

HB 480-FN – AS INTRODUCED

2013 SESSION

13-0794
08/09

HOUSE BILL ***480-FN***

AN ACT relative to solitary confinement.

SPONSORS: Rep. Robertson, Ches 6; Rep. G. Johnsen, Ches 7; Rep. Christiansen, Hills 37;
Rep. Patten, Merr 17; Rep. Itse, Rock 10

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill:

- I. Defines “solitary confinement.”
- II. Creates conditions for the use of solitary confinement.
- III. Establishes a committee to study the use of solitary confinement in New Hampshire prisons.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to solitary confinement.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Purpose. The general court finds that:

2 I. Solitary confinement employed in New Hampshire state prisons, such as within the
3 “Controlled Custody Unit” and “Special Housing Unit”, have been subject to overuse in their
4 application to in-prison disciplinary offenses and inmates known to be suffering from various mental
5 health conditions.

6 II. Normal human contact with the outside world is essential for ensuring successful re-
7 entry into the community and reducing recidivism rates for prisoners with serious mental illness.

8 III. Federal courts have ruled that segregating prisoners, especially those with serious
9 mental illness, for too long is a violation of the Eighth Amendment to the United States Constitution
10 barring cruel and unusual punishment.

11 IV. The cost of incarcerating a prisoner in solitary confinement is often found to be more
12 than double that of conventional prison facilities—for example, a 2007 estimate from Arizona put the
13 annual cost of placing someone in solitary confinement at approximately \$50,000 a year compared to
14 only about \$20,000 a year for the average prisoner.

15 V. In 2006, Mississippi began to reduce its segregation population through an aggressive
16 reassessment of prisoners and within 12 months successfully brought down its segregated population
17 by 80 percent and saved approximately \$5.6 million per year.

18 VI. Because the vast majority of prisoners in solitary confinement eventually are released
19 back into the community, it is imperative that we invest our limited public dollars in proven
20 alternatives that lead to greater rehabilitation and pave the way for successful re-entry to the
21 community.

22 2 Discipline; Solitary Confinement. RSA 622:14 is repealed and reenacted to read as follows:

23 622:14 Discipline; Solitary Confinement.

24 I. In this section:

25 (a) “Solitary confinement” means cell confinement for 22-24 hours or more per day with
26 very limited out-of-cell time and severely restricted activity, movement, and social interaction,
27 whether pursuant to disciplinary, administrative, or classification action.

28 (b) A person with “serious mental illness and other significant mental impairment”
29 means a person with a substantial disorder of thought or mood that significantly impairs judgment,
30 behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, including

1 individuals found to have current symptoms or who are currently receiving treatment for the
2 following:

- 3 (1) Types of Diagnostic and Statistical Manual IV (DSM-IV) Axis I diagnosis:
4 (A) Schizophrenia (all sub-types)
5 (B) Delusional disorder
6 (C) Schizophreniform disorder
7 (D) Schizoaffective disorder
8 (E) Brief Psychotic disorder
9 (F) Substance-induced psychotic disorder (excluding intoxication and
10 withdrawal)
11 (G) Psychotic disorder not otherwise specified
12 (H) Major depressive disorders
13 (I) Bipolar disorder I and II
14 (2) Persons diagnosed with a mental disorder that includes being actively suicidal.
15 (3) Persons diagnosed with a serious mental illness that is frequently characterized
16 by breaks with reality, or perceptions of reality that leads the individual to significant functional
17 impairment.
18 (4) Persons diagnosed with an organic brain syndrome which results in a significant
19 functional impairment if not treated.
20 (5) Persons diagnosed with a severe personality disorder that is manifested by
21 frequent episodes of psychosis or depression, and results in significant functional impairment.

22 II. The commissioner of the department of corrections may offer suitable encouragement and
23 indulgences to those convicts who distinguish themselves by obedience, industry, and faithfulness,
24 and may punish any convict guilty of insolence or ill language to any officer of the prisons or guilty of
25 obstinate and refractory behavior by solitary imprisonment under the conditions outlined in
26 paragraph III or by such other reasonable and effective modes of punishment and discipline as the
27 commissioner of corrections may from time to time prescribe.

28 III. Solitary confinement may be imposed, however:

- 29 (a) No inmates shall be committed to solitary confinement for in-prison disciplinary
30 infractions for more than 6 weeks.
31 (b) The scope the infractions that invoke the use of solitary confinement shall be limited
32 to only those offenses which involve violent behavior whereby the inmate in question is a danger to
33 others or oneself.
34 (c) Solitary confinement shall not be used as a form of housing for inmates under the age
35 of 18 years.
36 (d) No inmate with serious mental illness or other significant mental impairment shall
37 be housed in solitary confinement.

1 (e) Prior to being placed or house in solitary confinement, an inmate shall be evaluated
2 by a mental health clinician to determine if he or she is seriously mentally ill or has another
3 significant mental impairment as defined in this section. If the mental health clinician makes such a
4 finding, the inmate shall be diverted from isolated confinement to a prison mental hospital, or other
5 appropriate housing that does not include isolated confinement.

6 (f) In no case shall any degree of reliance upon solitary confinement be authorized by the
7 warden or other prison official except after a hearing conducted by a properly constituted committee
8 that reviews the evidentiary basis of the charges, adjudges the appropriate length of punishment
9 and selects the type of solitary punishment unit to which the inmate in question is to be consigned.

10 3 Committee Established. There is established a committee to study the use of solitary
11 confinement in correctional facilities in New Hampshire, to determine the impact of solitary
12 confinement on inmates, and to assess the effectiveness of solitary confinement in reducing problems
13 and costs.

14 I. Membership and Compensation. The members of the committee shall be as follows:

15 (a) Four members of the house of representatives, appointed by the speaker of the house
16 of representatives.

17 (b) Three members of the senate, appointed by the president of the senate.

18 II. Members of the committee shall receive mileage at the legislative rate when attending to
19 the duties of the committee.

20 III. Duties. The committee shall gather information regarding:

21 (a) Criteria for placing an inmate in solitary confinement;

22 (b) The extent to which staff working with prisoners in solitary confinement receive any
23 specialized training;

24 (c) The results of any evaluations of the process of solitary confinement in New
25 Hampshire and other states;

26 (d) The effectiveness of step-down units to transition inmates from solitary confinement
27 to ordinary incarceration or to the community;

28 (e) The impact of use of solitary confinement on prison order and control in New
29 Hampshire correctional facilities;

30 (f) The relative cost of housing inmates in solitary confinement versus a regular general
31 population facility; and

32 (g) The conditions of solitary confinement in New Hampshire correctional facilities.

33 IV. The committee shall also collect data and statistics regarding:

34 (a) The number of inmates in solitary confinement in New Hampshire correctional
35 facilities with mental illness;

36 (b) The number of mental health professionals who work with inmates in solitary
37 confinement in New Hampshire correctional facilities;

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1 (c) The number of inmates in solitary confinement in New Hampshire correctional
2 facilities who are under the age of 21 and the number of inmates in solitary confinement who are
3 under the age of 18;

4 (d) The number of suicides committed by inmates held in solitary confinement in New
5 Hampshire correctional facilities; and

6 (e) Other relevant data as identified by the committee.

7 V. Chairperson; Quorum. The members of the committee shall elect a chairperson from
8 among the members. The first meeting of the committee shall be called by the first-named house
9 member. The first meeting of the committee shall be held within 30 days of the effective date of this
10 section. Four members of the committee shall constitute a quorum.

11 VI. Report. The committee shall submit an interim report of its findings to the speaker of
12 the house of representatives, the president of the senate, the house clerk, the senate clerk, the
13 governor, and the state library on or before December 1, 2013, and a final report of its findings and
14 any recommendations for proposed legislation on or before November 1, 2014.

15 4 Effective Date. This act shall take effect 60 days after its passage.

LBAO
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HB 480 FISCAL NOTE

AN ACT relative to solitary confinement.

FISCAL IMPACT:

The Department of Corrections states this bill will have an indeterminable impact on state expenditures in FY 2014 and each year thereafter. There is no fiscal impact on county and local revenue and expenditures or state revenue.

The Department of Corrections was contacted on January 11, 2013 and again on August 23, 2013 for a fiscal note worksheet, which the Department provided on September 9, 2013.

METHODOLOGY:

The Department of Corrections states this bill makes changes to the use of solitary confinement in the state prison. The Department states it is not able to determine the fiscal impact of this bill as the Department has no information to determine how many individuals may be affected.