

SENATE BILL NO. 257

INTRODUCED BY R. WEBB

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO SOLITARY CONFINEMENT; PROHIBITING THE USE OF SOLITARY CONFINEMENT EXCEPT IN SPECIFIC SITUATIONS; REQUIRING THE DEPARTMENT OF CORRECTIONS TO REVIEW THE USE OF SOLITARY CONFINEMENT FOR JUVENILES IN CERTAIN CORRECTIONAL FACILITIES AND TO REPORT THE RESULTS TO THE LEGISLATURE; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 3] may be cited as the "Montana Solitary Confinement Reform Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 3], the following definitions apply:

- (1) "Exigent circumstances" means circumstances that pose an immediate and substantial threat to the safety of an inmate or other individuals.
- (2) "Mental health professional" has the meaning provided in 53-21-102.
- (3) "Serious mental illness" means:
 - (a) any of the following diagnoses, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders:
 - (i) schizophrenia;
 - (ii) delusional disorder;
 - (iii) schizophreniform disorder;
 - (iv) schizoaffective disorder;
 - (v) brief psychotic disorder;
 - (vi) substance-induced psychotic disorder, excluding intoxication and withdrawal;
 - (vii) psychotic disorder not otherwise specified;
 - (viii) major depressive disorders; and

1 (ix) bipolar I and II disorders;

2 (b) a personality disorder, anxiety disorder, or post-traumatic stress disorder, that results in a significant
3 functional impairment; or

4 (c) a diagnosis of an intellectual disability, an amnesic or other cognitive disorder, or traumatic brain
5 injury, that results in a significant functional impairment.

6 (4) "Significant functional impairment" means:

7 (a) acts of self-harm or credible threats of self-harm;

8 (b) consistent difficulty in the ability to engage in activities of daily living, including but not limited to
9 eating, grooming, and personal hygiene, maintenance of housing area, participation in recreation, and
10 ambulation; or

11 (c) receiving social security disability insurance benefits as a result of a mental health disability.

12 (5) "Solitary confinement" means confinement alone in a cell for 20 hours or more in a day.

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14 **NEW SECTION. Section 3. Prohibition on use of solitary confinement for inmates with serious**
15 **mental illness.** (1) An inmate with serious mental illness may not be housed in solitary confinement except in
16 exigent circumstances and only when placement in solitary confinement will significantly reduce the safety threat
17 that created the exigent circumstances.

18 (2) When exigent circumstances exist that require placement in solitary confinement, the inmate:

19 (a) may not be housed in solitary confinement for more than 10 consecutive days; and

20 (b) must be evaluated by a mental health professional each day to determine if the inmate should be
21 removed from solitary confinement to prevent a serious risk of harm to the inmate.

22 (3) The mental health professional conducting the evaluation required by subsection (2)(b) shall
23 summarize the evaluation in writing, and the summary must be placed in the inmate's records.

24 (4) If the mental health professional determines that continued housing in solitary confinement poses
25 a serious risk of harm to the inmate, the inmate must be removed from solitary confinement within 24 hours of
26 the determination.

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28 **NEW SECTION. Section 4. Report on placement of juveniles in solitary confinement.** (1) After [the
29 effective date of this section], the department of corrections shall review the extent to which juveniles are housed
30 in solitary confinement, as defined in [section 2], in correctional facilities or programs and in detention centers

1 and develop recommendations to eliminate the housing of juveniles in solitary confinement.

2 (2) No later than June 30, 2018, the department shall report the results of the review and its
3 recommendations to the law and justice interim committee provided for in 5-5-226.

4 (3) For the purposes of this section, the following definitions apply:

5 (a) "Correctional facilities or programs" means a state prison, as defined in 53-30-101, a correctional
6 program for adults or criminally convicted youth operated by or under contract with the department of corrections,
7 or a facility for youth established under 52-5-101.

8 (b) "Detention center" means a detention center established under Title 7, chapter 32, part 22.

9 (c) "Juvenile" means a person less than 18 years of age.

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11 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 3] are intended to be codified
12 as an integral part of Title 53, chapter 30, and the provisions of Title 53, chapter 30, apply to [sections 1 through
13 3].

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15 **NEW SECTION. Section 6. Effective dates.** (1) Except as provided in subsection (2), [this act] is
16 effective January 1, 2018.

17 (2) [Section 4] and this section are effective on passage and approval.

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