

Stricken language would be deleted from and underlined language would be added to present law.
Act 422 of the Regular Session

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: H2/23/21
A Bill

HOUSE BILL 1470

By: Representatives Scott, Pilkington, Gazaway
By: Senator A. Clark

For An Act To Be Entitled

AN ACT CONCERNING SOLITARY CONFINEMENT OR RESTRICTIVE HOUSING FOR PREGNANT OR RECENTLY PREGNANT INMATES OR DETAINEES IN THE DIVISION OF CORRECTION, IN A LOCAL OR REGIONAL DETENTION FACILITY, OR IN A JUVENILE DETENTION FACILITY; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING SOLITARY CONFINEMENT OR RESTRICTIVE HOUSING FOR PREGNANT OR RECENTLY PREGNANT INMATES OR DETAINEES IN THE DIVISION OF CORRECTION, IN A LOCAL OR REGIONAL DETENTION FACILITY, OR IN A JUVENILE DETENTION FACILITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 9-27-371 is amended to read as follows:

9-27-371. Punitive isolation or solitary confinement of juveniles –
Definitions.

(a) As used in this section:

(1) “Punitive isolation” means the placement of a juvenile in a location that is separate from the general population as a punishment; and

(2) “Solitary confinement” means the isolation of a juvenile in a cell separate from the general population as a punishment.

(b) A Subject to subsection (c) of this section, a juvenile who has been placed or detained in a juvenile detention facility shall not be placed



in punitive isolation or solitary confinement as a disciplinary measure for more than twenty-four (24) hours unless the:

(1) Placement of the juvenile in punitive isolation or solitary confinement is due to:

(A) A physical or sexual assault committed by the juvenile while in the juvenile detention facility;

(B) Conduct of the juvenile that poses an imminent threat of harm to the safety or well-being of the juvenile, the staff, or other juveniles in the juvenile detention facility; or

(C) The juvenile's escaping or attempting to escape from the juvenile detention facility; and

(2)(A) Director of the juvenile detention facility provides written authorization to place the juvenile in punitive isolation or solitary confinement for more than twenty-four (24) hours.

(B) The director of the juvenile detention facility shall provide the written authorization described in subdivision (b)(2)(A) of this section for every twenty-four-hour period during which the juvenile remains in punitive isolation or solitary confinement after the initial twenty-four (24) hours.

(c)(1) A juvenile who has been placed or detained in a juvenile detention facility shall not be placed in solitary confinement if the juvenile:

(A) Is pregnant;

(B) Has delivered a child prior to or within thirty (30) days of being detained;

(C) Is breastfeeding;

(D) Is suffering from postpartum depression or another medically verifiable postpartum condition; or

(E) Is caring for a child in a juvenile detention facility.

(2) This subsection does not apply if:

(A) The juvenile has engaged in an act of violence while incarcerated or detained that either resulted in or was likely to result in serious physical injury or death to another person; or

(B) There is reasonable cause to believe that the use of solitary confinement is necessary to reduce a substantial risk of imminent

serious physical injury or death to another person, as evidenced by the juvenile's recent conduct while incarcerated or detained.

SECTION 2. Arkansas Code Title 12, Chapter 32, is amended to add an additional section to read as follows:

12-32-104. Restrictive housing prohibited.

(a) As used in this section, "restrictive housing" means a housing placement that requires an inmate or detainee to be confined in a cell for at least twenty-two (22) hours per day.

(b) An inmate or detainee in a correctional or detention facility shall not be placed in restrictive housing for thirty (30) or more days if the inmate or detainee:

(1) Is pregnant;

(2) Has delivered a child within the previous thirty (30) days and is not currently breastfeeding;

(3) Is breastfeeding; or

(4) Is under a physician's care for postpartum depression or other medically verifiable postpartum condition.

(c) A pregnant inmate or detainee may not be placed in restrictive housing for any length of time unless the correctional or detention facility determines that the pregnant inmate's or detainee's continued presence in the general population of the correctional or detention facility poses:

(1) A direct threat to:

(A) The safety of a person; or

(B) An unborn child or children; or

(2) A clear threat to the safe and secure operations of the correctional or detention facility.

(d)(1) A housing assignment for a pregnant inmate or detainee shall be made in conjunction with a licensed medical provider responsible for providing medical care for the pregnant inmate or detainee.

(2) A housing assignment under subdivision (d)(1) of this section shall be reviewed by the correctional or detention facility and the licensed medical provider responsible for providing medical care for the pregnant inmate or detainee every five (5) days if the pregnant inmate or detainee has been placed in restrictive housing for up to thirty (30) days as authorized under subsection (b) of this section.

(d) This section does not apply if:

(1) The inmate or detainee has engaged in an act of violence while incarcerated or detained that either resulted in or was likely to result in serious physical injury or death to another person; or

(2) There is reasonable cause to believe that the use of restrictive housing is necessary to reduce a substantial risk of imminent serious physical injury or death to another person, as evidenced by the inmate or detainee's recent conduct while incarcerated or detained.

/s/Scott

APPROVED: 3/23/21