

SENATE BILL NO. 307—SENATOR SPEARMAN

MARCH 16, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to human rights.
(BDR 16-881)

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

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

AN ACT relating to offenders; defining certain terms relating to the housing of offenders; requiring the Director of the Department of Corrections to adopt certain regulations relating to solitary confinement; prohibiting the Department from placing an offender in solitary confinement under certain circumstances; providing that an offender is entitled to certain privileges while placed in solitary confinement; requiring the Department to ensure that an offender placed in solitary confinement receives a daily health and wellness check; providing procedures for the removal of an offender from solitary confinement; requiring certain training for staff who work in units used for solitary confinement; requiring the Department to submit a report concerning the use of solitary confinement to the Joint Interim Standing Committee on the Judiciary or the Legislature; limiting the number of days that an offender may be placed in disciplinary segregation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law prohibits the Department of Corrections and private facilities and
2 institutions from placing an offender in disciplinary segregation or subjecting or
3 assigning an offender to solitary confinement unless certain procedures are
4 followed. (NRS 209.369) **Sections 5-7 and 10** of this bill define certain terms,
5 including “solitary confinement,” for purposes relating to the housing of offenders.
6 **Section 13** of this bill makes a conforming change to indicate the proper placement
7 of **sections 5-7 and 10** in the Nevada Revised Statutes. **Section 13.5** of this bill



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8 makes a conforming change relating to the application of the definitions in **sections**
9 **5-7 and 10** to the entire chapter of NRS.

10 **Section 12** of this bill requires the Director of the Department to adopt
11 regulations governing the use of solitary confinement to provide that solitary
12 confinement may only be used as a last resort, in the least restrictive manner and
13 for the shortest period of time safely possible.

14 **Section 12.3** of this bill prohibits, with certain exceptions, the Department from
15 placing an offender in solitary confinement: (1) for a period which exceeds 15
16 consecutive days; (2) within 90 days of the date on which the offender is projected
17 to be released from the custody of the Department; or (3) if the offender has a
18 serious mental illness or other significant mental impairment, unless a provider of
19 health care orders such confinement. **Section 12.3** authorizes the Department to
20 remove an offender from solitary confinement at any time if the offender has
21 demonstrated good behavior. **Section 12.3** requires that an offender placed in
22 solitary confinement: (1) is afforded certain privileges; and (2) receives a health
23 and welfare check at his or her cell by a provider of health care at least once each
24 day. **Section 14** of this bill makes a conforming change by removing duplicative
25 language relating to the placement of an offender who has a serious mental illness
26 or other significant mental impairment in solitary confinement under certain
27 circumstances and the requirement that a health and welfare check is made for each
28 offender placed in solitary confinement.

29 **Section 12.5** of this bill requires a multidisciplinary team to submit a report to
30 the Director within 24 hours after making the determination to continue solitary
31 confinement if an offender is kept in solitary confinement for more than 15 days.
32 **Section 12.5** additionally requires any meetings or discussions regarding the review
33 of an offender pursuant to **section 12.5** to be recorded in writing or otherwise
34 documented and kept by the Department for at least 1 year. **Section 12.5** also
35 prescribes certain procedures relating to the removal of an offender from solitary
36 confinement, including, without limitation, a requirement for a multidisciplinary
37 team, before an offender is removed from solitary confinement, to conduct a review
38 of each offender and develop an individualized treatment plan for the offender.
39 **Section 12.5** defines a "multidisciplinary team" as a team that consists of: (1) a
40 correctional officer who works in the housing unit to which the offender is
41 assigned; (2) a mental health clinician; (3) a case worker; (4) a correctional
42 supervisor; (5) an associate warden; and (6) any other staff member deemed
43 necessary by the Director.

44 Existing law authorizes the Director to develop and implement, in each
45 institution or facility of the Department, a program of facility training for
46 correctional staff. (NRS 209.1315) **Section 13.3** of this bill requires the Director to
47 develop and implement certain training for staff who work in units used for solitary
48 confinement.

49 **Section 14** of this bill requires the Department to submit a report on or before
50 December 31 of each year concerning the use of solitary confinement by the
51 Department and private facilities and institutions to the Joint Interim Standing
52 Committee on the Judiciary, if the report is submitted in an odd-numbered year, or
53 to the Legislature, if the report is submitted in an even-numbered year. The report
54 must contain, without limitation: (1) the number of offenders placed in solitary
55 confinement; (2) the periods of time, and the number of offenders for each such
56 period, for which offenders were placed in solitary confinement; and (3) the
57 number of offenders who were placed in solitary confinement for a period of more
58 than 15 days and a summary of the reasons for such placement. **Section 14**
59 additionally requires that an offender, while subject to disciplinary segregation, be
60 allowed either visitation or access to a telephone. **Section 14** also removes certain
61 provisions relating to the length of stay of offenders placed in disciplinary
62 segregation and, instead, with certain exceptions, limits the maximum number of



63 days that an offender may be placed in disciplinary segregation to not more than 15
64 consecutive days.

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

1 **Section 1.** Chapter 209 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 12.5, inclusive, of
3 this act.

4 **Sec. 2.** (Deleted by amendment.)

5 **Sec. 3.** (Deleted by amendment.)

6 **Sec. 4.** (Deleted by amendment.)

7 **Sec. 5.** *“Disciplinary segregation” means the separation of*
8 *an offender from the general population for a specified period of*
9 *time when an offender has committed a serious violation of the*
10 *rules of a facility or institution.*

11 **Sec. 6.** *“General population” means the status of offenders*
12 *who are incarcerated and do not have a special status, including,*
13 *without limitation, a status of solitary confinement.*

14 **Sec. 7. 1.** *“Serious mental illness or other significant*
15 *mental impairment” means:*

16 *(a) A mental, behavioral or emotional disorder that results in*
17 *serious functional impairment, which substantially interferes with*
18 *or limits one or more major life activities; or*

19 *(b) A diagnosis of an intellectual disability, as defined in*
20 *NRS 435.007.*

21 **2.** *The term includes, without limitation, a diagnosis of major*
22 *depression, schizophrenia, bipolar disorder, obsessive-compulsive*
23 *disorder, panic disorder, post-traumatic stress disorder or*
24 *borderline personality disorder.*

25 **Sec. 8.** (Deleted by amendment.)

26 **Sec. 9.** (Deleted by amendment.)

27 **Sec. 10.** *“Solitary confinement” means the housing of an*
28 *offender in a location where the offender is restricted to a cell for*
29 *at least 22 hours per day for the purpose of separating the*
30 *offender from the general population for the:*

31 **1.** *Protection of:*

32 *(a) The health or safety of the offender from other offenders;*
33 *or*

34 *(b) The life or property of the staff or other offenders; or*

35 **2.** *Security or orderly operation of the facility or institution.*

36 **Sec. 11.** (Deleted by amendment.)

37 **Sec. 12.** *The Director shall adopt, with the approval of the*
38 *Board, such regulations as are necessary to ensure that solitary*
39 *confinement may only be used:*



1 *1. As a last resort, when the offender must be separated from*
2 *the general population in a secure environment;*

3 *2. In the least restrictive manner; and*

4 *3. For the shortest period of time safely possible.*

5 **Sec. 12.3.** *1. Except as otherwise provided in NRS 209.369*
6 *or section 12.5 of this act, the Department or a private facility or*
7 *institution shall not place an offender in solitary confinement:*

8 *(a) For a period which exceeds 15 consecutive days;*

9 *(b) Within 90 days of the date on which the offender is*
10 *projected to be released from the custody of the Department; or*

11 *(c) If the offender has a serious mental illness or other*
12 *significant mental impairment, unless a provider of health care*
13 *orders the solitary confinement for the safety of the offender, staff*
14 *or any other person.*

15 *2. Except as otherwise provided in NRS 209.369, the*
16 *Department may remove an offender from solitary confinement at*
17 *any time if the offender has demonstrated good behavior.*

18 *3. If an offender is placed in solitary confinement, the*
19 *offender must, while placed in solitary confinement, be afforded*
20 *the same privileges identified in paragraph (b) of subsection 5 of*
21 *NRS 209.369 as are afforded to an offender placed in disciplinary*
22 *segregation.*

23 *4. The Department shall ensure that each offender placed in*
24 *solitary confinement receives a health and welfare check*
25 *conducted at least once each day by a provider of health care at*
26 *his or her cell.*

27 **Sec. 12.5.** *1. The Department may continue to keep an*
28 *offender placed in solitary confinement for more than 15 days if:*

29 *(a) The offender refuses to be removed from solitary*
30 *confinement at the end of the 15-day period;*

31 *(b) A provider of health care recommends that the offender be*
32 *kept in solitary confinement due to medical necessity; or*

33 *(c) A multidisciplinary team recommends a continuation of*
34 *solitary confinement for the offender after a determination from*
35 *the review conducted pursuant to subsection 3 that the offender*
36 *presents a threat to the safety or health of other offenders or*
37 *correctional staff.*

38 *2. The continuation of solitary confinement of an offender*
39 *pursuant to paragraph (c) of subsection 1 must not exceed an*
40 *additional period of 15 consecutive days, after which the offender*
41 *must be removed from solitary confinement and the*
42 *multidisciplinary team shall determine whether a return to solitary*
43 *confinement is necessary.*

44 *3. A multidisciplinary team shall conduct a review of each*
45 *offender placed in solitary confinement and shall develop an*



individualized treatment plan for the offender before the offender is removed from solitary confinement. The treatment plan may contain, without limitation, recommendations relating to staff intervention, housing placement in the facility or institution and any other recommendations that the multidisciplinary team deems appropriate. If required by exigent circumstances, a member of the multidisciplinary team who is unable to be present for the review may, through remote communication:

(a) Attend the review; and

(b) Participate in any discussion concerning the review of the offender.

4. If an offender is kept in solitary confinement pursuant to paragraph (a) of subsection 1 and, at any time, requests removal from solitary confinement, the offender must be removed from solitary confinement within 24 hours after the request for removal.

5. If an offender is kept in solitary confinement for a period of more than 15 consecutive days pursuant to this section, the multidisciplinary team must submit a report to the Director within 24 hours after the determination to continue solitary confinement, and every 15 days thereafter during which the offender remains in solitary confinement, which must include, without limitation:

(a) The name of the offender;

(b) A description of the reasons for the continuation of solitary confinement; and

(c) Any plan developed for the removal of the offender from solitary confinement.

6. Any meeting or discussion concerning the review conducted pursuant to subsection 3 or a determination to continue solitary confinement for an offender pursuant to this section must be:

(a) Recorded in writing or otherwise documented; and

(b) Kept by the Department for at least 1 year.

7. As used in this section:

(a) “Mental health clinician” means:

(1) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology;

(2) A psychologist licensed to practice in this State;

(3) A social worker who:

(I) Is licensed in this State as a clinical social worker;

(II) Holds a master’s degree in social work; and

(III) Is employed by the Department;

(4) A registered nurse who:

(I) Is licensed to practice professional nursing in this

State;



(II) Holds a master's degree in the field of psychiatric nursing; and

(III) Is employed by the Department;

(5) A marriage and family therapist licensed pursuant to chapter 641A of NRS; or

(6) A clinical professional counselor licensed pursuant to chapter 641A of NRS.

(b) "Multidisciplinary team" means a team which must consist of the following persons:

(1) A correctional officer who works in the housing unit to which the offender is assigned;

(2) A mental health clinician;

(3) A case worker;

(4) A correctional supervisor;

(5) An associate warden; and

(6) Any other staff member deemed necessary by the Director.

Sec. 13. NRS 209.011 is hereby amended to read as follows:

209.011 As used in this chapter, unless the context otherwise requires, the *words and* terms defined in NRS 209.021 to 209.085, inclusive, *and sections 2 to 11, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 13.3. NRS 209.1315 is hereby amended to read as follows:

209.1315 **1.** The Director may continue to develop and implement, in each institution and facility of the Department, a program of facility training for the correctional staff. Such training must include:

~~[1-]~~ (a) Training in evidence-based practices, including, without limitation, principles of effective intervention, effective case management and core correctional practices; and

~~[2-]~~ (b) Courses on interacting with victims of domestic violence and trauma and people with behavioral health needs and both physical and intellectual disabilities.

2. The Director shall develop and implement, in each institution and facility of the Department in which an offender may be placed in solitary confinement, a program of training for any correctional staff of the facility or institution who interact with offenders placed in solitary confinement. Such training must include, without limitation, training in effective communication, crisis intervention and de-escalation techniques. Any training required to be completed pursuant to a program of training adopted pursuant to this subsection is in addition to any other training required to be completed by correctional staff.



Sec. 13.5. NRS 209.249 is hereby amended to read as follows:

209.249 1. Except as otherwise provided in subsections 2 and 3, the Director shall establish and maintain a package program for offenders.

2. The Director may prohibit an offender from participating in the package program if the offender is in:

(a) Disciplinary segregation; or

(b) Administrative segregation and the prohibition is necessary to ensure the safety of other offenders in administrative segregation.

3. The Medical Director may prohibit an offender from participating in the package program if:

(a) The offender is receiving medical care from the Medical Director; and

(b) The prohibition is necessary to ensure the health of the offender.

4. The contents of a package received by an offender participating in the package program are not subject to any deduction described in NRS 209.247.

5. As used in this section:

(a) "Administrative segregation" means the separation of an offender from the general population which is imposed by classification when the continued presence of the offender in the general population or protective segregation would pose a serious threat to life, property, self, staff, other offenders or to the security or orderly operation of the facility or institution.

~~(b) "Disciplinary segregation" means the separation of an offender from the general population for a specified period when an offender has committed a serious violation of the rules of a facility or an institution.~~

~~—(c) "General population" means the status of offenders who are incarcerated and do not have a special status.~~

~~—(d)~~ "Package program" means a program which authorizes an offender to order at least one clothing package and one food package, respectively, per quarter.

~~[(e)]~~ (c) "Protective segregation" means the separation of an offender from the general population when the offender requests or requires protection from other offenders for reasons relating to health or safety.

Sec. 14. NRS 209.369 is hereby amended to read as follows:

209.369 1. The Department or a private facility or institution shall not ~~[(a)]~~:

~~—(a) Place~~ *place* an offender in disciplinary segregation unless the offender is found guilty of an infraction after:

~~[(1)]~~ (a) Notice and a hearing pursuant to subsection 3; and



~~[(2)]~~ (b) If applicable, a psychological evaluation pursuant to subsection 4.

~~[(b) Subject an offender with a serious mental illness or other significant mental impairment to solitary confinement solely on the basis of such mental illness or impairment, but may subject such an offender to solitary confinement if it is necessary for the safety of the offender, staff or any other person. If such an offender is subjected to solitary confinement, the offender must receive a health and welfare check at his or her cell by a provider of health care at least once each day.]~~

2. An offender who is confined in an institution or facility of the Department or a private facility or institution may request placement in solitary confinement to protect his or her safety. The Department or private facility or institution ~~[may]~~ *shall* not ~~[assign the] place such an~~ offender ~~[to] in~~ solitary confinement unless ~~[the]~~ :

(a) *The* Department or private facility or institution performs an independent assessment of the threat to the offender ~~[(2)]~~ *and* determines that the placement in solitary confinement is necessary to protect the safety of the offender ; and ~~[the]~~

(b) *The* offender is placed in solitary confinement only for the duration of the threat.

3. Upon the filing of a disciplinary action against an offender that may result in the sanction of disciplinary segregation of the offender, the Department or private facility or institution shall:

(a) Serve written notice of the charges against the offender which sets forth the reasons for the filing of the disciplinary action against the offender and a notice that the offender may appeal any discipline or punishment imposed on the offender as a result of a hearing unless the offender has agreed to a bargained plea.

(b) Hold a hearing concerning the charges against the offender not later than 15 days after the alleged violation or not later than 15 days after the completion of the investigation of the alleged violation, whichever is later. A hearing held pursuant to this paragraph must be presided over by an officer or employee of the Department or private facility or institution who has no direct involvement in the incident constituting an alleged violation. At the hearing, the offender must be allowed to present documentary evidence germane to the alleged violation and to call one or more witnesses with substantive, relevant knowledge of the issues involved in the alleged violation except for a witness who has been discharged, who is not located at the facility or institution where the hearing is being conducted or who poses a threat to safety or security at the hearing. The presiding officer or employee may find that the offender committed an infraction of the rules of the



1 institution or facility only if he or she finds, based on the evidence
2 presented at the hearing, that there is evidence that the infraction
3 occurred and that the offender more likely than not committed
4 the infraction. The presiding officer or employee must provide to the
5 offender a written statement of the evidence supporting the
6 determination of the presiding officer or employee unless providing
7 such a written statement would jeopardize the safety or security of
8 the institution or facility or the safety of the staff or offenders in the
9 institution or facility. *That presiding officer or employee shall not*
10 *sanction an offender to disciplinary segregation for a fixed period.*
11 *Any period for which the offender is sanctioned to disciplinary*
12 *segregation must be expressed in terms of the maximum number*
13 *of days the offender may be subjected to disciplinary segregation.*

14 4. The Department or private facility or institution must refer
15 the offender for a psychological evaluation before holding a hearing
16 pursuant to subsection 3 if, at any stage of the disciplinary process
17 set forth in subsection 3:

18 (a) It is known or suspected that a mental health condition or
19 medical condition of the offender was a substantial cause of the
20 alleged violation;

21 (b) The offender is assigned to a mental health program of the
22 Department or private facility or institution; or

23 (c) The offender has been diagnosed as seriously mentally ill.

24 ➤ If, during the psychological evaluation, the staff of the
25 Department or private facility or institution has reason to believe
26 that the alleged violation by the offender may have been the result
27 of a medical condition of the offender, including, without limitation,
28 dementia, Alzheimer's disease, post-traumatic stress disorder or
29 traumatic brain injury, the staff of the Department or private facility
30 or institution must refer the offender to the medical staff of the
31 institution or facility for a medical review and recommendation
32 before holding a hearing pursuant to subsection 3.

33 5. If the sanction of disciplinary segregation is imposed on an
34 offender, the offender:

35 (a) May, after serving one-half of the period for which the
36 offender is sanctioned to disciplinary segregation, petition the
37 warden of the institution or facility for ~~[release]~~ *removal* from
38 disciplinary segregation if the offender has demonstrated good
39 behavior. The offender must be advised that he or she may petition
40 the warden pursuant to this paragraph.

41 (b) Must, while subject to disciplinary segregation, be:

42 (1) Allowed to wear his or her personal clothing issued by
43 the Department;



(2) Served the same meal and ration as is provided to offenders in general population unless the offender is placed on a special diet for health or religious reasons;

(3) Allowed visitation ~~[]~~ *or access to a telephone;*

(4) Allowed all first-class and legal mail addressed to the offender;

(5) Permitted a minimum of at least 5 hours of exercise per week, unless doing so would present a threat to the safety or security of the institution or facility;

(6) Given access to reading materials; and

(7) Given access to materials from the law library in the institution or facility.

6. The period for which an offender may be held in disciplinary segregation must be the minimum time required to address the disciplinary sanction or threat of harm to the offender, staff or any other person or to the security of the institution or facility, as defined by the regulations adopted by the Board. Such a period must not exceed ~~[]~~:

~~—(a) If the offender, while in the custody of the Department or private facility or institution, commits an offense categorized as a category C felony by the laws of this State, 10 days.~~

~~—(b) If the offender, while in the custody of the Department or private facility or institution, commits an offense categorized as a category B felony by the laws of this State, 30 days.~~

~~—(c) If the offender, while in the custody of the Department or private facility or institution, commits an offense categorized as a category A felony by the laws of this State, 60 days.~~

~~—(d) If the offender, while in the custody of the Department or private facility or institution, commits an assault or battery against an employee or contractor of the Department or a private facility or institution, 180 days.~~

~~—(e) If the offender, while in the custody of the Department or private facility or institution, commits murder, 365]~~ *15 consecutive days [] , unless a determination is made to keep an offender placed in solitary confinement pursuant to subsection 1 of section 12.5 of this act.*

7. *On or before December 31 of each year, the Department shall submit a report concerning the use of solitary confinement by the Department and private facilities and institutions to the Director of the Legislative Counsel Bureau for transmittal to the next session of the Legislature, if the report is submitted during an even-numbered year, or the Joint Interim Standing Committee on the Judiciary, if the report is submitted in an odd-numbered year. The report must include, without limitation, the following*



information, provided in the aggregate and without any personally identifiable information:

(a) The number of offenders placed in solitary confinement, in total and disaggregated by race, ethnicity, sexual orientation, age and gender identity or expression.

(b) The periods of time, and the number of offenders for each such period, for which offenders were placed in solitary confinement.

(c) The number of offenders who were placed in solitary confinement for a period of more than 15 days and a summary of the reasons for such placement.

8. As used in this section, “offender with serious mental illness or other significant mental impairment” means an offender:

(a) With a substantial disorder of thought or mood that significantly impairs judgment, behavior or capacity to recognize reality, which may include, without limitation, a person who is found to have current symptoms of, or who is currently receiving treatment based on a type of diagnosis found in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association; or

(b) Who is diagnosed with an intellectual disability, as defined in NRS 435.007.

Sec. 15. Notwithstanding any other provision of this act, the initial report submitted by the Department of Corrections pursuant to NRS 209.369, as amended by section 14 of this act, must be submitted on or before July 1, 2024.

Sec. 16. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 17. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 16, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations or performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2024, for all other purposes.

