

1 H.370

2 Introduced by Representatives Burke of Brattleboro, Cina of Burlington,
3 Fields of Bennington, Head of South Burlington, Morris of
4 Bennington, O'Sullivan of Burlington, Stuart of Brattleboro,
5 and Weed of Enosburgh

6 Referred to Committee on

7 Date:

8 Subject: Corrections; segregation; inmates

9 Statement of purpose of bill as introduced: This bill proposes to limit the
10 period of time that an inmate may be segregated.

11 An act relating to segregation of inmates

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. 28 V.S.A. § 701a is amended to read:

14 § 701a. SEGREGATION OF INMATES WITH A SERIOUS FUNCTIONAL
15 IMPAIRMENT

16 (a) The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25
17 regarding the classification, treatment, and segregation of an inmate with a
18 serious functional impairment as defined and identified under subchapter 6 of
19 this chapter; provided that the length of ~~stay in segregation for an inmate with~~
20 ~~a serious functional impairment:~~

1 ~~(1) Shall not exceed 15 days if the inmate is segregated for disciplinary~~
2 ~~reasons.~~

3 ~~(2) Shall not exceed 30 days if the inmate requested the segregation,~~
4 ~~except that the inmate may remain segregated for successive 30-day periods~~
5 ~~following assessment by a qualified mental health professional and approval of~~
6 ~~a physician for each extension.~~

7 ~~(3) Shall not exceed 30 days if the inmate is segregated for any reason~~
8 ~~other than the reasons set forth in subdivision (1) or (2) of this subsection,~~
9 ~~except that the inmate may remain segregated for successive 30-day periods~~
10 ~~following a due process hearing for each extension, which shall include~~
11 ~~assessment by a qualified mental health professional and approval of a~~
12 ~~physician time an inmate with a serious functional impairment spends in~~
13 ~~segregation shall not exceed one 24-hour period within any given seven-day~~
14 ~~period for any reason, including administrative segregation, disciplinary~~
15 ~~segregation, and close custody.~~

16 (b) ~~For purposes of~~ As used in this title, and despite other names this
17 concept has been given in the past or may be given in the future, “segregation”
18 means a form of separation from the general population which may or may not
19 include placement in a single occupancy cell and which is used for
20 disciplinary, administrative, or other reasons.

1 (c) On or before the 15th day of each month, the Department's Health
2 Services Director shall provide to the Joint Legislative Justice Oversight
3 Committee a report that, while protecting inmate confidentiality, lists each
4 inmate who was in segregation during the preceding month by a unique
5 indicator and identifies the reason the inmate was placed in segregation, the
6 length of the inmate's stay in segregation, and whether the inmate has a serious
7 functional impairment. The report shall also indicate any incident of self harm
8 or attempted suicide by inmates in segregation. The Department shall ensure
9 that a copy of the report is forwarded to the Vermont Defender General and the
10 Executive Director of Vermont Protection and Advocacy, Inc. on a monthly
11 basis. At the request of the Committee, the Director shall also provide
12 information about the nature of the functional impairments of inmates placed
13 in segregation or services provided to these inmates. In addition, at least
14 annually, the Department shall provide a report on all inmates placed in
15 segregation who were receiving mental health services.

16 Sec. 2. 28 V.S.A. § 853 is amended to read:

17 § 853. PUNISHMENT; MAINTENANCE OF RECORDS;

18 RECOMMENDATION OF TRANSFER

19 (a)(1) Except in serious cases as provided in subdivision (2) of this
20 subsection, punishment for a breach of the rules and regulations of the facility
21 shall consist of deprivation of privileges.

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(B) Segregation, in accordance with the regulations of the ~~department~~
Department, in a cell or room, apart from the accommodations provided for
inmates who are participating in programs of the facility; provided:

(i) The period of such segregation shall not exceed ~~30~~ 15 days
consecutively;

(ii) The inmate shall be supplied with a sufficient quantity of
wholesome and nutritious food, which shall be of the same quantity and
nutritional quality as that provided to the general population of inmates at the
facility;

(iii) Adequate sanitary and other conditions required for the health
of the inmate shall be maintained; ~~and~~

(iv) The supervising officer of the facility shall comply with any
recommendation that may be made by the facility's physician for measures
with respect to dietary needs or conditions of segregation of each inmate
required to maintain the health of the inmate.

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Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.