN A STATE
34 CORRECTIONAL FACILITY SHALL RECEIVE AN INITIAL MEDICAL AND MENTAL HEALTH
35 EVALUATION IMMEDIATELY BEFORE BEING PLACED IN EMERGENCY CONFINEMENT AND A
36 PERSONAL AND COMPREHENSIVE MEDICAL AND MENTAL HEALTH EVALUATION WITHIN TWO
37 HOURS AFTER PLACEMENT IN EMERGENCY CONFINEMENT. THE EXAMINATION SHALL BE
38 CONDUCTED BY A MEMBER OF THE MEDICAL STAFF. REPORTS OF THESE EVALUATIONS
39 SHALL BE IMMEDIATELY PROVIDED TO THE PRISON ADMINISTRATOR.

40 3. A CLINICIAN, BASED ON A PERSONAL EXAMINATION, DETERMINES THAT AN
41 INMATE SHOULD BE PLACED OR RETAINED IN MEDICAL ISOLATION. THE DECISION TO
42 PLACE AND RETAIN AN INMATE IN MEDICAL ISOLATION DUE TO A MENTAL HEALTH
43 EMERGENCY SHALL BE MADE BY A CLINICIAN BASED ON A PERSONAL EXAMINATION.
44 IN ANY CASE OF ISOLATION UNDER THIS PARAGRAPH, A CLINICAL REVIEW SHALL BE
45 CONDUCTED AT LEAST EVERY EIGHT HOURS AND AS CLINICALLY INDICATED. AN

1 INMATE IN MEDICAL ISOLATION PURSUANT TO THIS PARAGRAPH MAY BE PLACED IN A
2 MENTAL HEALTH UNIT DESIGNATED BY THE DIRECTOR. IN THE CASE OF A COUNTY
3 JAIL, A DECISION TO PLACE AN INMATE IN MEDICAL ISOLATION SHALL BE MADE BY
4 A MEMBER OF THE MEDICAL STAFF AND BE BASED ON A PERSONAL EXAMINATION.
5 CLINICAL REVIEWS SHALL BE CONDUCTED WITHIN SEVENTY-TWO HOURS AND THEN AS
6 CLINICALLY INDICATED.

7 4. THE PRISON ADMINISTRATOR DETERMINES THAT AN INMATE SHOULD BE
8 PLACED IN PROTECTIVE CUSTODY AS FOLLOWS:

9 (a) THE CORRECTIONAL FACILITY SHALL KEEP A WRITTEN RECORD OF A
10 REQUEST BY AN INMATE TO BE PLACED IN VOLUNTARY PROTECTIVE CUSTODY. THE
11 INMATE MAY BE PLACED IN VOLUNTARY PROTECTIVE CUSTODY ONLY WITH INFORMED,
12 VOLUNTARY CONSENT AND WHEN THERE IS REASONABLE CAUSE TO BELIEVE THAT
13 PROTECTIVE CUSTODY IS NECESSARY TO PREVENT REASONABLY FORESEEABLE HARM.
14 WHEN AN INMATE MAKES AN INFORMED VOLUNTARY REQUEST FOR PROTECTIVE CUSTODY,
15 THE CORRECTIONAL FACILITY SHALL BEAR THE BURDEN OF ESTABLISHING A BASIS
16 FOR REFUSING THE REQUEST.

17 (b) THE INMATE MAY BE PLACED IN INVOLUNTARY PROTECTIVE CUSTODY ONLY
18 WHEN THERE IS CLEAR AND CONVINCING EVIDENCE THAT PROTECTIVE CUSTODY IS
19 NECESSARY TO PREVENT REASONABLY FORESEEABLE HARM AND THAT A LESS
20 RESTRICTIVE INTERVENTION WOULD NOT BE SUFFICIENT TO PREVENT THE HARM.

21 (c) PROTECTIVE CUSTODY CONDITIONS SHALL BE IDENTICAL TO THE
22 CONDITIONS OF THE GENERAL POPULATION AND INCLUDE, AT A MINIMUM, TWELVE
23 HOURS OUT-OF-CELL TIME EACH DAY. AN INMATE WHO IS PLACED IN PROTECTIVE
24 CUSTODY SHALL RECEIVE SIMILAR OPPORTUNITIES FOR ACTIVITIES, MOVEMENT AND
25 SOCIAL INTERACTION, CONSISTENT WITH THE INMATE'S SAFETY AND THE SAFETY OF
26 OTHERS, AS DO INMATES IN THE GENERAL POPULATION. AN INMATE WHO IS IN
27 PROTECTIVE CUSTODY MAY NOT RECEIVE LESS THAN TWELVE HOURS OF OUT-OF-CELL
28 TIME EACH DAY UNLESS THERE IS AN UNFORESEEN IMMINENT SECURITY RISK, THE
29 SECURITY RISK IS DOCUMENTED AND ALL RESTRICTIONS ARE APPROVED IN WRITING
30 BY THE PRISON ADMINISTRATOR.

31 (d) AN INMATE WHO IS SUBJECT TO REMOVAL FROM PROTECTIVE CUSTODY
32 SHALL BE PROVIDED WITH A TIMELY, FAIR AND MEANINGFUL OPPORTUNITY TO
33 CONTEST THE REMOVAL.

34 (e) AN INMATE WHO MAY BE PLACED OR WHO CURRENTLY IS IN VOLUNTARY
35 PROTECTIVE CUSTODY MAY OPT OUT OF THAT STATUS BY PROVIDING AN INFORMED,
36 VOLUNTARY, WRITTEN REFUSAL OF THAT STATUS.

37 (f) THE PRISON ADMINISTRATOR SHALL PLACE AN INMATE IN A LESS
38 RESTRICTIVE INTERVENTION, INCLUDING TRANSFER TO THE GENERAL POPULATION OF
39 ANOTHER CORRECTIONAL FACILITY OR TO A SPECIAL-PURPOSE HOUSING UNIT FOR
40 INMATES WHO FACE SIMILAR THREATS, BEFORE PLACING THE INMATE IN ISOLATED
41 CONFINEMENT FOR PROTECTION, UNLESS THE INMATE POSES A SECURITY RISK SO
42 GREAT THAT TRANSFERRING THE INMATE WOULD BE INSUFFICIENT TO ENSURE THE
43 INMATE'S SAFETY.

44 5. AN INMATE MAY NOT BE PLACED IN ISOLATED CONFINEMENT PENDING THE
45 INVESTIGATION OF A DISCIPLINARY OFFENSE UNLESS EITHER:

1 (a) THE INMATE'S PRESENCE IN THE GENERAL POPULATION POSES A DANGER
2 TO THE INMATE, STAFF, OTHER INMATES OR THE PUBLIC THE DANGER IS DOCUMENTED
3 AND THE PLACEMENT IS APPROVED IN WRITING BY THE PRISON ADMINISTRATOR. IN
4 MAKING THIS DETERMINATION, THE PRISON ADMINISTRATOR SHALL CONSIDER WHETHER
5 THE OFFENSE INVOLVED VIOLENCE OR ESCAPE OR POSED A THREAT TO INSTITUTIONAL
6 SAFETY BY ENCOURAGING OTHERS TO ENGAGE IN MISCONDUCT.

7 (b) THE PRISON ADMINISTRATOR GRANTS APPROVAL IN AN EMERGENCY
8 SITUATION AND DOCUMENTS THE APPROVAL IN WRITING.

9 6. AN INMATE'S PLACEMENT IN ISOLATED CONFINEMENT PENDING THE
10 INVESTIGATION OF A DISCIPLINARY OFFENSE SHALL BE REVIEWED WITHIN
11 TWENTY-FOUR HOURS BY A SUPERVISORY EMPLOYEE WHO WAS NOT INVOLVED IN THE
12 INITIAL PLACEMENT DECISION.

13 C. AT LEAST NINETY DAYS BEFORE JANUARY 1, 2021, THE DIRECTOR SHALL:

14 1. DEVELOP POLICIES AND IMPLEMENT PROCEDURES FOR REVIEWING INMATES
15 WHO ARE PLACED IN ISOLATED CONFINEMENT AND SUBMIT PROPOSED RULES.

16 2. INITIATE A REVIEW OF EACH INMATE WHO IS PLACED IN ISOLATED
17 CONFINEMENT PURSUANT TO THE POLICIES AND PROCEDURES DEVELOPED AND
18 IMPLEMENTED UNDER SUBSECTION D OF THIS SECTION.

19 3. DEVELOP A PLAN FOR PROVIDING STEP-DOWN AND TRANSITIONAL UNITS,
20 PROGRAMS AND STAFFING PATTERNS TO ACCOMMODATE INMATES WHO ARE CURRENTLY
21 PLACED IN ISOLATED CONFINEMENT, INMATES WHO WILL BE PLACED IN ISOLATED
22 CONFINEMENT, AND INMATES WHO RECEIVE AN INTERMEDIATE SANCTION IN LIEU OF
23 BEING PLACED IN ISOLATED CONFINEMENT. STAFFING PATTERNS FOR CORRECTIONAL
24 AND PROGRAM STAFF SHALL BE SET AT LEVELS THAT ARE NECESSARY TO ENSURE THE
25 SAFETY OF STAFF AND INMATES.

26 D. THE DIRECTOR SHALL ADOPT RULES TO IMPLEMENT THIS SECTION. THE
27 RULES MUST:

28 1. INCLUDE LESS RESTRICTIVE INTERVENTIONS TO ISOLATED CONFINEMENT,
29 INCLUDING:

30 (a) SEPARATION FROM OTHER INMATES.

31 (b) TRANSFER TO OTHER CORRECTIONAL FACILITIES.

32 (c) ANY NONISOLATED CONFINEMENT SANCTION AUTHORIZED BY DEPARTMENT
33 RULE.

34 2. NOT RESTRICT:

35 (a) RELIGIOUS MATERIALS AND ACTIVITIES, LITERACY MATERIALS, MAIL
36 AND TELEPHONE PRIVILEGES, VISIT CONTACTS OR OUTDOOR AND RECREATION ACCESS
37 UNLESS THE RESTRICTIONS ARE IMPOSED ONLY AS IS NECESSARY FOR THE SAFETY OF
38 THE INMATE OR OTHERS.

39 (b) ACCESS TO FOOD, HYGIENE PRODUCTS AND OTHER BASIC NECESSITIES OR
40 LEGAL ACCESS.

41 3. REQUIRE TRAINING OF DISCIPLINARY STAFF AND ALL STAFF WORKING
42 WITH INMATES IN ISOLATED CONFINEMENT INCLUDING:

43 (a) ASSISTANCE FROM APPROPRIATE PROFESSIONALS TO PERIODICALLY TRAIN
44 ALL STAFF WORKING WITH INMATES IN ISOLATED CONFINEMENT.

1 (b) STANDARDS FOR ISOLATED CONFINEMENT, INCLUDING THAT ISOLATED
2 CONFINEMENT IS LIMITED TO WHEN AN INMATE COMMITS AN OFFENSE INVOLVING
3 VIOLENCE, ESCAPES OR ATTEMPTS TO ESCAPE OR POSES A THREAT TO INSTITUTIONAL
4 SAFETY AND THAT THE MAXIMUM PENALTIES FOR EACH OFFENSE ARE BASED ON THE
5 SERIOUSNESS OF THE OFFENSE AND AVAILABLE LESS RESTRICTIVE INTERVENTIONS.

6 (c) THE IDENTIFICATION OF DEVELOPMENTAL DISABILITIES AND THE
7 SYMPTOMS OF MENTAL ILLNESS, INCLUDING TRAUMA DISORDERS AND METHODS OF SAFE
8 RESPONSES TO PEOPLE IN DISTRESS.

9 4. REQUIRE DOCUMENTATION OF ALL DECISIONS, PROCEDURES AND REVIEWS
10 OF INMATES WHO ARE PLACED IN ISOLATED CONFINEMENT.

11 5. REQUIRE MONITORING OF COMPLIANCE WITH ALL RULES GOVERNING CELLS,
12 UNITS AND OTHER PLACES WHERE INMATES ARE PLACED IN ISOLATED CONFINEMENT.

13 6. REQUIRE POSTING ON THE DEPARTMENT'S WEBSITE OF QUARTERLY REPORTS
14 ON THE USE OF ISOLATED CONFINEMENT, WITHOUT REVEALING ANY PERSONAL
15 IDENTIFYING INFORMATION, BY AGE, SEX, GENDER IDENTITY, ETHNICITY,
16 INCIDENCE OF MENTAL ILLNESS AND TYPE OF CONFINEMENT STATUS, AT EACH
17 CORRECTIONAL FACILITY, INCLUDING A COUNTY JAIL. THESE REPORTS SHALL
18 INCLUDE THE POPULATION ON THE LAST DAY OF EACH QUARTER AND A
19 NONDUPLICATIVE CUMULATIVE COUNT OF INMATES EXPOSED TO ISOLATED CONFINEMENT
20 FOR EACH FISCAL YEAR. THESE INMATE REPORTS ALSO SHALL INCLUDE THE
21 INCIDENCE OF EMERGENCY CONFINEMENT, SELF-HARM, SUICIDE AND ASSAULT IN ANY
22 ISOLATED CONFINEMENT UNIT. THESE REPORTS MAY NOT INCLUDE PERSONALLY
23 IDENTIFIABLE INFORMATION REGARDING ANY INMATE. THE REPORTS SHALL ALSO BE
24 SUBMITTED TO THE LEGISLATIVE AND EACH COUNTY BOARD OF SUPERVISORS

25 E. FOR THE PURPOSES OF THIS SECTION:

26 1. "CLINICIAN" MEANS A STATE LICENSED PHYSICIAN, EXCEPT IF THE
27 CLINICIAN MAKES MENTAL HEALTH EVALUATIONS, CLINICIAN INCLUDES A STATE
28 LICENSED PSYCHIATRIST OR PSYCHOLOGIST OR A NURSE PRACTITIONER OR CLINICAL
29 NURSE SPECIALIST WITH A SPECIALTY IN PSYCHIATRIC NURSING.

30 2. "CORRECTIONAL FACILITY" MEANS ANY STATE CORRECTIONAL FACILITY OR
31 COUNTY JAIL AND ANY STATE, COUNTY OR PRIVATE FACILITY DETAINING PERSONS
32 PURSUANT TO ANY INTERGOVERNMENTAL SERVICE AGREEMENT OR OTHER CONTRACT WITH
33 ANY STATE, COUNTY OR FEDERAL AGENCY, INCLUDING UNITED STATES IMMIGRATION
34 AND CUSTOMS ENFORCEMENT.

35 3. "DIRECTOR" MEANS THE DIRECTOR OF THE STATE DEPARTMENT OF
36 CORRECTIONS IF THE INMATE IS IN PRISON OR THE SHERIFF IF THE INMATE IS IN
37 JAIL.

38 4. "EMERGENCY CONFINEMENT" MEANS THE SEGREGATION OF AN INMATE IN A
39 CORRECTIONAL FACILITY WHEN THERE IS REASONABLE CAUSE TO BELIEVE THAT THIS
40 SEGREGATION IS NECESSARY FOR REDUCING A SUBSTANTIAL RISK OF IMMINENT
41 SERIOUS HARM TO THE INMATE OR OTHERS AS EVIDENCED BY RECENT CONDUCT.

42 5. "INMATE" MEANS A PERSON WHO IS CONFINED IN A CORRECTIONAL
43 FACILITY.

1 6. "ISOLATED CONFINEMENT" MEANS ANY FORM OF CELL CONFINEMENT OF AN
2 INMATE IN A CORRECTIONAL FACILITY, PURSUANT TO DISCIPLINARY,
3 ADMINISTRATIVE, PROTECTIVE, INVESTIGATIVE, MEDICAL OR OTHER
4 CLASSIFICATION, IN A CELL OR SIMILARLY CONFINED HOLDING OR LIVING SPACE,
5 ALONE OR WITH OTHER INMATES, FOR APPROXIMATELY SEVENTEEN HOURS OR MORE PER
6 DAY IN A STATE CORRECTIONAL FACILITY OR A COUNTY JAIL, WITH SEVERELY
7 RESTRICTED ACTIVITY, MOVEMENT AND SOCIAL INTERACTION. ISOLATED CONFINEMENT
8 DOES NOT INCLUDE CONFINEMENT DUE TO A FACILITY-WIDE OR UNIT-WIDE LOCKDOWN
9 THAT IS REQUIRED TO ENSURE THE SAFETY OF INMATES AND STAFF.

10 7. "LESS RESTRICTIVE INTERVENTION" MEANS A PLACEMENT OR CONDITIONS
11 OF CONFINEMENT, OR BOTH, IN THE CURRENT OR AN ALTERNATIVE CORRECTIONAL
12 FACILITY, UNDER CONDITIONS LESS RESTRICTIVE OF AN INMATE'S MOVEMENT,
13 PRIVILEGES, ACTIVITIES OR SOCIAL INTERACTIONS.

14 8. "MEDICAL ISOLATION" MEANS ISOLATED CONFINEMENT OF AN INMATE FOR
15 MEDICAL REASONS, INCLUDING A MENTAL HEALTH EMERGENCY OR WHEN NECESSARY FOR
16 PREVENTING THE SPREAD OF A COMMUNICABLE DISEASE.

17 9. "MEDICAL STAFF" MEANS STATE LICENSED PHYSICIANS, PHYSICIAN
18 ASSISTANTS, NURSE PRACTITIONERS OR CLINICAL NURSE SPECIALISTS OR, FOR
19 MENTAL HEALTH EVALUATIONS OR DECISIONS, THOSE REGISTERED NURSES WITH A
20 SPECIALTY IN PSYCHIATRIC NURSING OR COMPARABLY CREDENTIALLED EMPLOYEES OR
21 CONTRACTORS EMPLOYED TO PROVIDE HEALTHCARE.

22 10. "MEMBER OF A VULNERABLE POPULATION" MEANS AN INMATE WHO:

23 (a) IS TWENTY-ONE YEARS OF AGE OR LESS.

24 (b) IS FIFTY-FIVE YEARS OF AGE OR OLDER.

25 (c) HAS A SERIOUS MENTAL DISABILITY OR A DISABILITY BASED ON A
26 MENTAL ILLNESS, HAS A HISTORY OF PSYCHIATRIC HOSPITALIZATION OR HAS
27 RECENTLY EXHIBITED CONDUCT, INCLUDING SERIOUS SELF-MUTILATION, INDICATING
28 THE NEED FOR FURTHER OBSERVATION OR EVALUATION TO DETERMINE THE PRESENCE
29 OF MENTAL ILLNESS.

30 (d) HAS A DEVELOPMENTAL DISABILITY.

31 (e) HAS A SERIOUS MEDICAL CONDITION THAT CANNOT EFFECTIVELY BE
32 TREATED IN ISOLATED CONFINEMENT.

33 (f) IS PREGNANT, IS IN THE POSTPARTUM PERIOD OR HAS RECENTLY
34 SUFFERED A MISCARRIAGE OR TERMINATED A PREGNANCY.

35 (g) HAS A SIGNIFICANT AUDITORY OR VISUAL IMPAIRMENT.

36 (h) IS PERCEIVED TO BE LESBIAN, GAY, BISEXUAL, TRANSGENDER OR
37 INTERSEX.

38 12. "PRISON ADMINISTRATOR" OR "ADMINISTRATOR" MEANS THE CHIEF
39 OPERATING OFFICER OR SENIOR ADMINISTRATIVE DESIGNEE OF A CORRECTIONAL
40 FACILITY.

41 13. "POSTPARTUM PERIOD" MEANS THE EIGHT WEEKS AFTER CHILDBIRTH.

42 14. "PROTECTIVE CUSTODY" MEANS CONFINEMENT OF AN INMATE IN A CELL
43 OR SIMILARLY CONFINED HOLDING OR LIVING SPACE UNDER CONDITIONS THAT ARE
44 NECESSARY TO PROTECT THE INMATE OR OTHERS.

1 11. "SERIOUS MENTAL DISABILITY" MEANS EITHER:
2 (a) A SERIOUS MENTAL ILLNESS INCLUDING SCHIZOPHRENIA, PSYCHOSIS,
3 MAJOR DEPRESSION AND BIPOLAR DISORDER.
4 (b) HAVING A SIGNIFICANT FUNCTIONAL IMPAIRMENT ALONG WITH A BRAIN
5 INJURY, ORGANIC BRAIN SYNDROME OR INTELLECTUAL DISABILITY.
6 15. "STATE CORRECTIONAL FACILITY" MEANS A STATE PRISON OR OTHER
7 PENAL INSTITUTION.
8 Sec. 3. Effective date
9 This act is effective from and after December 31, 2020.