



Rep. La Shawn K. Ford

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LRB099 17537 RLC 46417 a

1 AMENDMENT TO HOUSE BILL 5417

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5417 by replacing  
3 everything after the enacting clause with the following:

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

1 days which can foster psychological trauma, psychiatric  
2 disorders, or serious, long-term damage to an isolated person's  
3 brain.

4 (3) The standards established in this Act shall apply to  
5 all persons confined in correctional facilities under the  
6 jurisdiction of this State regardless of the civil or criminal  
7 nature of the charges against them.

8 Section 10. Definitions. In this Act:

9 "Clinician" means any of the following:

10 (1) a physician who is licensed to practice medicine in  
11 all of its branches and is certified in psychiatry by the  
12 American Board of Psychiatry and Neurology or the American  
13 Osteopathic Board of Neurology and Psychiatry, or has  
14 completed 4 years of an accredited post-graduate training  
15 program in psychiatry; or

16 (2) a licensed clinical psychologist.

17 "Committed person" means a person confined in a  
18 correctional facility.

19 "Correctional facility" means any State correctional  
20 facility or county correctional facility, and any State,  
21 county, or private facility detaining persons under any  
22 intergovernmental service agreement or other contract with any  
23 State, county, or federal agency, including, but not limited  
24 to, United States Immigration and Customs Enforcement.

25 "Director" means the Director of Corrections.

1 "Emergency confinement" means the isolated confinement of  
2 a committed person in a correctional facility when there is  
3 reasonable cause to believe that this confinement is necessary  
4 to reduce a substantial risk of imminent serious harm to the  
5 committed person or others.

6 "Facility administrator" or "administrator" means the  
7 chief operating officer, senior administrative designee, or  
8 warden of a correctional facility.

9 "Isolated confinement" means confinement of a committed  
10 person in a correctional facility, under disciplinary,  
11 administrative, protective, investigative, medical, or other  
12 classification, in a cell or similarly confined holding or  
13 living space, alone or with other inmates, for approximately 20  
14 hours or more per day, with severely restricted activity,  
15 movement, and social interaction.

16 "Less restrictive intervention" means a placement or  
17 conditions of confinement, or both, in the current or an  
18 alternative correctional facility, under less restrictive  
19 conditions on a committed person's movement, privileges,  
20 activities, and social interactions.

21 "Medical isolation" means isolated confinement of a  
22 committed person for medical reasons, including a mental health  
23 emergency or when necessary to prevent the spread of a  
24 communicable disease.

25 "Member of a vulnerable population" means any committed  
26 person who:

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

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

3 (3) has a disability based on a mental illness, a  
4 history of psychiatric hospitalization, or has recently  
5 exhibited conduct, including, but not limited to, serious  
6 self mutilation, indicating the need for further  
7 observation or evaluation to determine the presence of  
8 mental illness;

9 (4) has a developmental disability;

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

12 (6) is pregnant;

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

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

15 "Protective custody" means confinement of a committed  
16 person in a cell or similarly confined holding or living space,  
17 under conditions necessary to protect the committed person or  
18 others.

19 "State correctional facility" means a State prison or other  
20 penal institution or an institution or facility designated by  
21 the Director as a place of confinement.

22 Section 15. Restrictions on the use of isolated  
23 confinement.

24 (a) Except as provided in subsection (b), the use of  
25 isolated confinement in correctional facilities in this State

1 shall be restricted as follows:

2 (1) a committed person shall not be placed in isolated  
3 confinement unless there is reasonable cause to believe  
4 that the committed person would create a substantial risk  
5 of immediate serious harm to himself, herself, or another,  
6 and a less restrictive intervention would be insufficient  
7 to reduce this risk and the correctional facility shall  
8 bear the burden of establishing this standard;

9 (2) a committed person shall not be placed in isolated  
10 confinement before receiving a personal and comprehensive  
11 medical and mental health examination conducted by a  
12 clinician;

13 (3) the final decision to place a committed person in  
14 isolated confinement shall be made by the facility  
15 administrator;

16 (4) a committed person shall not be placed or retained  
17 in isolated confinement if the facility administrator  
18 determines that the committed person no longer meets the  
19 standard for isolated confinement;

20 (5) a committed person who is a member of a vulnerable  
21 population shall not be placed in isolated confinement and  
22 any committed person who is a member of a vulnerable  
23 population shall not be subject to discipline for refusing  
24 treatment or medication, or for self-harming or related  
25 conduct or threats of this conduct, and shall be placed in  
26 a specialized unit, as designated by the Director, or be

1           civilly admitted or committed to an appropriate facility  
2           designated by the Department of Human Services;

3           (6) a committed person shall not be placed in isolated  
4           confinement or in any other cell or holding space or living  
5           space, in any facility, with one or more committed persons  
6           if there is reasonable cause to believe that there is a  
7           risk of harm or harassment, intimidation, extortion, or  
8           other physical or emotional abuse to that committed person  
9           or another committed person in that placement; and

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

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

17          (9) a committed person shall only be held in isolated  
18          confinement under initial procedures and reviews which  
19          provide timely, fair, and meaningful opportunities for the  
20          committed person to contest the confinement, including the  
21          right to an initial hearing within 72 hours of placement  
22          and a review by the facility administrator or his or her  
23          specifically designated employee each 4 days thereafter,  
24          unless exceptional circumstances, unavoidable delays, or  
25          reasonable postponements exist; the right to appear at the  
26          hearing, the right to be represented at the hearing, an

1 independent hearing officer, and a written statement of  
2 reasons for the decision made at the hearing; and

3 (10) cells or other holding or living spaces used for  
4 isolated confinement shall be ventilated, lit,  
5 temperature-controlled, clean, and equipped with properly  
6 functioning sanitary fixtures.

7 (b) Isolated confinement shall be permitted under limited  
8 circumstances as follows:

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

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

26 (A) A committed person shall not be held in

1 emergency confinement for more than 24 hours.

2 (B) A committed person held in emergency  
3 confinement shall receive an initial medical and  
4 mental health evaluation within 2 hours, and a personal  
5 and comprehensive medical and mental health evaluation  
6 within 24 hours. Reports of these evaluations shall be  
7 immediately provided to the facility administrator.

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

18 (4) The facility administrator determines that a  
19 committed person should be placed in protective custody as  
20 follows:

21 (A) The committed person may be placed in voluntary  
22 protective custody only with informed, voluntary,  
23 written consent and when there is reasonable cause to  
24 believe that confinement is necessary to prevent  
25 reasonably foreseeable harm and if a committed person  
26 makes an informed voluntary written request for



1 protective custody, the correctional facility shall  
2 bear the burden of establishing a basis for refusing  
3 the request.

4 (B) The committed person may be placed in  
5 involuntary protective custody only if there is clear  
6 and convincing evidence that confinement is necessary  
7 to prevent reasonably foreseeable harm and that no less  
8 restrictive intervention would be sufficient to  
9 prevent that harm.

10 (C) A committed person placed in protective  
11 custody shall receive comparable opportunities for  
12 activities, movement, and social interaction,  
13 consistent with his or her safety and the safety of  
14 others, as do committed persons in the general  
15 population of the facility.

16 (D) A committed person subject to removal from  
17 protective custody shall be provided with a timely,  
18 fair, and meaningful opportunity to contest the  
19 removal.

20 (E) A committed person who may be placed or  
21 currently is in voluntary protective custody may opt  
22 out of that status by providing informed, voluntary,  
23 written refusal of that status.

24 (5) A member of a vulnerable population shall not be  
25 placed in isolated confinement with one or more committed  
26 persons, except with the committed person's informed,

1 voluntary, and written consent.

2 Section 20. Department rules.

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

5 (1) develop policies and implement procedures for the  
6 review of committed persons placed in isolated confinement  
7 and submit proposed rules for adoption as required by this  
8 Act;

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

12 (3) develop a plan for providing step-down and  
13 transitional units, programs, and staffing patterns to  
14 accommodate committed persons currently placed in isolated  
15 confinement.

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

19 (1) establishing less restrictive housing to isolated  
20 confinement, including: separation from other committed  
21 persons; transfer to other correctional facilities; any  
22 non-isolated confinement sanction authorized by Department  
23 of Corrections rules; removing restrictions on religious  
24 practices, mail, telephone privileges, and visit contacts;  
25 and restrictions on outdoor and recreation access shall

1           only be imposed as is necessary for the safety of the  
2           committed person or others, and in no case shall restrict  
3           access to food, basic necessities, or legal access;

4           (2) requiring training of disciplinary staff and all  
5           staff working with committed persons in isolated  
6           confinement and requiring that this training include:

7                   (A) assistance from appropriate professionals in  
8                   the Department of Human Services to periodically train  
9                   all staff working with committed persons in isolated  
10                  confinement; and

11                   (B) standards for isolated confinement, the  
12                   identification of developmental disabilities, and the  
13                   symptoms of mental illness, including trauma  
14                   disorders, and methods of safe responses to people in  
15                   distress;

16           (3) requiring documentation of all decisions,  
17           procedures, and reviews of committed persons placed in  
18           isolated confinement;

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

22           (5) requiring posting on the official website of the  
23           Department of Corrections of quarterly reports on the use  
24           of isolated confinement, by age, sex, gender identity,  
25           ethnicity, incidence of mental illness, and type of  
26           confinement status, at each facility; these reports shall

1 include the population on the last day of each quarter and  
2 a non-duplicative cumulative count of persons exposed to  
3 isolated confinement for each fiscal year. These reports  
4 shall include the incidence of emergency confinement,  
5 self-harm, suicide, and assault in any isolated  
6 confinement unit, as well as explanations for each instance  
7 of facility-wide lockdown. These reports shall not include  
8 personally identifiable information regarding any  
9 committed person.

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

12 (730 ILCS 5/3-8-7) (from Ch. 38, par. 1003-8-7)

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

14 (a) All disciplinary action shall be consistent with this  
15 Chapter. Rules of behavior and conduct, the penalties for  
16 violation thereof, and the disciplinary procedure by which such  
17 penalties may be imposed shall be available to committed  
18 persons.

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

22 (2) (Blank).

23 (3) (Blank).

24 (c) Review of disciplinary action imposed under this

1 Section shall be provided by means of the grievance procedure  
2 under Section 3-8-8. The Department shall provide a disciplined  
3 person with a review of his or her disciplinary action in a  
4 timely manner as required by law.

5 (d) All institutions and facilities of the Department of  
6 Corrections shall establish, subject to the approval of the  
7 Director, procedures for hearing disciplinary cases except  
8 those that may involve the imposition of disciplinary  
9 segregation and isolation; the loss of good time credit under  
10 Section 3-6-3 or eligibility to earn good time credit.

11 (e) In disciplinary cases which may involve the imposition  
12 of ~~disciplinary segregation and isolation~~, the loss of good  
13 time credit or eligibility to earn good time credit, the  
14 Director shall establish disciplinary procedures consistent  
15 with the following principles:

16 (1) Any person or persons who initiate a disciplinary  
17 charge against a person shall not determine the disposition  
18 of the charge. The Director may establish one or more  
19 disciplinary boards to hear and determine charges.

20 (2) Any committed person charged with a violation of  
21 Department rules of behavior shall be given notice of the  
22 charge including a statement of the misconduct alleged and  
23 of the rules this conduct is alleged to violate.

24 (3) Any person charged with a violation of rules is  
25 entitled to a hearing on that charge at which time he shall  
26 have an opportunity to appear before and address the person

1 or persons deciding the charge.

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

5 (5) If the charge is sustained, the person charged is  
6 entitled to a written statement of the decision by the  
7 persons determining the disposition of the charge which  
8 shall include the basis for the decision and the  
9 disciplinary action, if any, to be imposed.

10 (6) (Blank).

11 (f) In disciplinary cases which may involve the imposition  
12 of segregation and isolation, isolated confinement, or  
13 restrictive housing, the Director shall establish disciplinary  
14 procedures consistent with the Isolated Confinement  
15 Restriction Act.

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

17 Section 999. Effective date. This Act takes effect January  
18 1, 2017, except that this Section and Section 20 take effect  
19 upon becoming law."