

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

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 586

By: Senator G. Leding
By: Representative Scott

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING INMATES OF STATE FACILITIES; TO ESTABLISH PARAMETERS REGARDING THE USE OF SEGREGATED CONFINEMENT; TO ESTABLISH ALTERNATIVE THERAPEUTIC AND REHABILITATIVE CONFINEMENT OPTIONS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING INMATES OF STATE FACILITIES; TO ESTABLISH PARAMETERS REGARDING THE USE OF SEGREGATED CONFINEMENT; AND TO ESTABLISH ALTERNATIVE THERAPEUTIC AND REHABILITATIVE CONFINEMENT OPTIONS.

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

SECTION 1. Arkansas Code Title 12, Chapter 29, is amended to add an additional subchapter to read as follows:

Subchapter 7 – Segregated Confinement and Alternative Therapeutic and Rehabilitative Confinement Options

12-29-701. Definitions.

As used in this subchapter:

(1) "Residential rehabilitation unit" means a separate housing unit in a state correctional facility that is:

(A) Used for therapy, treatment, and rehabilitative



programming of inmates who have been determined to require more than fifteen (15) days of segregated confinement under Department of Corrections proceedings; and

(B) Therapeutic and trauma-informed and aimed at addressing individual treatment and rehabilitation needs and underlying causes of problematic behaviors;

(2)(A) "Segregated confinement" means the disciplinary confinement of an inmate in a special housing unit.

(B) "Segregated confinement" includes without any limitation any form of cell confinement for more than twenty-three (23) hours a day other than:

(i) In a facility-wide emergency; or

(ii) For the purpose of providing medical or mental health treatment if the confinement is within a clinical area in the correctional facility or in as close proximity to a medical or mental health unit as possible;

(3) "Special housing unit" means a housing unit in a state correctional facility that consist of cells grouped to provide separation from the general population of the state correctional facility and may be used to house inmates confined under disciplinary procedures; and

(4) "Special population" means an inmate who:

(A) Is twenty-one (21) years of age or younger;

(B) Is fifty-five (55) years of age or older;

(C) Has a disability;

(D) Is pregnant; or

(E) Is in the first eight (8) weeks of the postpartum recovery period after giving birth.

12-29-702. Provision of food – Restricted diet.

(a) An inmate shall be supplied with a sufficient quantity of wholesome and nutritious food while in segregated confinement.

(b) The food provided to an inmate under subsection (a) of this section does not need to be the same as the food supplied to inmates who are participating in programs of the state correctional facility.

(c)(1) An inmate with a serious mental illness who is not diverted or removed from segregated confinement shall not be placed on a restricted diet.

unless there has been a written determination that the restricted diet is necessary for reasons of safety and security.

(2) If a restricted diet is imposed under subdivision (c)(1) of this section, the restricted diet shall be:

(A) Limited to seven (7) days, except in exceptional circumstances in which the state correctional facility determines that limiting the restricted diet to seven (7) days would pose an unacceptable risk to the safety and security of inmates or staff; and

(B) Reassessed by the state correctional facility every seven (7) days.

(d) A state correctional facility shall not impose a restricted diet or any other change in diet as a form of punishment for an inmate.

12-29-703. Diversion or removal – Assessments.

(a)(1)(A) Except as provided in subdivision (a)(2) of this section, the warden of a state correctional facility, in consultation with mental health providers, shall divert or remove inmates with a serious mental illness from segregated confinement or confinement in a residential rehabilitation unit, if the segregated confinement or confinement in a residential rehabilitation unit could potentially be for a period in excess of thirty (30) days, to a residential mental health treatment unit.

(B) Subdivision (a)(1)(A) of this section does not prevent the disciplinary process from proceeding in accordance with Department of Corrections rules for disciplinary hearings.

(2)(A) Upon placement of an inmate into segregated confinement or a residential rehabilitation unit, a suicide prevention screening instrument shall be administered by a staff person from the state correctional facility who has been trained to perform a suicide prevention screening.

(B) If the suicide prevention screening instrument administered under subdivision (a)(2)(A) of this section reveals that the inmate is at risk of suicide:

(i) A mental health provider shall be consulted and appropriate safety precautions taken; and

(ii) Within one (1) business day of the placement of the inmate into segregated confinement or a residential rehabilitation unit,

the inmate shall be assessed by a mental health provider.

(b) An inmate placed into segregated confinement or a residential rehabilitation unit who is not at risk of suicide according to the suicide prevention screening instrument administered under subdivision (a)(2)(A) shall be initially assessed by a mental health provider within seven (7) days of placement into segregated confinement or the residential rehabilitation unit.

(c) If a mental health provider finds that an inmate suffers from a serious mental illness after conducting an initial assessment under subdivision (a)(2)(B)(ii) or subsection (b) of this section, the state correctional facility shall:

(1) Divert or remove the inmate from segregated confinement or the residential rehabilitation unit; and

(2) Determine whether exceptional circumstances under subsection (f) of this section exist.

(d)(1) A placement committee consisting of the following individuals or their equivalents employed by the state correctional facility shall make a determination regarding whether exceptional circumstances exist:

(A) The highest ranking mental health provider;

(B) The deputy superintendent for security; and

(C) The deputy superintendent for program services.

(2)(A) The placement committee shall make the determination under subdivision (d)(1) of this section within seven (7) days of the initial assessment, and, if the result is that the inmate should be removed from segregated confinement or a residential rehabilitation unit, the removal shall occur as soon as practicable but no more than seventy-two (72) hours from the determination under subdivision (d)(1) of this section.

(e)(1) This section does not permit the placement of an inmate with a serious mental illness into segregated confinement at any time, even for the purposes of assessment.

(2) If an inmate with a serious mental illness has not been diverted or removed to a residential mental health treatment unit, the inmate shall be:

(A) Diverted to a residential rehabilitation unit; and

(B) Reassessed by a mental health provider within fourteen (14) days of the initial assessment and at least one (1) time every fourteen

(14) days after.

(3) After each additional assessment, the placement committee shall make a recommendation of whether the inmate should be removed from segregated confinement or the residential rehabilitation unit and reviewed according to the process set forth in subsection (d) of this section.

(f)(1) In making a recommendation or determination to remove an inmate from segregated confinement or a residential rehabilitation unit, the placement committee shall take into account:

(A) The assessing mental health provider's opinions as to the inmate's mental condition and treatment needs; and

(B) Account for any safety and security concerns that would be posed by the inmate's removal, even if additional restrictions were placed on the inmate's access to treatment, property, services, or privileges in a residential mental health treatment unit.

(2) A recommendation or determination by the placement committee shall direct the inmate's removal from segregated confinement or a residential rehabilitation unit except in the following exceptional circumstances:

(A) The placement committee finds that removal, even if additional restrictions were placed on the inmate's access to treatment, property, services, or privileges in a residential mental health treatment unit, would pose a:

(i) Substantial risk to the safety of the inmate or other persons; or

(ii) Substantial threat to the security of the state correctional facility; or

(B) The assessing mental health provider determines that:

(i) The placement is in the inmate's best interests based on his or her mental condition; and

(ii) Removing the inmate to a residential mental health treatment unit would be detrimental to his or her mental condition.

(3)(A) The placement committee's determination not to remove an inmate with a serious mental illness from segregated confinement or a residential rehabilitation unit shall be documented in writing and include the reasons for the determination.

(B)(i) An inmate with a serious mental illness who is not

diverted or removed from segregated confinement or a residential rehabilitation unit shall be offered a heightened level of mental health care, including without limitation a minimum of three (3) hours daily of out-of-cell therapeutic treatment and programming.

(ii) The heightened level of care required under subdivision (f)(3)(B)(i) of this section shall not be offered if, in the reasonable judgment of a mental health provider, an inmate with a serious mental illness does not require a heightened level of care.

(iii) The mental health provider's determination that the inmate does not require a heightened level of care under subdivision (f)(3)(B)(ii) of this section shall be:

(a) Documented with a written statement of the basis of the determination;

(b) Reviewed by the clinical director of the state correctional facility or his or her designee;

(c) Subject to change if the inmate's clinical status changes; and

(d) Reviewed and documented by a mental health provider every thirty (30) days, and in consultation with the clinical director of the Arkansas State Hospital or his or her designee not less than every ninety (90) days.

(4)(A) The heightened level of care required under subdivision (f)(3)(B)(i) of this section shall not apply in exceptional circumstances when providing the heightened level of care would create an unacceptable risk to the safety and security of inmates or staff.

(B) The determination under subdivision (f)(4)(A) of this section shall be:

(i) Documented by security personnel together with the basis of the determination; and

(ii) Reviewed by the warden of the state correctional facility, in consultation with a mental health provider, not less than every seven (7) days as long as the inmate remains in segregated confinement or in a residential rehabilitation unit.

(C)(i) The state correctional facility shall attempt to resolve the exceptional circumstances so that the heightened level of care may be provided.

(ii) If the exceptional circumstances remain unresolved for thirty (30) days, the matter shall be referred to the Secretary of the Department of Corrections for review.

12-29-704. Segregated confinement or residential rehabilitation unit.

(a) An inmate in segregated confinement or a residential rehabilitation unit who was not assessed as having a serious mental illness at the initial assessment under § 12-29-703 shall be offered:

(1) At least one (1) interview with a mental health provider within seven (7) days of the initial mental health assessment; and

(2) Additional interviews at least every thirty (30) days after a prior interview unless the mental health provider at the most recent interview recommends an earlier interview or assessment.

(b)(1) An inmate in a special population shall not be placed in segregated confinement for any length of time, except in solitary confinement for a period prior to a disciplinary hearing.

(2) An inmate in a special population who is in solitary confinement prior to a disciplinary hearing shall be:

(A) Given seven (7) hours a day out-of-cell time; or

(B) Transferred to a residential rehabilitation unit or residential mental health treatment unit as expeditiously as possible but no longer than forty-eight (48) hours from the time the inmate is admitted to solitary confinement.

(c)(1) An inmate shall not be placed into segregated confinement for:

(A) Longer than necessary and no more than fifteen (15) consecutive days; and

(B) More than twenty (20) total days within any sixty (60) day period except as otherwise provided in subdivision (c)(3) of this section.

(2) After reaching the time limits in subdivision (c)(1) of this section, the inmate shall be released from segregated confinement or diverted to a separate residential rehabilitation unit.

(3)(A) If placement of the inmate into segregated confinement would exceed the twenty-day limit under subdivision (c)(1)(B) of this section and the state correctional facility establishes that the inmate committed a violent act, the state correctional facility may place the inmate in

segregated confinement until admission to a residential rehabilitation unit can be effectuated.

(B) The admission to a residential rehabilitation unit shall occur as expeditiously as possible and take no longer than forty-eight (48) hours from the time the inmate is placed into segregated confinement.

(4)(A) For an offense that is determined to be a violent act, if occurring more than one (1) time within any sixty (60) day period, up to an additional fifteen (15) consecutive days in segregated confinement may be imposed for each additional offense.

(B) If the subsequent offense takes place in a residential rehabilitation unit or general population, the inmate may be returned to segregated confinement for up to fifteen (15) consecutive days.

(C) If the subsequent offense takes place in segregated confinement and causes physical injury to another person, the inmate may receive up to an additional fifteen (15) consecutive days in segregated confinement, however, the inmate shall spend at least fifteen (15) days in a residential rehabilitation unit in between each placement of up to fifteen (15) consecutive days in segregated confinement.

(d)(1) All segregated confinement and residential rehabilitation units shall create the least restrictive environment necessary for the safety of inmates, staff, and the security of the state correctional facility.

(2) An inmate in segregated confinement shall be offered out-of-cell programming at least four (4) hours per day, including at least one (1) hour for recreation.

(3) An inmate admitted to a residential rehabilitation unit shall be offered at least six (6) hours of daily out-of-cell group programming, services, treatment, recreation, activities, and meals, with an additional minimum of one (1) hour for recreation.

(4) Recreation in all residential rehabilitation units shall take place in a group setting, unless exceptional circumstances mean doing so would create a significant and unreasonable risk to the safety and security of other inmates, staff, or the state correctional facility.

(5) Inmates in segregated confinement or a residential rehabilitation unit shall be offered programming led by program or therapeutic staff five (5) days per week, except on recognized state legal holidays.

(6) All other out-of-cell time may include without limitation:

(i) Peer-led programs;

(ii) Time in a day room or out-of-cell recreation area with other people;

(iii) Group meals;

(iv) Volunteer programs; or

(v) Other group activities.

(e)(1) The state correctional facility shall not impose a limitation on services, treatment, or basic needs, including without limitation clothing, food, and bedding, as a form of punishment.

(2) If the provision of services, treatment, or basic needs to an inmate would create a significant and unreasonable risk to the safety and security of inmates, staff, or the state correctional facility, the services, treatment, or basic needs may be withheld until it reasonably appears that the significant and unreasonable risk has ended.

(3) An inmate in a residential rehabilitation unit shall have access to all of his or her personal property unless an individual determination is made that having a specific item would pose a significant and unreasonable risk to the safety of inmates or staff or the security of the residential rehabilitation unit.

12-29-705. Residential rehabilitation unit – Individual rehabilitation plan.

(a) Upon admission of an inmate to a residential rehabilitation unit, program staff and mental health staff of the residential rehabilitation unit shall:

(1) Administer assessments to the inmate; and

(2) Develop an individual rehabilitation plan in consultation with the inmate based upon his or her medical, mental health, and programming needs.

(b) The individual rehabilitation plan required under subsection (a) of this section shall identify:

(1) Specific goals and programs, treatment, and services to be offered to the inmate; and

(2) Projected time frames for completion by and discharge of the inmate from the residential rehabilitation unit.

(c)(1) An inmate in a residential rehabilitation unit shall have access to programs and work assignments comparable to core programs and types of work assignments accessible to the general population of the state correctional facility.

(2) The inmate shall have access to additional out-of-cell, trauma-informed therapeutic programming aimed at promoting personal development that:

(A) Addresses underlying causes of the problematic behavior that resulted in the placement of the inmate in the residential rehabilitation unit; and

(B) Helps prepare the inmate for discharge from the residential rehabilitation unit and into the community.

(d)(1) If the state correctional facility establishes that an inmate committed a violent act while in segregated confinement or a residential rehabilitation unit and poses a significant and unreasonable risk to the safety and security of other inmates or staff, the state correctional facility may restrict the inmate's participation in programming and out-of-cell activities as necessary for the safety of other inmates and staff.

(2) If restrictions are imposed, the state correctional facility shall:

(A) Provide at least four (4) hours out-of-cell time daily, including without limitation at least two (2) hours of therapeutic programming and two (2) hours of recreation; and

(B) Make reasonable efforts to reinstate access to programming as soon as possible.

(3) The restrictions shall not extend beyond fifteen (15) days unless:

(A) The inmate commits a new violent act justifying further restrictions on program access; or

(B) The state correctional facility and, when appropriate, a mental health provider reasonably determine that the inmate poses an extraordinary and unacceptable risk of imminent harm to the safety or security of inmates or staff.

(4)(A) An extension of program restrictions beyond fifteen (15) days shall be reviewed and approved at least every fifteen (15) days by the state correctional facility and, when appropriate, by a mental health

provider.

(B) Each review shall consider the impact of the therapeutic programming provided during the fifteen-day period on the inmate's risk of posing imminent harm.

(C) The state correctional facility shall articulate in writing, with a copy provided to the inmate, the specific reason why the inmate currently poses an extraordinary and unacceptable risk of imminent harm to the safety or security of inmates or staff.

(D) Restrictions imposed by the state correctional facility shall not extend beyond ninety (90) days, unless the inmate commits a new violent act justifying further restrictions on program access.

(e) A state correctional facility shall not use restraints when an inmate is participating in out-of-cell activities within a residential rehabilitation unit unless an individual assessment is made that restraints are required because of a significant and unreasonable risk to the safety and security of other inmates or staff.

12-79-706. Length of time in segregated confinement – Limitations.

(a)(1) Except as provided in subdivision (a)(2) of this section, a state correctional facility may place an inmate in segregated confinement for up to three (3) consecutive days but no longer than six (6) days in any thirty (30) day period if, following an evidentiary hearing, the state correctional facility determines that the inmate violated a rule that permits a penalty of segregated confinement.

(2) The state correctional facility may place an inmate in segregated confinement beyond the limits provided in subdivision (a)(1) of this section or in a residential rehabilitation unit only if, following an evidentiary hearing, the state correctional facility determines by written decision based on specific objective criteria that the inmate committed one (1) of the following acts and that the act was so heinous or destructive that placement of the inmate in the general population of the state correctional facility would create a significant risk of imminent serious physical injury to staff or other inmates and creates an unreasonable risk to the security of the state correctional facility:

(A)(i) Causes or attempts to cause serious physical injury or death to another person or makes a threat of imminent serious physical

injury or death to another person if the inmate has a history of causing physical injury or death.

(ii) The determination of a threat of imminent serious physical injury or death under subdivision (a)(2)(A)(i) of this section shall be made by the warden of the state correctional facility and, when appropriate, a mental health provider, upon a finding that if there is a strong likelihood that the inmate will carry out the threat.

(iii) A mental health provider or his or her designee shall be involved in the determination under subdivision (a)(2)(A)(ii) of this section if the inmate is or has been receiving mental health treatment or appears to require psychiatric attention.

(B) Compels or attempts to compel another person by force or threat of force to engage in a sexual act;

(C) Extorts another person by force or threat of force for property or money;

(D) Coerces another person by force or threat of force to violate any rule of the state correctional facility;

(E) Leads, organizes, incites, or attempts to cause a riot, insurrection, or other similarly serious disturbance that results in the taking of a hostage, major property damage, or physical harm to another person;

(F) Procures a deadly weapon or other dangerous contraband that poses a serious threat to the security of the state correctional facility;

(G) Escapes, attempts to escape, or facilitates an escape from a state correctional facility; or

(H) Escapes or attempts to escape while under supervision outside a state correctional facility.

(b)(1) For purposes of this section, attempting to cause a serious disturbance or to escape shall only be determined to have occurred if there is a clear finding that the inmate had the purpose to cause a serious disturbance or the purpose to escape and had completed significant acts in the advancement of the attempt to create a serious disturbance or to escape.

(2) Evidence of withdrawal or abandonment of a plan to cause a serious disturbance or to escape shall negate a finding of purpose.

(c) A state correctional facility shall not:

(1) Place an inmate in segregated confinement or a residential rehabilitation unit based on the same act or incident that was previously used as the basis for the placement; or

(2) Hold an inmate in segregated confinement for protective custody.

(d) At a minimum, a residential rehabilitation unit used for protective custody shall conform to requirements governing other residential rehabilitation units.

(e)(1) Prior to placing an inmate in segregated confinement, a state correctional facility shall hold a hearing to determine whether to place the inmate in segregated confinement unless a security supervisor, with written approval of the warden of the state correctional facility or his or her designee, reasonably believes the inmate fits the specified criteria for segregated confinement under subsection (a) of this section.

(2) If the state correctional facility does not hold a hearing prior to placement of an inmate into segregated confinement, the hearing shall occur as soon as reasonably practicable and at most within five (5) days of the placement unless the inmate seeks a postponement of the hearing.

(3) An inmate is permitted to be represented by an attorney, law student, paralegal, or other inmate unless the state correctional facility reasonably disapproves of the paralegal or inmate based upon objective written criteria developed by the state correctional facility.

(f)(1)(A) A sanction imposed on an inmate requiring segregated confinement shall run while the inmate is in a residential rehabilitation unit.

(B) The inmate shall be discharged from the residential rehabilitation unit before or at the time the sanction expires.

(C) If an inmate successfully completes his or her rehabilitation plan before the sanction expires, the inmate shall have a right to be discharged from the residential rehabilitation unit upon completion.

(2)(A) If an inmate has not been discharged from a residential rehabilitation unit within one (1) year of initial admission to the residential rehabilitation unit or is within sixty (60) days of a fixed or tentatively approved date for release from a state correctional facility, he or she shall have a right to be discharged from the residential

rehabilitation unit unless he or she:

(i) Has committed an act listed in subsection (a) of this section within the previous one hundred eighty (180) days; and

(ii) Poses a significant and unreasonable risk to the safety or security of inmates or staff.

(B) The decision not to discharge the inmate shall be immediately and automatically subjected to an independent review by the Secretary of the Department of Corrections.

(3) An inmate may remain in a residential rehabilitation unit beyond the time limits provided in this section if the secretary approves.

(4) In extraordinary circumstances, an inmate who has not committed an act listed in subsection (a) of this section within the previous one hundred eighty (180) days may remain in a residential rehabilitation unit beyond the time limits under this section if the secretary personally determines that the inmate poses an extraordinary and unacceptable risk of imminent harm to the safety or security of other inmates or staff.

(g)(1) A state correctional facility shall conduct a periodic review of the status of each inmate in a residential rehabilitation unit at least every sixty (60) days to assess the inmate's progress to determine if the inmate should be discharged from the residential rehabilitation unit.

(2)(A) Following the periodic review, if the inmate is not discharged from the residential rehabilitation unit, program staff and mental health staff shall specify in writing the reasons for the determination and the program, treatment, service, or corrective action required before discharge.

(B) The inmate shall:

(i) Be given access to the programs, treatment, and services specified in the writing under subdivision (g)(2)(A) of this section and the opportunity to perform the corrective action; and

(ii) Have a right to be discharged from the residential rehabilitation unit upon the successful fulfillment of the requirements under subdivision (g)(2)(A) of this section.

(h)(1) When an inmate is discharged from a residential rehabilitation unit, any remaining time to serve on any underlying disciplinary sanction shall be dismissed.

(2) If an inmate substantially completes his or her

rehabilitation plan, he or she shall have any associated loss of meritorious good time restored upon discharge from the residential rehabilitation unit.

12-29-707. Specialized training.

(a)(1) All special housing unit and residential rehabilitation unit staff and supervisors shall undergo specialized training prior to assignment to a special housing unit or residential rehabilitation unit.

(2) Staff of a special housing unit or residential rehabilitation unit shall undergo regular specialized training on substantive content developed in consultation with relevant experts on topics including without limitation:

(A) The purpose and goals of the nonpunitive therapeutic environment;

(B) Trauma-informed care;

(C) Restorative justice; and

(D) Dispute resolution methods.

(b) Prior to presiding over a hearing in a state correctional facility, a hearing officer in a state correctional facility shall undergo a minimum of thirty-seven (37) hours of training, with one (1) additional day of training annually on relevant topics, including without limitation:

(1) The physical and psychological effects of segregated confinement;

(2) Procedural and due process rights of an accused inmate; and

(3) Restorative justice remedies.

(c)(1) The Department of Corrections shall ensure that the curriculum for new correction officers and other new department staff who will regularly work in programs providing mental health treatment for inmates includes without limitation at least eight (8) hours of training about:

(A) The types and symptoms of mental illnesses;

(B) The goals of mental health treatment;

(C) The prevention of suicide; and

(D) How to effectively and safely manage inmates with mental illness.

(2) The training required under subdivision (c)(1) of this section may be provided by the department or mental health professionals.

(3) All department staff who are transferring into a residential

mental health treatment unit shall receive:

(A) A minimum of eight (8) additional hours of the training required under this section; and

(B) Eight hours (8) of annual training as long as he or she works in a residential mental health treatment unit.

(4) All security, program services, mental health, and medical staff with direct inmate contact shall receive training annually regarding identification of, and care for, inmates with mental illnesses.

(d) The department shall provide additional training on topics described in this section on an ongoing basis as the department deems appropriate.

(e) All staff working in a residential mental health treatment unit shall also receive the training described in subsections (a) and (b) of this section.

12-29-708. Reports.

(a) On the first day of each month, the Department of Corrections shall publish a report on its website of the total number of inmates who are in:

- (1) Segregated confinement; and
- (2) Residential rehabilitation units.

(b) The reports shall provide a breakdown of the number of inmates in segregated confinement and in residential rehabilitation units by:

- (1) Age;
- (2) Race;
- (3) Gender;
- (4) Mental health treatment level;
- (5) Special health accommodations or needs;
- (6) Need for and participation in substance use disorder programs;
- (7) Pregnancy or postpartum status;
- (8) Continuous length of stay in residential treatment units and length of stay in the past sixty (60) days;
- (9) Number of days in segregated confinement;
- (10) A list of all incidents resulting in sanctions of segregated confinement by a state correctional facility and date of

occurrence;

(11) The number of inmates in segregated confinement by state correctional facility; and

(12) The number of incarcerated persons in residential rehabilitation units by state correctional facility.

(c) The department shall use the data published in the monthly reports to publish semiannual and annual cumulative reports.

12-29-709. Non-disciplinary interventions preferred.

(a) The following non-disciplinary interventions are the preferred methods of responding to a rule infraction by an inmate in a state correctional facility:

- (1) De-escalation;
- (2) Intervention;
- (3) Informational reports; and
- (4) Withdrawal of incentives.

(b) If the state correctional facility determines that the non-disciplinary interventions listed under subsection (a) of this section have failed or that the non-disciplinary interventions would not succeed and the rule infraction involved is an act listed in § 12-29-706, the state correctional facility may:

- (1) Issue rule infraction reports;
- (2) Pursue disciplinary charges; or
- (3) Impose new or additional segregated confinement sanctions.

12-29-710. Programs – Residential mental health treatment units.

(a) The Secretary of the Department of Corrections shall establish programs in the state correctional facilities as he or she deems appropriate for the treatment of inmates with a mental illness confined in state correctional facilities who are in need of psychiatric services but who do not require hospitalization for the treatment of mental illness, including without limitation residential mental health treatment units.

(b) An inmate with a serious mental illness shall receive therapy and programming in a setting that is appropriate to the clinical needs of the inmate while maintaining the safety and security of the state correctional facility.

(c) The conditions and services provided in the residential mental health treatment units authorized under subsection (a) of this section shall be at least comparable to the conditions and services in residential rehabilitation units.

(d) A residential mental health treatment unit shall provide the additional mental health treatment, services, and programming delineated in this section.

(e)(1) The administration and operation of programs established under this section shall be the joint responsibility of the mental health providers and the secretary.

(2) The professional mental healthcare personnel and the administrative and support staff for the programs shall be employees of the mental health provider.

(3) All other personnel shall be employees of the Department of Corrections.

(f)(1) In exceptional circumstances, a mental health clinician, or the highest ranking facility security supervisor in consultation with a mental health provider who has interviewed an inmate, may determine that an inmate's access to out-of-cell therapeutic programming or mental health treatment in a residential mental health treatment unit presents an unacceptable risk to the safety of other inmates or staff.

(2) A determination under subdivision (f)(1) of this section shall be documented in writing, and the inmate may be removed to a residential rehabilitation unit that is not a residential mental health treatment unit where alternative mental health treatment or other therapeutic programming, as determined by a mental health provider, shall be provided.

(g)(1) Except in exceptional circumstances where an inmate's conduct poses a significant and unreasonable risk to the safety of inmates or staff or to the security of the state correctional facility, and he or she has been found to have committed an act under § 12-29-706, an inmate in a residential mental health treatment unit shall not be:

(A) Sanctioned with segregated confinement for misconduct in the residential mental health treatment unit; or

(B) Removed from the residential mental health treatment unit and placed into segregated confinement or a residential rehabilitation unit.

(2)(A) If a sanction is imposed, an inmate is not required to begin serving the sanction until the reviews required by subsection (h) of this section have been completed.

(B) In extraordinary circumstances in which an inmate's conduct poses an immediate unacceptable threat to the safety of inmates or staff or to the security of the state correctional facility, the inmate may be moved immediately to segregated confinement or a residential rehabilitation unit.

(C) The highest ranking facility security supervisor, in consultation with a mental health provider, shall make the determination that an immediate transfer into segregated confinement or a residential rehabilitation unit is necessary.

(h)(1) A joint case management committee shall review any disciplinary disposition imposing a sanction of segregated confinement at the joint case management committee's next scheduled meeting.

(2) The review shall take into account the inmate's mental condition and safety and security concerns.

(3) The joint case management committee may only recommend the removal of an inmate in exceptional circumstances in which the inmate commits an act under § 12-29-706 and poses a significant and unreasonable risk to the safety of other inmates or staff or to the security of the facility.

(4) In the event that an inmate was immediately moved into segregated confinement, the joint case management committee may recommend that the inmate continue to serve the sanction only in exceptional circumstances in which the inmate commits an act under § 12-29-706 and poses a significant and unreasonable risk to the safety of other inmates or staff or to the security of the facility.

(5)(A) If a determination is made that an inmate shall not be required to serve all or any part of the segregated confinement sanction, the joint case management committee may instead recommend that a less restrictive sanction be imposed.

(B)(i) The recommendations made by the joint case management committee under this section shall be documented in writing and referred to the warden of the state correctional facility for review.

(ii) If the warden of the state correctional facility disagrees, the matter shall be referred to the department for a

final determination.

(iii) The administrative process described in this subdivision (h)(5) shall be completed within fourteen (14) days.

(iv) If the result of the administrative process is that an inmate who was immediately transferred into segregated confinement or a residential rehabilitation unit should be removed from segregated confinement or the residential rehabilitation unit, the removal shall occur as soon as practicable and no longer than seventy-two (72) hours from the completion of the administrative process.

12-29-711. Compliance

(a) The Department of Corrections shall:

(1) Assess compliance with this subchapter relating to segregated confinement and residential rehabilitation units; and

(2) Issue a public report at least annually.

(b) The report under subdivision (a)(2) of this section shall include recommendations to the General Assembly regarding all aspects of segregated confinement and residential rehabilitation units in state correctional facilities, including without limitation policies and practices concerning:

(1) Placement of inmates into segregated confinement and residential rehabilitation units;

(2) Special populations;

(3) Length of time spent in segregated confinement or a residential rehabilitation unit;

(4) Hearings and procedures;

(5) Programs, treatment, and conditions of confinement in segregated confinement or a residential rehabilitation unit; and

(6) Assessments and rehabilitation plans, procedures, and discharge determinations.

12-29-712. Rules.

The Department of Corrections may promulgate rules to implement this subchapter.