

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Isolated Confinement Restriction Act.

6 Section 5. Findings. The General Assembly finds and  
7 declares that:

8 (1) The use of isolated confinement in this State's  
9 correctional facilities shall be restricted to ensure the safe  
10 and humane operation of these facilities, consistent with the  
11 Illinois Constitution, the laws and public policies of this  
12 State, the mission of the correctional system, evolving medical  
13 knowledge, and human rights standards of decency.

14 (2) Isolated confinement shall only be used when absolutely  
15 necessary, and shall not be used against vulnerable populations  
16 or under conditions or for time periods that are in excess of 5  
17 days which can foster psychological trauma, psychiatric  
18 disorders, or serious, long-term damage to an isolated person's  
19 brain.

20 (3) The standards established in this Act shall apply to  
21 all persons confined in correctional facilities under the  
22 jurisdiction of this State regardless of the civil or criminal  
23 nature of the charges against them.

1 Section 10. Definitions. In this Act:

2 "Clinician" means any of the following:

3 (1) a physician who is licensed to practice medicine in  
4 all of its branches and is certified in psychiatry by the  
5 American Board of Psychiatry and Neurology or the American  
6 Osteopathic Board of Neurology and Psychiatry, or has  
7 completed 4 years of an accredited post-graduate training  
8 program in psychiatry; or

9 (2) a licensed clinical psychologist.

10 "Committed person" means a person confined in a  
11 correctional facility.

12 "Correctional facility" means any State correctional  
13 facility or county correctional facility, and any State,  
14 county, or private facility detaining persons under any  
15 intergovernmental service agreement or other contract with any  
16 State, county, or federal agency, including, but not limited  
17 to, United States Immigration and Customs Enforcement.

18 "Director" means the Director of Corrections.

19 "Emergency confinement" means the isolated confinement of  
20 a committed person in a correctional facility when there is  
21 reasonable cause to believe that this confinement is necessary  
22 to reduce a substantial risk of imminent serious harm to the  
23 committed person or others.

24 "Facility administrator" or "administrator" means the  
25 chief operating officer, senior administrative designee, or

1 warden of a correctional facility.

2 "Isolated confinement" means confinement of a committed  
3 person in a correctional facility, under disciplinary,  
4 administrative, protective, investigative, medical, or other  
5 classification, in a cell or similarly confined holding or  
6 living space, alone or with other inmates, for approximately 20  
7 hours or more per day, with severely restricted activity,  
8 movement, and social interaction.

9 "Less restrictive intervention" means a placement or  
10 conditions of confinement, or both, in the current or an  
11 alternative correctional facility, under less restrictive  
12 conditions on a committed person's movement, privileges,  
13 activities, and social interactions.

14 "Medical isolation" means isolated confinement of a  
15 committed person for medical reasons, including a mental health  
16 emergency or when necessary to prevent the spread of a  
17 communicable disease.

18 "Member of a vulnerable population" means any committed  
19 person who:

20 (1) is 21 years of age or younger;

21 (2) is 55 years of age or older;

22 (3) has a disability based on a mental illness, a  
23 history of psychiatric hospitalization, or has recently  
24 exhibited conduct, including, but not limited to, serious  
25 self mutilation, indicating the need for further  
26 observation or evaluation to determine the presence of

1           mental illness;

2                 (4) has a developmental disability;

3                 (5) has a serious medical condition which cannot  
4           effectively be treated in isolated confinement;

5                 (6) is pregnant;

6                 (7) has a significant auditory or visual impairment; or

7                 (8) is lesbian, gay, bisexual, or transgender.

8           "Protective custody" means confinement of a committed  
9           person in a cell or similarly confined holding or living space,  
10           under conditions necessary to protect the committed person or  
11           others.

12           "State correctional facility" means a State prison or other  
13           penal institution or an institution or facility designated by  
14           the Director as a place of confinement.

15           Section 15. Restrictions on the use of isolated  
16           confinement.

17           (a) Except as provided in subsection (b), the use of  
18           isolated confinement in correctional facilities in this State  
19           shall be restricted as follows:

20                 (1) a committed person shall not be placed in isolated  
21           confinement unless there is reasonable cause to believe  
22           that the committed person would create a substantial risk  
23           of immediate serious harm to himself, herself, or another,  
24           and a less restrictive intervention would be insufficient  
25           to reduce this risk and the correctional facility shall

1 bear the burden of establishing this standard;

2 (2) a committed person shall not be placed in isolated  
3 confinement before receiving a personal and comprehensive  
4 medical and mental health examination conducted by a  
5 clinician;

6 (3) the final decision to place a committed person in  
7 isolated confinement shall be made by the facility  
8 administrator;

9 (4) a committed person shall not be placed or retained  
10 in isolated confinement if the facility administrator  
11 determines that the committed person no longer meets the  
12 standard for isolated confinement;

13 (5) a committed person who is a member of a vulnerable  
14 population shall not be placed in isolated confinement and  
15 any committed person who is a member of a vulnerable  
16 population shall not be subject to discipline for refusing  
17 treatment or medication, or for self-harming or related  
18 conduct or threats of this conduct, and shall be placed in  
19 a specialized unit, as designated by the Director, or be  
20 civilly admitted or committed to an appropriate facility  
21 designated by the Department of Human Services;

22 (6) a committed person shall not be placed in isolated  
23 confinement or in any other cell or holding space or living  
24 space, in any facility, with one or more committed persons  
25 if there is reasonable cause to believe that there is a  
26 risk of harm or harassment, intimidation, extortion, or

1 other physical or emotional abuse to that committed person  
2 or another committed person in that placement; and

3 (7) except during a facility-wide lockdown, a  
4 committed person may not be placed in isolated confinement  
5 for more than 5 consecutive days or more than 5 days during  
6 any 150-day period;

7 (8) a committed person shall not involuntarily be  
8 placed in isolated confinement for non-disciplinary  
9 reasons;

10 (9) a committed person shall only be held in isolated  
11 confinement under initial procedures and reviews which  
12 provide timely, fair, and meaningful opportunities for the  
13 committed person to contest the confinement, including the  
14 right to an initial hearing within 72 hours of placement  
15 and a review by the facility administrator or his or her  
16 specifically designated employee each 4 days thereafter,  
17 unless exceptional circumstances, unavoidable delays, or  
18 reasonable postponements exist; the right to appear at the  
19 hearing, the right to be represented at the hearing, an  
20 independent hearing officer, and a written statement of  
21 reasons for the decision made at the hearing; and

22 (10) cells or other holding or living spaces used for  
23 isolated confinement shall be ventilated, lit,  
24 temperature-controlled, clean, and equipped with properly  
25 functioning sanitary fixtures.

26 (b) Isolated confinement shall be permitted under limited

1 circumstances as follows:

2 (1) The facility administrator determines that a lock  
3 down is to be implemented in the limited area of the  
4 correctional facility where an outbreak or violence has  
5 occurred, or when a facility-wide lockdown is required to  
6 ensure the safety of committed persons in the facility  
7 until the administrator determines that these  
8 circumstances no longer exist. The facility administrator  
9 shall document specific reasons why any lockdown is  
10 necessary for more than 24 hours, and why less restrictive  
11 interventions are insufficient to accomplish the safety  
12 goals. Within 6 hours of a decision to extend a lockdown  
13 beyond 24 hours, the Director shall publish the reasons on  
14 the Department of Corrections website and provide  
15 meaningful notice of the reasons for the lockdown to the  
16 General Assembly.

17 (2) The facility administrator determines that a  
18 committed person shall be placed in emergency confinement.

19 (A) A committed person shall not be held in  
20 emergency confinement for more than 24 hours.

21 (B) A committed person held in emergency  
22 confinement shall receive an initial medical and  
23 mental health evaluation within 2 hours, and a personal  
24 and comprehensive medical and mental health evaluation  
25 within 24 hours. Reports of these evaluations shall be  
26 immediately provided to the facility administrator.

1           (3) A physician, based on a personal examination,  
2 determines that a committed person shall be placed or  
3 retained in medical isolation. The decision to place and  
4 retain a committed person in medical isolation due to a  
5 mental health emergency shall be made by a clinician based  
6 on a personal examination. In any case of isolation under  
7 this paragraph (3), a clinical review shall be conducted at  
8 least every 6 hours and as indicated. A committed person in  
9 medical isolation under this paragraph (3) shall be placed  
10 in a mental health unit as designated by the Director.

11           (4) The facility administrator determines that a  
12 committed person should be placed in protective custody as  
13 follows:

14           (A) The committed person may be placed in voluntary  
15 protective custody only with informed, voluntary,  
16 written consent and when there is reasonable cause to  
17 believe that confinement is necessary to prevent  
18 reasonably foreseeable harm and if a committed person  
19 makes an informed voluntary written request for  
20 protective custody, the correctional facility shall  
21 bear the burden of establishing a basis for refusing  
22 the request.

23           (B) The committed person may be placed in  
24 involuntary protective custody only if there is clear  
25 and convincing evidence that confinement is necessary  
26 to prevent reasonably foreseeable harm and that no less



1 restrictive intervention would be sufficient to  
2 prevent that harm.

3 (C) A committed person placed in protective  
4 custody shall receive comparable opportunities for  
5 activities, movement, and social interaction,  
6 consistent with his or her safety and the safety of  
7 others, as do committed persons in the general  
8 population of the facility.

9 (D) A committed person subject to removal from  
10 protective custody shall be provided with a timely,  
11 fair, and meaningful opportunity to contest the  
12 removal.

13 (E) A committed person who may be placed or  
14 currently is in voluntary protective custody may opt  
15 out of that status by providing informed, voluntary,  
16 written refusal of that status.

17 (5) A member of a vulnerable population shall not be  
18 placed in isolated confinement with one or more committed  
19 persons, except with the committed person's informed,  
20 voluntary, and written consent.

21 Section 20. Department rules.

22 (a) Within 90 days after the effective date of this Act,  
23 the Director shall:

24 (1) develop policies and implement procedures for the  
25 review of committed persons placed in isolated confinement

1 and submit proposed rules for adoption as required by this  
2 Act;

3 (2) initiate a review of each committed person placed  
4 in isolated confinement under the policies and procedures  
5 developed and implemented under this Act; and

6 (3) develop a plan for providing step-down and  
7 transitional units, programs, and staffing patterns to  
8 accommodate committed persons currently placed in isolated  
9 confinement.

10 (b) The Department of Corrections shall adopt rules to  
11 carry out the provisions of this Act. The rules shall include,  
12 but not be limited to:

13 (1) establishing less restrictive housing to isolated  
14 confinement, including: separation from other committed  
15 persons; transfer to other correctional facilities; any  
16 non-isolated confinement sanction authorized by Department  
17 of Corrections rules; removing restrictions on religious  
18 practices, mail, telephone privileges, and visit contacts;  
19 and restrictions on outdoor and recreation access shall  
20 only be imposed as is necessary for the safety of the  
21 committed person or others, and in no case shall restrict  
22 access to food, basic necessities, or legal access;

23 (2) requiring training of disciplinary staff and all  
24 staff working with committed persons in isolated  
25 confinement and requiring that this training include:

26 (A) assistance from appropriate professionals in

1           the Department of Human Services to periodically train  
2           all staff working with committed persons in isolated  
3           confinement; and

4           (B) standards for isolated confinement, the  
5           identification of developmental disabilities, and the  
6           symptoms of mental illness, including trauma  
7           disorders, and methods of safe responses to people in  
8           distress;

9           (3) requiring documentation of all decisions,  
10          procedures, and reviews of committed persons placed in  
11          isolated confinement;

12          (4) requiring monitoring of compliance with all rules  
13          governing cells, units, and other places where committed  
14          persons are placed in isolated confinement; and

15          (5) requiring posting on the official website of the  
16          Department of Corrections of quarterly reports on the use  
17          of isolated confinement, by age, sex, gender identity,  
18          ethnicity, incidence of mental illness, and type of  
19          confinement status, at each facility; these reports shall  
20          include the population on the last day of each quarter and  
21          a non-duplicative cumulative count of persons exposed to  
22          isolated confinement for each fiscal year. These reports  
23          shall include the incidence of emergency confinement,  
24          self-harm, suicide, and assault in any isolated  
25          confinement unit, as well as explanations for each instance  
26          of facility-wide lockdown. These reports shall not include

1 personally identifiable information regarding any  
2 committed person.

3 Section 105. The Unified Code of Corrections is amended by  
4 changing Section 3-8-7 as follows:

5 (730 ILCS 5/3-8-7) (from Ch. 38, par. 1003-8-7)

6 Sec. 3-8-7. Disciplinary Procedures.→

7 (a) All disciplinary action shall be consistent with this  
8 Chapter. Rules of behavior and conduct, the penalties for  
9 violation thereof, and the disciplinary procedure by which such  
10 penalties may be imposed shall be available to committed  
11 persons.

12 (b) (1) Corporal punishment and disciplinary restrictions  
13 on diet, medical or sanitary facilities, mail or access to  
14 legal materials are prohibited.

15 (2) (Blank).

16 (3) (Blank).

17 (c) Review of disciplinary action imposed under this  
18 Section shall be provided by means of the grievance procedure  
19 under Section 3-8-8. The Department shall provide a disciplined  
20 person with a review of his or her disciplinary action in a  
21 timely manner as required by law.

22 (d) All institutions and facilities of the Department of  
23 Corrections shall establish, subject to the approval of the  
24 Director, procedures for hearing disciplinary cases except

1 those that may involve the imposition of disciplinary  
2 segregation and isolation; the loss of good time credit under  
3 Section 3-6-3 or eligibility to earn good time credit.

4 (e) In disciplinary cases which may involve the imposition  
5 of ~~disciplinary segregation and isolation~~, the loss of good  
6 time credit or eligibility to earn good time credit, the  
7 Director shall establish disciplinary procedures consistent  
8 with the following principles:

9 (1) Any person or persons who initiate a disciplinary  
10 charge against a person shall not determine the disposition  
11 of the charge. The Director may establish one or more  
12 disciplinary boards to hear and determine charges.

13 (2) Any committed person charged with a violation of  
14 Department rules of behavior shall be given notice of the  
15 charge including a statement of the misconduct alleged and  
16 of the rules this conduct is alleged to violate.

17 (3) Any person charged with a violation of rules is  
18 entitled to a hearing on that charge at which time he shall  
19 have an opportunity to appear before and address the person  
20 or persons deciding the charge.

21 (4) The person or persons determining the disposition  
22 of the charge may also summon to testify any witnesses or  
23 other persons with relevant knowledge of the incident.

24 (5) If the charge is sustained, the person charged is  
25 entitled to a written statement of the decision by the  
26 persons determining the disposition of the charge which

1 shall include the basis for the decision and the  
2 disciplinary action, if any, to be imposed.

3 (6) (Blank).

4 (f) In disciplinary cases which may involve the imposition  
5 of segregation and isolation, isolated confinement, or  
6 restrictive housing, the Director shall establish disciplinary  
7 procedures consistent with the Isolated Confinement  
8 Restriction Act.

9 (Source: P.A. 97-1083, eff. 8-24-12.)

10 Section 999. Effective date. This Act takes effect January  
11 1, 2017, except that this Section and Section 20 take effect  
12 upon becoming law.