

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL DRH30323-MS-61B (02/14)

Short Title: Solitary Confinement in Prisons.

(Public)

Sponsors: Representative Cunningham.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH UNIFORM GUIDELINES AND PROCEDURES FOR THE USE
3 OF SOLITARY CONFINEMENT FOR MINOR OFFENDERS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 143B-704 reads as rewritten:

6 "§ 143B-704. Division of Adult Correction of the Department of Public Safety – functions.

7 (a) The functions of the Division of Adult Correction of the Department of Public
8 Safety shall comprise, except as otherwise expressly provided by the Executive Organization
9 Act of 1973 or by the Constitution of North Carolina, all functions of the executive branch of
10 the State in relation to corrections and the rehabilitation of adult offenders, including detention,
11 parole, and aftercare supervision, and further including those prescribed powers, duties, and
12 functions enumerated in Article 14 of Chapter 143A of the General Statutes and other laws of
13 this State.

14 (b) All such functions, powers, duties, and obligations heretofore vested in the
15 Department of Social Rehabilitation and Control and any agency enumerated in Article 14 of
16 Chapter 143A of the General Statutes and laws of this State are hereby transferred to and vested
17 in the Division of Adult Correction of the Department of Public Safety except as otherwise
18 provided by the Executive Organization Act of 1973. They shall include, by way of extension
19 and not of limitation, the functions of:

20 (1) The State Department of Correction and Commission of Correction,

21 (2) Repealed by Session Laws 1999-423, s. 8, effective July 1, 1999.

22 (3) The State Probation Commission,

23 (4) The State Board of Paroles,

24 (5) The Interstate Agreement on Detainers, and

25 (6) The Uniform Act for Out-of-State Parolee Supervision.

26 (c) Repealed by Session Laws 2012-83, s. 9, effective June 26, 2012.

27 (d) The Division shall establish an alcoholism and chemical dependency treatment
28 program. The program shall consist of a continuum of treatment and intervention services for
29 male and female inmates, established in medium and minimum custody prison facilities, and
30 for male and female probationers and parolees, established in community-based residential
31 treatment facilities.

32 (e) The Department, in consultation with the Domestic Violence Commission, and in
33 accordance with established best practices, shall establish a domestic violence treatment
34 program for offenders sentenced to a term of imprisonment in the custody of the Department
35 and whose official record includes a finding by the court that the offender committed acts of
36 domestic violence.



1 The Department shall ensure that inmates, whose record includes a finding by the court that
2 the offender committed acts of domestic violence, complete a domestic violence treatment
3 program prior to the completion of the period of incarceration, unless other requirements,
4 deemed critical by the Department, prevent program completion. In the event an inmate does
5 not complete the program during the period of incarceration, the Department shall document, in
6 the inmate's official record, specific reasons why that particular inmate did not or was not able
7 to complete the program.

8 (f) Solitary Confinement. – The Division shall establish uniform guidelines and
9 procedures for the use of solitary confinement for minor offenders sentenced to a term of
10 imprisonment in the custody of the Department. The placement of a minor offender in solitary
11 confinement shall be in accordance with the following guidelines:

- 12 (1) Solitary confinement shall not be used before other less restrictive options
13 have been attempted and exhausted, unless attempting those options poses a
14 threat to the safety of any other minor, inmate, or staff.
- 15 (2) Solitary confinement shall not be used for the purposes of punishment,
16 coercion, convenience, or retaliation by staff.
- 17 (3) Solitary confinement shall not be used to the extent that it compromises the
18 mental and physical health of the minor."

19 **SECTION 2.** G.S. 148-11 reads as rewritten:

20 **"§ 148-11. Authority to adopt rules; authority to designate uniforms.**

21 (a) The Secretary shall adopt rules for the government of the State prison system. The
22 Secretary shall have the rules that pertain to enforcing discipline read to every prisoner when
23 received in the State prison system and a printed copy of these rules made available to the
24 prisoners. These rules shall contain the guidelines and procedures for solitary confinement as
25 promulgated by the Division pursuant to G.S. 143B-704(f).

26 (b) The Secretary of Public Safety has sole authority to designate the uniforms worn by
27 inmates confined in the Section of Prisons of the Division of Adult Correction."

28 **SECTION 3.** Article 2 of Chapter 148 of the General Statutes is amended by
29 adding a new section to read:

30 **"§ 148-13.1. Regulations and restrictions on time spent in solitary confinement.**

31 (a) Minor offenders sentenced to a term of imprisonment in the Department of
32 Corrections may be placed in solitary confinement only in accordance with the guidelines and
33 procedures promulgated by the Division to G.S. 143B-704(f) for an initial period of four hours.
34 After four hours, staff shall do one or more of the following:

- 35 (1) Return the minor to general population.
- 36 (2) Consult with mental health or medical staff.
- 37 (3) Develop an individualized plan that includes the goals or objectives that
38 must be met to reintegrate the minor into general population.

39 (b) If a minor must be held in solitary confinement for more than four hours, staff shall
40 do the following:

- 41 (1) Document the reason and need for extended solitary confinement, the date
42 and time the minor was first placed in solitary confinement, and the time the
43 minor is released from solitary confinement.
- 44 (2) Develop an individualized plan that includes the goals and objectives to be
45 met in order to reintegrate the minor to general population.
- 46 (3) Obtain documented authorization by the facility superintendent or the
47 superintendent's designee every four hours thereafter.

48 (c) This section does not apply during an extraordinary, emergency circumstance that
49 requires significant departure from normal institutional operations, including a natural disaster
50 or facility-wide threat that poses an imminent and substantial risk of harm to multiple staff,

1 minors, or wards. This exception shall apply for the shortest amount of time needed to address
2 the imminent and substantial risk of harm.

3 (d) The Department of Public Safety shall report to the chairs of the Joint Legislative
4 Oversight Committee on Justice and Public Safety on the use of solitary confinement with
5 minor offenders under 18 years old."

6 **SECTION 4.** G.S. 7B-1501 is amended by adding a new subdivision to read:

7 "(24a) Solitary confinement. – The placement of a detained juvenile in a locked
8 sleep room or cell alone with minimal or no contact with persons other than
9 facility staff and attorneys. Solitary confinement does not include
10 confinement of a person in a single-person room or cell for brief periods of
11 locked-room confinement necessary for required facility operations."

12 **SECTION 5.** Article 20 of Chapter 7B of the General Statutes is amended by
13 adding a new section to read:

14 **"§ 7B-2003. Limitations on solitary confinement of a juvenile.**

15 (a) Any juvenile who is detained in a detention facility pursuant to G.S. 7B-1905 or
16 who is committed to the Division pursuant to G.S. 7B-2513 may only be subject to placement
17 in solitary confinement as provided for in this section. The placement of a juvenile in solitary
18 confinement shall be in accordance with the following:

19 (1) Solitary confinement shall not be used prior to an attempt to use other less
20 restrictive options and when the use of those options have been exhausted,
21 unless attempting those options poses a threat to the safety or security of any
22 other detained juvenile or staff person.

23 (2) Solitary confinement shall not be used for the purposes of punishment,
24 coercion, convenience, or retaliation by staff persons.

25 (3) Solitary confinement shall not be used to the extent that it compromises the
26 mental and physical health of the juvenile.

27 (b) A juvenile may only be held in solitary confinement for up to four consecutive
28 hours in a 24-hour period. If a juvenile has been held in solitary confinement for a period of
29 four consecutive hours, a staff person shall do one or more of the following:

30 (1) Allow the juvenile access to areas of the facility provided for the general
31 population.

32 (2) Consult with mental health or medical staff on the placement of the juvenile.

33 (3) Develop an individualized plan for the juvenile that includes the goals and
34 objectives to be met in order to reintegrate the juvenile into areas of the
35 facility provided for the general population.

36 (c) If it is determined that a juvenile shall be placed in solitary confinement in excess of
37 four consecutive hours in a 24-hour period, the staff shall do all of the following:

38 (1) Document in the facility's records for the juvenile the reason for solitary
39 confinement and the basis for the extension, the date and time the juvenile
40 was first placed in solitary confinement, and the date and time that the
41 juvenile was released from solitary confinement.

42 (2) Develop an individualized plan that includes the goals and objectives to be
43 met in order to reintegrate the juvenile into areas of the facility provided for
44 the general population.

45 (3) Obtain documentation for the facility's record for the juvenile of
46 authorization by the facility director or superintendent or his or her designee
47 for the juvenile to remain in solitary confinement for every four-hour period
48 following the initial four consecutive hours.

49 (d) This section shall not apply during an extraordinary, emergency circumstance that
50 requires a significant departure from normal facility operations, including a natural disaster or
51 facility-wide threat that poses an imminent and substantial risk of harm to multiple staff and

1 juveniles. This exception shall apply for the shortest amount of time needed to address the
2 imminent and substantial risk of harm."

3 **SECTION 6.** This act becomes effective January 1, 2018.