

2021 Regular Session

HOUSE BILL NO. 68

BY REPRESENTATIVE LANDRY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CORRECTIONS: Provides relative to restricting solitary confinement

1 AN ACT

2 To amend and reenact R.S. 15:865, relative to solitary confinement; to regulate the use of  
3 solitary confinement for certain persons; to provide definitions; to provide relative  
4 to staff training; to provide technical changes; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 15:865 is hereby amended and reenacted to read as follows:

7 §865. Solitary confinement abolished

8 A. As used in this Section, the following terms shall have the following  
9 meanings:

10 (1) "Department" shall mean the Department of Public Safety and  
11 Corrections.

12 (2) "Healthcare provider" has the same meaning as defined in R.S. 22:1831.  
13 Healthcare provider shall not include any physician or other healthcare practitioner  
14 who has a restricted, suspended, or revoked license as described in R.S. 37:1285.

15 (3) "Solitary confinement" means any form of disciplinary, preventative, or  
16 administrative housing or segregation that limits meaningful access to social  
17 interaction, counseling, medical care, visitation, outdoor recreation, or other  
18 therapeutic programming in a manner more restrictive than for the general  
19 population.

1            ~~A.B.~~(1) Except as provided in ~~Subsections B and C~~ Paragraph (2) of this  
2            ~~Section Subsection~~, no prisoner ~~in the state penitentiary~~ housed in facilities owned  
3            by the department or in private correctional institutions housing individuals serving  
4            sentences at hard labor shall be placed in solitary confinement, except in enforcing  
5            obedience to the police regulations of the ~~penitentiary~~ department or facility where  
6            housed.

7            ~~B.~~(2) Notwithstanding ~~Subsection A~~ Paragraph (1) of this ~~Section~~  
8            ~~Subsection~~ and except as provided in ~~Subsection C~~ Paragraph (3) of this ~~Section~~  
9            ~~Subsection~~, no prisoner in any penal or correctional institution ~~who is pregnant, or~~  
10           ~~is less than eight weeks post medical release following a pregnancy, or is caring for~~  
11           ~~a child in a penal or correctional institution~~ shall be placed in solitary confinement:  
12           who has any of the following conditions:

13                    (a) Is pregnant, or is less than eight weeks post-medical release following a  
14                    pregnancy, or is caring for a child in a penal or correctional institution.

15                    (b) Has been diagnosed by a healthcare provider at intake, or in the previous  
16                    five years, or at any time during incarceration, with a Level 1, Level 2, or Level 3  
17                    mental health classification as provided for in the policies, rules, and regulations  
18                    promulgated by the department.

19                    (c) Has, or had a record of, mental impairment that substantially limits one  
20                    or more major life activities as defined under the Americans with Disabilities Act (42  
21                    U.S.C. 12102).

22            ~~C.~~(3) The provisions of this Section prohibiting the placement of prisoners  
23            in solitary confinement do not apply under either of the following circumstances:

24                    ~~(1)~~(a) The prisoner has engaged in an act of violence while incarcerated that  
25                    either resulted in or was likely to result in serious bodily injury or death to another.

26                    ~~(2)~~(b) There is reasonable cause to believe that the use of solitary  
27                    confinement is necessary to reduce a substantial risk of imminent serious bodily  
28                    injury or death to another, as evidenced by the prisoner's recent conduct while  
29                    incarcerated.

- 1           C.(1) The department shall ensure that the curriculum for new corrections  
 2           officers, other new department staff, or staff of any facility who contracts with the  
 3           department and will regularly work in programs providing mental health treatment  
 4           for prisoners, shall include at least eight hours of training about the types and  
 5           symptoms of mental illnesses, the goals of mental health treatment, the consequences  
 6           of untreated mental illness, the side effects of psychiatric medications, the prevention  
 7           of suicide, and training in how to effectively and safely de-escalate and manage  
 8           prisoners with mental illness.
- 9           (2) All department staff and the staff of any facility who contracts with the  
 10          department and has direct prisoner contact shall receive training each year regarding  
 11          identification of, and care for, prisoners with mental illnesses.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 68 Original

2021 Regular Session

Landry

**Abstract:** Provides relative to the prohibition on the use of solitary confinement for certain persons, provides for definitions, and requires specific mental illness training for certain persons.

Present law provides that no prisoner in the state penitentiary shall be placed in solitary confinement except in enforcing obedience to the police regulations of the penitentiary.

Present law further provides that, except as otherwise provided by present law, no prisoner in any penal or correctional institution who is pregnant, is less than eight weeks post-medical release following a pregnancy, or is caring for a child in a penal or correctional institution shall be placed in solitary confinement.

Present law provides that the provisions of present law prohibiting the placement of prisoners in solitary confinement do not apply under either of the following circumstances:

- (1) The prisoner has engaged in an act of violence while incarcerated that either resulted in or was likely to result in serious bodily injury or death to another.
- (2) There is reasonable cause to believe that the use of solitary confinement is necessary to reduce a substantial risk of imminent serious bodily injury or death to another, as evidenced by the prisoner's recent conduct while incarcerated.

Proposed law retains present law.

Proposed law defines "department" as the Department of Public Safety and Corrections.

Proposed law defines "healthcare provider" as having the same meaning as defined in R.S. 22:1831 and that healthcare provider shall not include any physician or other healthcare practitioner who has a restricted, suspended, or revoked license as described in R.S. 37:1285.

Proposed law defines "solitary confinement" as any form of housing, segregation, or both that limits meaningful access to social interaction, counseling, medical care, visitation, outdoor recreation, or other therapeutic programming in a manner more restrictive than for the general population and includes but is not limited to disciplinary, preventative, and administrative housing, segregation, or both.

Proposed law makes present law applicable to private correctional institutions as well as facilities owned by the department.

Proposed law expands present law restrictions on the use of solitary confinement to include that persons with the following conditions shall not be placed in solitary confinement:

- (1) Persons who have been diagnosed by a healthcare provider at intake, or in the previous five years, or at any time during incarceration, with a Level 1, Level 2, or Level 3 mental health classification as provided for in the policies, rules, and regulations promulgated by the department.
- (2) Persons who have, or had a record of, mental impairment that substantially limits one or more major life activities as defined under the Americans with Disabilities Act (42 U.S.C. 12102).

Proposed law requires the department to ensure that the curriculum for new corrections officers, other new department staff, or staff of any facility who contracts with the department and regularly works in programs providing mental health treatment for prisoners shall include at least eight hours of training regarding mental illness and mental illness with regard to the prisoners.

Proposed law further requires that all department staff and the staff of any facility who contracts with the department who has direct prisoner contact shall receive annual training regarding mental illness.

(Amends R.S. 15:865)