

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 314

STATE OF NEW JERSEY

DATED: MAY 20, 2019

The Assembly Judiciary Committee reports favorably Assembly Bill No. 314.

This bill restricts the use of isolated confinement in correctional facilities in New Jersey. The bill prohibits inmates incarcerated or detained in correctional facilities from being placed in isolated confinement unless there is reasonable cause to believe that the inmate or others would be at substantial risk of immediate, serious harm as evidenced by recent threats or conduct, and any less restrictive intervention would be insufficient to reduce that risk. The bill defines isolated confinement as “confinement of an inmate in a correctional facility, pursuant to disciplinary, administrative, protective, investigative, medical, or other classification, in a cell or similarly confined holding or living space, alone or with other inmates, for approximately 20 hours or more per day with severely restricted activity, movement, and social interaction.”

The bill provides that the correctional facility is responsible for establishing the justification for isolated confinement by clear and convincing evidence, and that inmates may not be placed in isolated confinement for non-disciplinary reasons. Certain exceptions to the restrictions on isolated confinement for facility-wide lock downs, emergency confinement, medical isolation, and protective custody are provided by the bill.

The bill requires that inmates receive a personal and comprehensive medical and mental health examination, conducted by a clinician, before being placed in isolated confinement. However, in a county correctional facility, a preliminary examination is to be conducted by a member of the medical staff within 12 hours of confinement and the clinical examination is to be conducted within 48 hours of confinement.

The bill requires that initial procedures and reviews providing timely, fair, and meaningful opportunities for an inmate to contest the confinement are to be made available. The procedures are to include the right to an initial hearing within 72 hours of placement and reviews every 15 days thereafter, in the absence of exceptional circumstances, unavoidable delays, or reasonable postponements; the right to appear at the hearing; the right to be represented at the hearing; an independent hearing officer; and a written statement of reasons for the decision made at the hearing.

The bill provides that the final decision to place an inmate in isolated confinement is to be made by the facility administrator, except in cases involving medical isolation, and that an inmate is to be removed from isolated confinement if the administrator determines that the inmate no longer meets the standard for isolated confinement.

The bill requires that a clinician evaluate each inmate placed in isolated confinement on a daily basis, in a confidential setting outside of the cell whenever possible, to determine whether the inmate is a member of a vulnerable population. However, in a county correctional facility, an inmate in isolated confinement is to be evaluated by a member of the medical staff as frequently as clinically indicated, but at least once a week. The bill provides that an inmate determined to be a member of a vulnerable population is to be immediately removed from isolated confinement to an appropriate placement. An inmate is a member of a vulnerable population, as defined in the bill, if he or she is 21 years of age or younger; is 65 years of age or older; has a disability based on a mental illness, a history of psychiatric hospitalization, or has recently exhibited conduct, including but not limited to serious self-mutilation, indicating the need for further observation or evaluation to determine the presence of mental illness; has a developmental disability; has a serious medical condition which cannot effectively be treated in isolated confinement; is pregnant; is in the postpartum period, or has recently suffered a miscarriage or terminated a pregnancy; has a significant auditory or visual impairment; or is perceived to be lesbian, gay, bisexual, transgender, or intersex.

The bill further provides that no inmate is to be placed in isolated confinement for more than 15 consecutive days, or for more than 20 days during any 60-day period, and that cells or other holding or living spaces used for isolated confinement are to be properly ventilated, lit, temperature-controlled, clean, and equipped with properly functioning sanitary fixtures.

The bill provides that staffing patterns for correctional and program staff are to be set at levels necessary to ensure the safety of staff and inmates under the provisions of the bill.

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.