

Amendment No. 546

Senate Amendment to Senate Bill No. 107 (BDR 5-519)

Proposed by: Senate Committee on Judiciary

Amendment Box: Replaces Amendment No. 335.

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

SRT/BFG



Date: 4/19/2013

S.B. No. 107—Restricts the use of solitary confinement on persons in confinement.
(BDR 5-519)



SENATE BILL NO. 107—COMMITTEE ON JUDICIARY

FEBRUARY 11, 2013

Referred to Committee on Judiciary

SUMMARY—Restricts the use of solitary confinement and corrective room restriction on ~~persons~~ children in confinement. (BDR 5-519)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the administration of justice; restricting the use of solitary confinement and corrective room restriction on ~~persons~~ children who are in confinement ~~in a state, local or regional facility for the detention of children; requiring the Advisory Commission on the Administration of Justice to conduct a study concerning detention and incarceration;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 2 of this bill prohibit the use of solitary confinement on a child who is detained in a state, local or regional facility for the detention of children. ~~Unless: (1) the child presents a serious and immediate risk of harm to himself or herself, staff or others or to the security of the facility; and (2) all other less restrictive options have been exhausted. Sections 1 and 2 further prohibit the use of solitary confinement for the purpose of disciplining or punishing a child.~~ Sections 1 and 2 authorize the use of corrective room restriction on a child who is detained in a state, local or regional facility for the detention of children only if all other less-restrictive options have been exhausted and only to: (1) modify the negative behavior of the child; (2) hold the child accountable for a violation of a rule of the facility; or (3) ensure the safety of the child, the staff or others or to ensure the security of the facility. Sections 1 and 2 also: (1) specify certain actions that must be taken with respect to a child subjected to corrective room restriction; and (2) provide that if a child is ~~held in solitary confinement,~~ subjected to corrective room restriction, the period of ~~solitary confinement,~~ corrective room restriction must be the minimum time required to address the negative behavior, rule violation or threat, ~~and must end if the mental or physical health of the child is compromised.~~

~~Sections 3 and 4 of this bill apply the same prohibitions and limitations on the use of solitary confinement on a person confined in a prison, jail or other detention facility, with similar exceptions.~~

Existing law establishes the Advisory Commission on the Administration of Justice and directs the Commission, among other duties, to identify and study the elements of this State's system of criminal justice. (NRS 176.0123, 176.0125) Section 7 of this bill requires the Commission to conduct a study concerning certain aspects of detention and incarceration in this State.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 62B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A local or regional facility for the detention of children shall not ~~use~~ subject a child to solitary confinement ~~for the purpose of disciplining or punishing a child.~~

2. A child who is detained in a local or regional facility for the detention of children ~~must not~~ may be subjected to ~~solitary confinement unless:~~

~~(a) There are compelling reasons to believe that the child presents a serious and immediate threat of harm to himself or herself, staff or others or to the security of the facility; and~~

~~(b) All~~ corrective room restriction only if all other less-restrictive options have been exhausted ~~and only for the purpose of:~~

~~(a) Modifying the negative behavior of the child;~~

~~(b) Holding the child accountable for a violation of a rule of the facility; or~~

~~(c) Ensuring the safety of the child, staff or others or ensuring the security of the facility.~~

3. Any disciplinary action that results in corrective room restriction for more than 2 hours must be documented in writing and approved by a supervisor.

4. A child ~~who is held in solitary confinement~~ may be ~~held in solitary confinement~~ subjected to corrective room restriction only for the minimum time required to address the negative behavior, rule violation or threat ~~of harm~~ to the safety of the child, staff or others or to the security of the facility, ~~but only if the mental and physical health of the child is not compromised.~~

~~4.~~ and the child must be returned to the general population of the facility as soon as reasonably possible.

5. A child who is subjected to corrective room restriction for more than 24 hours must be provided:

~~(a) Not less than 1 hour of out-of-room, large muscle exercise each day, including, without limitation, access to outdoor recreation if weather permits;~~

~~(b) Access to the same meals, medical and mental health treatment, the same access to contact with parents or legal guardians, and the same access to legal assistance as is provided to children in the general population of the facility; and~~

~~(c) A review of the corrective room restriction status at least once every 24 hours. If, upon review, the corrective room restriction is continued, the continuation must be documented in writing, including, without limitation, an explanation as to why no other less-restrictive option is available.~~

6. A local or regional facility for the detention of children shall report monthly to the Juvenile Justice Programs Office of the Division of Child and Family Services the number of children who were subjected to corrective room restriction during that month and the length of time that each child was in corrective room restriction. Any incident that resulted in the use of corrective room restriction for more than 5 days must be addressed in the monthly report, and the report must include the reason or reasons any attempt to return the child to the general population of the facility was unsuccessful.

7. As used in this section ~~,"solitary"~~:

~~(a) "Corrective room restriction" means the confinement of a child to his or her room as a disciplinary action.~~

~~(b) "Solitary confinement" means the involuntary holding of a child in total isolation from any other person, other than staff of the facility ~~and~~ or an~~

1 attorney, for more than 16 ~~for more~~ hours ~~per~~ each day ~~+~~, including, without
2 limitation, isolation from sight or sound, out of view or any form of
3 communication outside of the cell.

4 Sec. 2. Chapter 63 of NRS is hereby amended by adding thereto a new
5 section to read as follows:

6 1. A facility shall not ~~use~~ subject a child to solitary confinement. ~~for the~~
7 ~~purpose of disciplining or punishing a child.~~

8 2. A child who is detained in a facility ~~must not~~ may be subjected to
9 ~~solitary confinement unless:~~

10 ~~(a) There are compelling reasons to believe that the child presents a serious~~
11 ~~and immediate threat of harm to himself or herself, staff or others or to the~~
12 ~~security of the facility; and~~

13 ~~(b) All corrective room restriction only if all other less-restrictive options~~
14 ~~have been exhausted ~~+~~ and only for the purpose of:~~

15 ~~(a) Modifying the negative behavior of the child;~~

16 ~~(b) Holding the child accountable for a violation of a rule of the facility; or~~

17 ~~(c) Ensuring the safety of the child, staff or others or ensuring the security of~~
18 ~~the facility.~~

19 3. Any disciplinary action that results in corrective room restriction for
20 more than 2 hours must be documented in writing and approved by a supervisor.

21 4. A child ~~who is held in solitary confinement~~ may be ~~held in solitary~~
22 ~~confinement~~ subjected to corrective room restriction only for the minimum time
23 required to address the negative behavior, rule violation or threat ~~of harm~~ to the
24 safety of the child, staff or others or to the security of the facility, ~~but only if the~~
25 ~~mental and physical health of the child is not compromised.~~

26 ~~4. and the child must be returned to the general population of the facility as~~
27 ~~soon as reasonably possible.~~

28 5. A child who is subjected to corrective room restriction for more than 24
29 hours must be provided:

30 (a) Not less than 1 hour of out-of-room, large muscle exercise each day,
31 including, without limitation, access to outdoor recreation if weather permits;

32 (b) Access to the same meals, medical and mental health treatment, the same
33 access to contact with parents or legal guardians, and the same access to legal
34 assistance as is provided to children in the general population of the facility; and

35 (c) A review of the corrective room restriction status at least once every 24
36 hours. If, upon review, the corrective room restriction is continued, the
37 continuation must be documented in writing, including, without limitation, an
38 explanation as to why no other less-restrictive option is available.

39 6. A facility shall report monthly to the Juvenile Justice Programs Office of
40 the Division of Child and Family Services the number of children who were
41 subjected to corrective room restriction during that month and the length of time
42 that each child was in corrective room restriction. Any incident that resulted in
43 the use of corrective room restriction for more than 5 days must be addressed in
44 the monthly report, and the report must include the reason or reasons any
45 attempt to return the child to the general population of the facility was
46 unsuccessful.

47 7. As used in this section ~~+~~ "solitary" :

48 (a) "Corrective room restriction" means the confinement of a child to his or
49 her room as a disciplinary action.

50 (b) "Solitary confinement" means the involuntary holding of a child in total
51 isolation from any other person, other than staff ~~and~~ of the facility or an
52 attorney, for more than 16 ~~for more~~ hours ~~per~~ each day ~~+~~, including, without

limitation, isolation from sight or sound, out of view or any form of communication outside of the cell.

Sec. 3. ~~[Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Department or a private facility or institution shall not use solitary confinement for the purpose of disciplining or punishing an offender.~~

~~2. An offender who is confined in an institution or facility of the Department or a private facility or institution must not be subjected to solitary confinement unless:~~

~~(a) There are compelling reasons to believe that the offender presents a serious and immediate threat of harm to himself or herself, staff or others or to the security of the institution or facility; and~~

~~(b) All other less restrictive options have been exhausted.~~

~~3. An offender who is held in solitary confinement may be held in solitary confinement only for the minimum time required to address the threat of harm to the offender, staff or others or to the security of the institution or facility, but only if the mental and physical health of the offender is not compromised.~~

~~4. As used in this section, "solitary confinement" means the involuntary holding of an offender in isolation from any other person, other than staff and an attorney, for 16 or more hours per day.] (Deleted by amendment.)~~

Sec. 4. ~~[Chapter 211 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. A sheriff, chief of police or town marshal shall not use solitary confinement for the purpose of disciplining or punishing a prisoner.~~

~~2. A prisoner who is confined in a county, city or town jail or detention facility must not be subjected to solitary confinement unless:~~

~~(a) There are compelling reasons to believe that the prisoner presents a serious and immediate threat of harm to himself or herself, staff or others or to the security of the jail or detention facility; and~~

~~(b) All other less restrictive options have been exhausted.~~

~~3. A prisoner who is held in solitary confinement may be held in solitary confinement only for the minimum time required to address the threat of harm to the prisoner, staff or others or to the security of the jail or detention facility, but only if the mental and physical health of the prisoner is not compromised.~~

~~4. As used in this section, "solitary confinement" means the involuntary holding of a prisoner in isolation from any other person, other than staff and an attorney, for 16 or more hours per day.] (Deleted by amendment.)~~

Sec. 5. ~~[NRS 211.118 is hereby amended to read as follows:~~

~~211.118 As used in NRS 211.118 to 211.200, inclusive, and section 4 of this act, "public works" means the renovation, repair or cleaning of any street, drainage facility, road, sidewalk, public square, park or building, or cutting away hills, grading, putting in sewers or other work, which is authorized to be done by and for the use of any of the counties, cities or towns, and the expense of which is not to be borne exclusively by persons or property particularly benefited thereby. The term does not include any project to which the provisions of NRS 338.020 apply.] (Deleted by amendment.)~~

Sec. 6. ~~[NRS 211.150 is hereby amended to read as follows:~~

~~211.150 1. [If] Except as otherwise provided in section 4 of this act, if a prisoner is disobedient or disorderly, or does not faithfully perform his or her tasks, the officers having charge of the prisoner may take action to discipline and punish the prisoner. [The action may include confinement to an individual cell separate from other prisoners for the protection of the staff of the jail and other prisoners. An~~

1 ~~officer who confines a prisoner to an individual cell for any reason shall report his~~
2 ~~or her action as soon as possible to the person in charge of the jail.]~~

3 ~~2. A report of the number of prisoners who are performing work and the~~
4 ~~amount and type of work performed must be submitted to the person in charge of~~
5 ~~the jail on the last day of each month.] (Deleted by amendment.)~~

6 Sec. 7. The Advisory Commission on the Administration of Justice
7 created pursuant to NRS 176.0123 shall, during the 2013-2014 interim,
8 conduct a study concerning detention and incarceration in this State. The
9 study must include, without limitation, an evaluation of:

10 1. Procedures regarding placement in, and release from, administrative
11 segregation, disciplinary segregation, disciplinary detention, corrective room
12 restriction and solitary confinement;

13 2. Security threat group identification, including, without limitation, any
14 information relating to gang activity;

15 3. Notification of release and release procedures;

16 4. Access provided to children, offenders and prisoners confined in
17 administrative segregation, disciplinary segregation, disciplinary detention,
18 corrective room restriction or solitary confinement to:

19 (a) Mental health services;

20 (b) Audio and visual media for appropriate mental stimulation;

21 (c) Daily contact with staff;

22 (d) Health care services;

23 (e) Substance abuse programs and services;

24 (f) Reentry resources and transitional programs and services;

25 (g) Programs and services for offenders and prisoners who are veterans;

26 (h) Educational programming; and

27 (i) Other programs and services that are available to the general
28 population;

29 5. The amount of specialized training provided to staff who interact with
30 children, offenders and prisoners who are confined in administrative
31 segregation, disciplinary segregation, disciplinary detention, corrective room
32 restriction or solitary confinement;

33 6. The number of children, offenders and prisoners confined in
34 administrative segregation, disciplinary segregation, disciplinary detention,
35 corrective room restriction or solitary confinement who were referred to
36 mental health professionals;

37 7. The number of children, offenders and prisoners in the general
38 population who were referred to mental health professionals;

39 8. The number of children, offenders and prisoners confined in
40 administrative segregation, disciplinary segregation, disciplinary detention,
41 corrective room restriction or solitary confinement who have a mental health
42 diagnosis;

43 9. The number of children, offenders and prisoners in the general
44 population who have a mental health diagnosis;

45 10. The number of suicides and suicide attempts during the years of
46 2010, 2011 and 2012 among children, offenders and prisoners who are
47 confined in administrative segregation, disciplinary segregation, disciplinary
48 detention, corrective room restriction or solitary confinement;

49 11. The number of suicides and suicide attempts during the years of
50 2010, 2011 and 2012 among children, offenders and prisoners in the general
51 population;

52 12. The number of reviews conducted by facilities concerning the
53 placement of a child, offender or prisoner in administrative segregation,

1 disciplinary segregation, disciplinary detention, corrective room restriction or
2 solitary confinement that resulted in the child, offender or prisoner being
3 transferred to the general population;

4 13. The average length of time children, offenders and prisoners were
5 continuously confined in administrative segregation, disciplinary segregation,
6 disciplinary detention, corrective room restriction or solitary confinement,
7 categorized by age, race, sexual orientation, gender identity or expression and
8 classification of the offense;

9 14. The longest and shortest length of time a child, offender or prisoner
10 was continuously confined in administrative segregation, disciplinary
11 segregation, disciplinary detention, corrective room restriction or solitary
12 confinement, categorized by age, race, sexual orientation, gender identity or
13 expression and classification of the offense;

14 15. A summary of the reasons for which children, offenders and
15 prisoners were placed in administrative segregation, disciplinary segregation,
16 disciplinary detention, corrective room restriction or solitary confinement;

17 16. The rate of recidivism among children, offenders and prisoners who
18 were confined in administrative segregation, disciplinary segregation,
19 disciplinary detention, corrective room restriction or solitary confinement at
20 any time before release or discharge;

21 17. The rate of recidivism among children, offenders and prisoners who
22 were never confined in administrative segregation, disciplinary segregation,
23 disciplinary detention, corrective room restriction or solitary confinement;

24 18. The number of children, offenders and prisoners who were confined
25 in administrative segregation, disciplinary segregation, disciplinary detention,
26 corrective room restriction or solitary confinement immediately before being
27 discharged from detention, including those discharged to parole or mandatory
28 supervision; and

29 19. A calculation of the cost per day of confining a child, offender and
30 prisoner in administrative segregation, disciplinary segregation, disciplinary
31 detention, corrective room restriction or solitary confinement.