

2022 Regular Session

HOUSE BILL NO. 746

BY REPRESENTATIVES DUPLESSIS, WILFORD CARTER, CORMIER, EDMONSTON, FISHER, FREEMAN, FREIBERG, GAINES, GREEN, HUGHES, JEFFERSON, JENKINS, JORDAN, LAFLEUR, LANDRY, LARVADAIN, LYONS, MARCELLE, MARINO, DUSTIN MILLER, NEWELL, SELDERS, AND WILLARD

JUVENILES/DETENTION FAC: Provides relative to solitary confinement in juvenile facilities

1 AN ACT

2 To enact R.S. 15:905(F), relative to juvenile institutions; to provide relative to solitary
3 confinement in juvenile facilities; to provide relative to a definition; to provide
4 relative to documentation; to provide relative to submission of reports; to provide
5 relative to training; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 15:905(F) is hereby enacted to read as follows:

8 §905. Rules and regulations; education; training and discipline, work opportunities,
9 vocational training, contracts and agreements; solitary confinement

10 * * *

11 F. No juvenile in the custody of the office of juvenile justice shall be placed
12 in any form of solitary confinement for any reason other than a temporary response
13 to behavior that poses a serious and immediate threat of physical harm to the juvenile
14 or others.

15 (1) For the purposes of this Subsection, "solitary confinement" shall mean
16 the involuntary placement of a juvenile alone in a cell, room, or other area, except
17 during regularly scheduled sleeping hours. It includes but is not limited to any
18 behavioral intervention, seclusion, isolation, room isolation, segregation,

1 administrative segregation, or room confinement, in response to rule violations,
2 staffing shortages, or for any other reason that is not an emergency response to
3 behavior that poses a serious and immediate threat of physical harm to the juvenile
4 or others.

5 (2)(a) A juvenile shall not be placed in solitary confinement for the purposes
6 of discipline, punishment, administrative convenience, retaliation, protective
7 custody, suicide intervention, general behavior management, rule violations, in
8 response to staffing shortages, or for any other reason that is not an emergency
9 response to behavior that poses a serious and immediate threat of physical harm to
10 the juvenile or others.

11 (b) Under no circumstance shall a juvenile who has expressed suicidal
12 ideations or attempted suicide be placed in solitary confinement.

13 (3) A juvenile may be held in solitary confinement only under either of the
14 following conditions:

15 (a) Progressive protocols, beginning with verbal calming and other
16 de-escalation techniques attempted by facility staff, have proven unsuccessful at
17 resolving the imminent threat of physical harm.

18 (b) There is a need to eliminate the serious and immediate risk of physical
19 harm to the juvenile or others.

20 (4)(a) All protocols and techniques provided in Subparagraph (3)(a) of this
21 Subsection shall be documented, along with an explanation of why solitary
22 confinement was ultimately deemed necessary.

23 (b) A juvenile placed in solitary confinement pursuant to Subparagraph
24 (3)(b) of this Subsection shall be released from solitary confinement as soon as the
25 serious and immediate risk of physical harm to self or others is resolved.

26 (5) A juvenile shall be held in solitary confinement only for a period that
27 does not compromise or harm his mental or physical health.

28 (a) Under no circumstances shall any period of solitary confinement last
29 longer than eight hours.

1 (b) After eight hours, the juvenile shall be returned to the general population.

2 If a mental health professional determines that the juvenile continues to pose a
3 serious and immediate threat of physical harm to the juvenile or others after eight
4 hours, the juvenile may be transported to a mental health facility upon the
5 recommendation of a mental health professional, or the facility staff shall implement
6 a mental health crisis plan that allows for the juvenile to return to the general
7 population safely.

8 (c) If, after an in-person evaluation by a mental health professional at the
9 facility, it is determined that these option are not practicable, the juvenile may be
10 placed into solitary confinement for an additional period of time not to exceed eight-
11 hour increments only upon recommendation of the mental health professional.

12 (i) Each additional eight-hour increment must be preceded by an additional
13 evaluation by a mental health professional and a recommendation by the mental
14 health professional that the juvenile may continue to be placed into solitary
15 confinement.

16 (ii) Under no circumstances shall the juvenile who has been evaluated
17 pursuant to this Subparagraph be held in solitary confinement for longer than twenty-
18 four hours.

19 (6) The use of consecutive periods of room confinement to avoid the intent
20 and purpose of this Subsection is prohibited.

21 (7) All instances of solitary confinement shall be approved immediately by
22 the facility director or deputy director, and only after consultation with a qualified
23 mental health practitioner who has spoken with the juvenile. Approval shall be
24 re-affirmed every hour thereafter.

25 (a) The facility director or deputy director shall immediately notify the
26 deputy secretary and the senior administrative team any time a juvenile is placed in
27 solitary confinement.

28 (b) Within two hours of placing a juvenile in solitary confinement, the
29 facility shall contact the juvenile's parent or guardian and the juvenile's attorney of

1 record to provide notice that the juvenile was placed in solitary confinement and the
2 reason for the confinement.

3 (8) Juveniles in solitary confinement shall be continuously monitored.
4 Facility staff shall engage in continued crisis intervention and de-escalation
5 techniques and make visual and verbal contact with each youth in solitary
6 confinement at least every ten minutes. The intent and purpose of this intervention
7 is to help de-escalate the juvenile's behavior so the juvenile can rejoin the general
8 population as soon as possible. Staff shall document the time and nature of the
9 observation and interventions.

10 (9) Within the first hour of solitary confinement and every hour thereafter,
11 a qualified mental health practitioner shall speak to the juvenile to help the juvenile
12 de-escalate and exit solitary confinement as soon as possible.

13 (10) Staff shall return the juvenile to programming as soon as the juvenile
14 has regained self-control and is no longer engaging in behavior that threatens serious
15 and immediate harm to himself or others. If necessary, staff can return the juvenile
16 to a separate area other than a cell or other isolated space where staff can help the
17 juvenile self-regulate and become ready to return to the general population.

18 (11) All rooms used for solitary confinement shall have adequate and
19 operating lighting, heating and cooling, and ventilation for the comfort of the
20 juvenile. Rooms shall be clean and resistant to suicide and self-harm.

21 (12) Juveniles in solitary confinement shall have access to all of the
22 following:

23 (a) Sunlight.

24 (b) Drinking water.

25 (c) Toilet facilities.

26 (d) Working showers.

27 (e) Hygiene supplies.

28 (f) Mattresses

29 (g) Reading materials.

- 1 (h) Meals.
- 2 (i) Contact with parents or legal guardians.
- 3 (j) Legal assistance.
- 4 (k) Educational programming.
- 5 (l) Appropriate medical and mental health services, which shall be provided
6 by mental health staff as needed.
- 7 (13) Every instance of solitary confinement shall be documented
8 electronically and in the aggregate. Unidentified data on the frequency and length
9 of time that the juvenile spends in solitary confinement shall be available upon
10 request as a public record. Documentation of the solitary confinement shall include
11 all of the following:
- 12 (a) The date of the occurrence.
- 13 (b) The race, ethnicity, age, gender, and disability status of the juvenile.
- 14 (c) The reason for the juvenile's placement in solitary confinement.
- 15 (d) An explanation of why less restrictive means for placement were
16 unsuccessful.
- 17 (e) The ultimate duration of the juvenile's placement in solitary confinement.
- 18 (f) Facility staffing levels at the time of the juvenile's confinement.
- 19 (g) Any incidents of self-harm, suicide attempts, or suicide committed by the
20 juvenile while the juvenile was confined and where the juvenile was placed after
21 leaving solitary confinement.
- 22 (14)(a) The office of juvenile justice shall submit a report on the use of
23 solitary confinement quarterly to the Juvenile Justice Reform Act Commission. This
24 report shall include all of the following:
- 25 (i) The length of time each juvenile was in solitary confinement.
- 26 (ii) The race, ethnicity, age, gender, and disability status of each juvenile
27 placed in solitary confinement.
- 28 (iii) The facility staffing levels at the time of the juvenile's confinement.

1 (iv) The reason each juvenile was placed in confinement, and where the
2 juvenile was placed after leaving solitary confinement.

3 (b) All of the following shall be included in the report:

4 (i) Each instance of solitary confinement exceeding eight hours, including
5 all reasons why attempts to return the juvenile to the general population of the
6 facility were unsuccessful.

7 (ii) All corrective measures taken in response to noncompliance with this
8 Subsection.

9 (iii) Redacted personal identifying information that provides individual, not
10 aggregate data.

11 (c) The initial quarterly report shall be submitted within two weeks after the
12 quarter ending on September 30, 2022. Subsequent reports shall be submitted for the
13 ensuing quarters within two weeks after the end of each quarter.

14 (d) The office of juvenile justice shall post a report on the use of solitary
15 confinement on its website quarterly with deidentified aggregate data including but
16 not limited to all of the following:

17 (i) Total number of juveniles placed in solitary confinement that quarter.

18 (ii) Race and ethnicity, age, and gender of juveniles placed in solitary
19 confinement.

20 (iii) Disability status of juveniles placed in solitary confinement.

21 (iv) Number of instances of solitary confinement exceeding eight hours.

22 (v) Number of instances, if any, of self-harm while in solitary confinement.

23 (vi) Number of instances, if any, of suicide attempts while in solitary
24 confinement.

25 (vii) Number of instances, if any, of suicides while in solitary confinement.

26 (e) Data shall be disaggregated by facility.

27 (15) All agency staff shall be trained on the appropriate use of solitary
28 confinement during their initial training to work at the office of juvenile justice and
29 subsequently at regular intervals. Staff shall be required to demonstrate proficiency

1 with decisions regarding when and how to use solitary confinement before
 2 completing their initial training to work in office of juvenile justice facilities and
 3 ongoing during their employment.

4 (16) Every juvenile placed in the custody of the office of juvenile justice
 5 shall receive an explanation on the solitary confinement policy by staff promptly
 6 upon arrival to a facility, and information on this policy shall be communicated to
 7 the juvenile's parents or guardians through the most direct means possible, with in-
 8 person communication being most preferable.

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)]

HB 746 Reengrossed

2022 Regular Session

Duplessis

Abstract: Provides relative to solitary confinement of juveniles.

Present law provides for the rules, regulations, education, training, discipline, work opportunities, vocational training, and contracts in juvenile institutions.

Proposed law retains present law.

Proposed law provides that no juvenile in the custody of the office of juvenile justice shall be placed in any form of solitary confinement for any reason other than a temporary response to behavior that poses a serious and immediate threat of physical harm to the juvenile or others.

Proposed law defines "solitary confinement" for purposes of R.S. 15:905(F).

Proposed law provides that a juvenile shall never be placed in solitary confinement for the purposes of discipline, punishment, administrative convenience, retaliation, protective custody, suicide intervention, general behavior management, rule violations, in response to staffing shortages, or for any other reason that is not an emergency response to behavior that poses a serious and immediate threat of physical harm to the juvenile or others.

Proposed law provides that under no circumstances shall a juvenile who has expressed suicidal ideations or attempted suicide be placed in solitary confinement.

Proposed law provides that a juvenile may only be held in solitary confinement in either of the following circumstances:

- (1) Progressive protocols, beginning with verbal calming and other de-escalation techniques attempted by facility staff, have proven unsuccessful at resolving the imminent threat of physical harm.
- (2) There is a need to eliminate the serious and immediate risk of physical harm to the juvenile or others.

Proposed law provides that all protocols and techniques provided in proposed law shall be documented, along with an explanation of why solitary confinement was ultimately deemed necessary.

Proposed law provides that a juvenile placed in solitary confinement pursuant to proposed law shall be released from solitary confinement as soon as the serious and immediate risk of physical harm to self or others is resolved.

Proposed law provides that a juvenile shall only be held in solitary confinement for a period that does not compromise or harm his mental or physical health.

Proposed law provides that under no circumstances shall any period of solitary confinement last longer than eight hours. Provides that after eight hours, the juvenile shall be returned to the general population.

Proposed law provides that if a mental health professional determines that the juvenile continues to pose a serious and immediate threat of physical harm to the juvenile or others after eight hours, the juvenile may be transported to a mental health facility upon the recommendation of a mental health professional, or the facility staff shall implement a mental health crisis plan that allows for the juvenile to return to the general population safely.

Proposed law provides that if it is determined that the options of transporting the juvenile to a mental health facility or implementing a mental health crisis plan are not practicable after an in-person evaluation by a mental health professional at the facility, the juvenile may be placed into solitary confinement for an additional period of time not to exceed eight-hour increments only upon recommendation of the mental health professional.

Proposed law provides that each additional eight-hour increment must be preceded by an additional evaluation by a mental health professional and a recommendation by the mental health professional that the juvenile may continue to be placed into solitary confinement.

Proposed law provides that under no circumstances shall the juvenile who has been evaluated pursuant to proposed law be held in solitary confinement for longer than 24 hours.

Proposed law provides that the use of consecutive periods of room confinement to avoid the intent and purpose of proposed law is prohibited.

Proposed law provides that all instances of solitary confinement must be approved immediately by the facility director or deputy director, and only after consultation with a qualified mental health practitioner who has spoken with the juvenile. Provides that approval must be re-affirmed every hour thereafter.

Proposed law provides that the facility director or deputy director shall immediately notify the deputy secretary and their senior administrative team any time a juvenile is placed in solitary confinement.

Proposed law provides that within two hours of placing a juvenile in solitary confinement, the facility shall contact the juvenile's parent or guardian and the juvenile's attorney of record to provide notice that the juvenile was placed in solitary confinement and the reason for the confinement.

Proposed law provides that juveniles in solitary confinement shall be continuously monitored. Provides that facility staff shall engage in continued crisis intervention and de-escalation techniques and make visual and verbal contact with each youth in solitary confinement at least every 10 minutes.

Proposed law provides that the intent and purpose of crisis intervention is to help de-escalate the juvenile's behavior so he can rejoin the general population as soon as possible. Provides that staff shall document the time and nature of the observation and interventions.

Proposed law provides that within the first hour of solitary confinement and every hour thereafter, a qualified mental health practitioner will speak to the juvenile to help the juvenile de-escalate and exit solitary confinement as soon as possible.

Proposed law provides that staff shall return the juvenile to programming as soon as the juvenile has regained self control and is no longer engaging in behavior that threatens serious and immediate harm to himself or others. Provides that staff can return the juvenile to a separate area other than a cell or other isolated space, if necessary, where staff can help the juvenile self-regulate and become ready to return to the general population.

Proposed law provides that all rooms used for solitary confinement shall have adequate and operating lighting, heating and cooling, and ventilation for the comfort of the juvenile. Provides that rooms shall be clean and resistant to suicide and self-harm.

Proposed law provides that juveniles in solitary confinement shall have access to sunlight, drinking water, toilet facilities, working showers, hygiene supplies, mattresses, reading materials, meals, contact with parents or legal guardians, legal assistance, educational programming, and appropriate medical and mental health services, which shall be provided by mental health staff as needed.

Proposed law provides that every instance of solitary confinement shall be documented electronically and in the aggregate. Provides that unidentified data on the frequency and length of time that the juvenile spends in solitary confinement shall be available upon request as a public record.

Proposed law provides that documentation of the solitary confinement shall include all of the following:

- (1) The date of the occurrence.
- (2) The race, ethnicity, age, gender, and disability status of the juvenile.
- (3) The reason for the juvenile's placement in solitary confinement.
- (4) An explanation of why less restrictive means for placement were unsuccessful.
- (5) The ultimate duration of the juvenile's placement in solitary confinement.
- (6) Facility staffing levels at the time of the juvenile's confinement.
- (7) Any incidents of self-harm, suicide attempts, or suicide committed by the juvenile while he was confined and where the juvenile was placed after leaving solitary confinement.

Proposed law provides that the office of juvenile justice shall submit a report on the use of solitary confinement quarterly to the Juvenile Justice Reform Act Commission. Provides that the report shall include the following:

- (1) The length of time each juvenile was in solitary confinement.
- (2) The race, ethnicity, age, gender, and disability status of each juvenile placed in solitary confinement.
- (3) The facility staffing levels at the time of the juvenile's confinement.

- (4) The reason each juvenile was placed in confinement, and where the juvenile was placed after leaving solitary confinement.

Proposed law provides that all of the following shall be included in the report:

- (1) Each instance of solitary confinement exceeding eight hours, including all reasons why attempts to return the juvenile to the general population of the facility were unsuccessful.
- (2) All corrective measures taken in response to noncompliance with proposed law.
- (3) Redacted personal identifying information that provides individual, not aggregate, data.

Proposed law provides that the initial quarterly report shall be submitted within two weeks after the quarter ending on Sept. 30, 2022. Provides that subsequent reports shall be submitted for the ensuing quarters within two weeks after the end of each quarter.

Proposed law provides that the office of juvenile justice shall post a report on the use of solitary confinement on its website quarterly with deidentified aggregate data including, but not limited to all of the following:

- (1) Total number of juveniles placed in solitary confinement that quarter.
- (2) Race and ethnicity, age, and gender of juveniles placed in solitary confinement.
- (3) Disability status of juveniles placed in solitary confinement.
- (4) Number of instances of solitary confinement exceeding eight hours.
- (5) Number of instances, if any, of self-harm while in solitary confinement.
- (6) Number of instances, if any, of suicide attempts while in solitary confinement.
- (7) Number of instances, if any, of completed suicides while in solitary confinement.

Proposed law provides that data shall be disaggregated by facility.

Proposed law provides that all agency staff shall be trained on the appropriate use of solitary confinement during their initial training to work at the office of juvenile justice, and subsequently at regular intervals. Provides that staff shall be required to demonstrate proficiency with decisions regarding when and how to use solitary confinement before completing their initial training to work in office of juvenile justice facilities and ongoing during their employment.

Proposed law provides that every juvenile placed in the custody of the office of juvenile justice shall receive an explanation on the solitary confinement policy by staff promptly upon arrival to a facility, and information on this policy shall be communicated to the juvenile's parents or guardians through the most direct means possible, with in-person communication being most preferable.

(Adds R.S. 15:905(F))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Make technical changes.
2. Change the maximum number of hours a juvenile can remain in solitary confinement from four to eight.
3. Delete language that refers to purposes and reasons for detention, detention standards, licensing, and fees for local juvenile detention facilities.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Provide for the transportation of a juvenile to a mental health facility or the implementation of a mental health crisis plan that allows for the juvenile to return to the general population safely if a mental health professional determines that the juvenile continues to pose a serious and immediate threat of physical harm to the juvenile or others after eight hours.
3. Provide that the juvenile may be placed into solitary confinement for an additional period of time not to exceed eight-hour increments only upon recommendation of the mental health professional.
4. Specify that each additional eight-hour increment must be preceded by an additional evaluation by a mental health professional and a recommendation by the mental health professional that the juvenile may continue to be placed into solitary confinement and that under no circumstance shall the juvenile who has been evaluated be held in solitary confinement for longer than 24 hours.