

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1530

By: Representative Gazaway

For An Act To Be Entitled

AN ACT TO COLLECT DATA CONCERNING THE USE OF SOLITARY
CONFINEMENT OR SEGREGATION IN THE DEPARTMENT OF
CORRECTION; AND FOR OTHER PURPOSES.

Subtitle

TO COLLECT DATA CONCERNING THE USE OF
SOLITARY CONFINEMENT OR SEGREGATION IN
THE DEPARTMENT OF CORRECTION.

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

SECTION 1. DO NOT CODIFY. Legislative findings.

(a) The General Assembly finds that the use of solitary confinement or segregation is an administrative extension of punishment that should be within the jurisdiction of the General Assembly and the General Assembly should know exactly for what reasons and how this administrative extension is being used.

(b) It is currently unknown how much money the State of Arkansas can save by reducing the use of solitary confinement or segregation. Other states have shown substantial cost-saving in doing so. Mississippi, for instance, saved over five million dollars (\$5,000,000) by reducing the use of solitary confinement or segregation.

(c) The General Assembly finds that the Department of Correction should be accountable to the General Assembly and the public about the use of solitary confinement or segregation and the spending of the department's resources for this use.



SECTION 2. Arkansas Code Title 12, Chapter 28, Subchapter 1, is amended to add an additional section to read as follows:

12-28-108. Punitive segregation – Definitions.

As used in this chapter:

- (1) "Delusion" means a fixed, clearly false belief;
- (2) "Disability" means a physical or mental condition that limits a person's movements, senses, or activities;
- (3) "Hallucination" means a clearly erroneous perception of reality;
- (4) "Mental health professional" means:
 - (A) An independent psychiatrist or psychologist licensed by the Arkansas State Medical Board or the Arkansas Psychology Board as a health service provider in psychiatry or psychology and experienced in the diagnosis and treatment of persons with a serious mental illness;
 - (B) A licensed master social worker; or
 - (C) A certified social worker who is licensed by the Arkansas Social Work Licensing Board;
- (5) "Segregation" means a type of detention that involves the removal of a person from the general inmate population, including solitary confinement, whether voluntary or involuntary, in which the person is placed in a locked room or cell for approximately twenty-two (22) hours or more out of a twenty four-hour period;
- (6) "Serious mental illness" means one (1) or more of the following disorders as classified in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders as it existed on January 1, 2019:
 - (A) A disorder categorized under the schizophrenia spectrum and other psychotic disorders;
 - (B) Bipolar disorder;
 - (C) Major depressive disorder;
 - (D) Delusional disorder;
 - (E) Post-traumatic stress disorder; and
 - (F) Traumatic brain injury; and
- (7) "Suicide" means the act or an instance of taking one's own life voluntarily and intentionally.
- (b) The Department of Correction, the Division of Youth Services, and

all local and regional detention facilities shall submit a quarterly report in addition to any other report required by law to the Legislative Council showing:

(1) The number of persons disciplined or transferred to segregation during the prior quarter, including the following information concerning those persons:

(A) Racial composition;

(B) Gender;

(C) The number of persons:

(i) Paroled directly from segregation; and

(ii) In segregation:

(a) Due to protective custody;

(b) Who are pregnant;

(c) Who are twenty-one (21) years of age or younger;

(d) Who are fifty-five (55) years of age or older;

(e) With a serious mental illness, and what the diagnosis for the person is;

(f) With a mental illness, and what the diagnosis for the person is;

(g) With a disability;

(h) Who have requested reasonable accommodation for a disability; and

(i) Who have received a requested reasonable accommodation for a disability; and

(D) The number of:

(i) Suicides, and the methods of suicide used by persons housed in segregation;

(ii) Suicides attempted by persons housed in segregation;

(iii) Mental health professionals who work directly with persons in segregation;

(iv) Persons released from segregation due to mental decomposition;

(v) Persons transferred to outside hospitals or

psychiatric units from segregation;

(vi) Persons placed on mental health watch while in segregation;

(vii) Staff assigned to segregation;

(viii) Confidential mental health treatment appointments requested and approved and confidential mental health treatments attended by persons in segregation;

(ix) Violent incidents involving a person housed in segregation and department personnel;

(x) Deaths and the cause of death for persons housed in segregation;

(xi) Persons in segregation due to a disciplinary infraction, categorized by type of disciplinary infraction as follows:

(a) Violence to self;

(b) Violence to others;

(c) Possession of nonpornographic contraband;

(d) Possession of drug-related contraband;

(e) Masturbation;

(f) Sex with another person;

(g) Possession of pornographic contraband; and

(h) Other disciplinary infraction not set out

under this subdivision (b)(1)(D)(xi); and

(xii) Persons in segregation who spent time outside his or her cell for recreational purpose; and

(2)(A) The average and median length of stay for persons housed in segregation.

(B) Information under subdivision (b)(2)(A) of this section shall also include persons who have been housed in segregation for longer than three (3) months.

SECTION 3. DO NOT CODIFY. TEMPORARY LANGUAGE.

The initial report required under § 12-28-108 shall be completed on or before October 1, 2019.