

**** 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 JULY 2018 MEETING."

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:

- (a) only as a last resort;
- (b) as a response to the most serious and threatening behavior;
- (c) for the shortest time possible; and
- (d) with the least restrictive conditions possible.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 5], the following definitions apply:

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

(b) "Disciplinary detention" means a punitive confinement determined by a due process impartial hearing that separates offenders from the general population for serious rule violations.

(c) "Exigent circumstances" means circumstances that pose an immediate and substantial threat to the safety of an inmate or other individuals. [SB 257 MONTANA 2017]

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

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

(f) "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 segregation, disciplinary detention, prehearing confinement, and those cells used to house maximum custody or special management inmates.

(g) "Solitary confinement" means confinement alone in a cell for 20 hours or more in a day. [SB 257 MONTANA] OR means the status of confinement of an inmate in an individual cell having solid, soundproof doors and that deprives the inmate of all visual and auditory contact with other people. [NEBRASKA LB 598 2015]

(h) "Special management" 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 -- restriction on use of long-term solitary confinement. (1) The department may not house a pregnant woman or a juvenile in solitary confinement.

(2) The department may not house an individual in solitary confinement for more than ~~XXXXXX~~ days.

NEW SECTION. **Section 4. Use of restricted housing -- policies.** (1) The department shall develop or revise existing policies and procedures to 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 segregation unless exigent circumstances exist; 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 serious mental illness.

(3) In conjunction with the requirements of subsection (1), the department shall study the feasibility of establishing or expanding existing specialized units to house inmates who need protective custody or to house and treat inmates who need behavioral health programming.

NEW SECTION. **Section 5. Inmates with serious mental illness -- long-term restricted housing -- work group.** (1) The department may not house an inmate with serious mental illness in restricted housing or solitary confinement except in exigent circumstances. [COLORADO SB 64 AND MT SB 257]

(2) The department shall establish a work group to advise the department on policies and procedures that align with the policy stated in [section 1] and related to the proper treatment and care of offenders with serious mental illness in long-term restricted housing. [COLORADO SB 64] The work group consists of:

(a) the deputy director of the department, or the deputy director's designee, who will convene and serve as the presiding officer of the work group;

(b) the warden of the Montana state prison;

(c) the warden of the Montana women's prison;

(d) two department staff appointed by the director who have expertise in behavioral health or clinical services;

(e) two representatives from a nonprofit prisoners' rights

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As of: July 3, 2018 (8:18AM)

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advocacy group, one who is appointed by the speaker of the house and one who is appointed by the president of the senate; and

(f) two mental health professionals independent of the department with particular knowledge of prisons and conditions of confinement, one who is appointed by the speaker of the house and one who is appointed by the president of the senate.

(3) The work group shall meet at least semi-annually. The presiding officer shall provide the work group with quarterly updates on the department's policies related to the work group's subject area. The work group has the power to request on a periodic basis, information and data from the department on the status of the department's work on policies and procedures related to the proper treatment and care of offenders with serious mental illness in long-term restricted housing. [CO SB 64]

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