

An Act to Reduce Recidivism, Curb Unnecessary Spending, and Ensure Appropriate Use of Segregation

S.1255, Sen. Jamie Eldridge
H.1475, Rep. Elizabeth Malia

2015-2016 legislative session



Support solitary confinement reform

Massachusetts is one of only three states that allow prisoners to be placed in solitary confinement for up to ten years for disciplinary infractions. The Commonwealth also allows prisoners to be placed in long-term administrative segregation for a variety of non-disciplinary reasons. These prisoners are locked in segregation for at least twenty-three hours per day in what is typically a 60-to-80 square foot cell.

Studies have shown that solitary confinement neither deters violent behavior nor reduces recidivism. In Massachusetts, many prisoners are released back to society directly from segregation, traumatized and unprepared for life on the street, making them statistically more likely to recidivate. Persons of color as well as persons who suffer from mental illness are disproportionately represented in segregation units across the country.

Voluminous research substantiating the damaging effects of solitary confinement is leading states across the country to pass reforms aimed at reducing costs, reducing the harm to individuals placed in solitary confinement, and reducing the negative impact that overuse of segregation can have on communities.

The proposed legislation seeks to reform the use of segregation in Department of Correction facilities as well as county jails and houses of corrections by accomplishing the following goals:

Provide Greater Protection for Vulnerable Populations

- Divert vulnerable groups from solitary confinement, including those with serious mental illness, pregnant women, youth, protective custody prisoners, deaf and blind prisoners, and prisoners who are otherwise likely to deteriorate due to a medical or physical disability. [See H.1475, Section 3, lines 100-115, 126-146]
- Allow the commissioner or a designee to still place such vulnerable prisoners in solitary confinement on an emergency basis so long as he/she certifies in writing the reason why the prisoner cannot be safely held elsewhere and the steps taken to locate suitable less-restrictive housing. [See H.1475, Section 3, lines 156-163]
- Provide for minimum out-of-cell time, programming, and enhanced mental health services for vulnerable prisoners held in solitary confinement on an emergency basis. [See H.1475, Section 3, lines 164-171]

Reform Disciplinary Segregation

- Limit the use of solitary confinement as a disciplinary tool in the Department of Correction to fifteen days for one offense. [See H.1475, Section 2, lines 52-55]
- Establish minimum humane standards for disciplinary segregation, including a requirement that prisoners receive at least one hour per day of exercise and recreation (current regulations require that prisoners receive only five hours per week). [See H.1475, Section 2, lines 65-68]

Reform Non-Disciplinary/Administrative Segregation

- Continue to allow prisons and jails to use non-disciplinary (or “administrative”) solitary confinement when a prisoner is found to pose a substantial threat if held in the general population. *[See H.1475, Section 2, lines 56-64]*
- Require that the conditions of non-disciplinary segregation mirror the conditions of general population units to the extent consistent with the security of the institution. *[See H.1475, Section 2, lines 69-99]*
- Require that prisoners receive a hearing and have a determination made as to whether they pose an immediate and significant threat to safety or the orderly running of the facility before being sent to non-disciplinary segregation, except when the superintendent or a designee certifies in writing that immediate transfer to solitary confinement is necessary to ensure the safety and security of the institution. *[See H.1475, Section 4, lines 175-186]*
- Require correctional facilities to provide prisoners in non-disciplinary segregation with an incentives-based plan for returning to general population and establish thirty-day reviews for evaluating a prisoner’s progress through his or her plan and for return to general population. *[See H.1475, Section 4, lines 242-270]*
- Ensure that prisoners are not held in non-disciplinary segregation for longer than 90 days, unless there is a finding that the prisoner committed a dangerous act within the preceding 90 days or that there is a significant risk of physical injury to staff or other prisoners if the prisoner is returned to general population. *[See H.1475, Section 4, lines 271-282]*

Promote Sound Reentry Practices

- Limit the practice of releasing prisoners directly from solitary confinement to the community. *[See H.1475, Section 5, lines 289-305]*
- Require that no prisoner be held in non-disciplinary segregation within six months of release absent written certification that such confinement is necessary to avoid serious harm. *[See H.1475, Section 5, lines 290-297]*
- Provide enhanced reentry services to those prisoners who are certified to be held in solitary confinement within six months of release. *[See H.1475, Section 5, lines 298-305]*

Create Oversight of Segregation Utilization and Practices

- Create a segregation oversight committee charged with 1) collecting specified data from state prisons and county correctional facilities and 2) publishing an annual report that compiles the information and data received and which offers recommendations geared towards appropriately limiting the use of solitary confinement in Massachusetts. *[See H.1475, Section 6, lines 308-395]*

We also ask that you lend your support to the following bills:

- An Act to Collect Data Regarding the Use of Solitary Confinement in Massachusetts Prisons and Jails (Rep. Russell Holmes, H.1381)
- An Act Relative to Medical Placement of Terminal and Incapacitated Inmates (Sen. Patricia Jehlen, S.843 & Rep. Tim Toomey, H.1648)
- An Act to Promote Public Safety by Improving the Parole Process (Rep. Dave Rogers, H.1559)
- An Act to Provide for Enhanced Public Safety by Reforming the Parole Board (Rep. Ruth Balsler, H.1170)
- An Act Relative to Improve Public Safety by Facilitating Access to Addiction Services (Rep. Ruth Balsler, H.1167)
- An Act Relative to Ensuring Quality Mental Health Services in State Correctional Facilities (Rep. Ruth Balsler, H.1171)