



General Assembly

Amendment

January Session, 2021

LCO No. 10009



Offered by:
SEN. WINFIELD, 10th Dist.

To: Subst. Senate Bill No. 1059

File No. 616

Cal. No. 348

"AN ACT CONCERNING THE OFFICE OF THE CORRECTION OMBUDS, THE USE OF ISOLATED CONFINEMENT, SECLUSION AND RESTRAINTS, SOCIAL CONTACTS FOR INCARCERATED PERSONS AND TRAINING AND WORKERS' COMPENSATION BENEFITS FOR CORRECTION OFFICERS."

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- 1 In line 37, bracket "quarterly" and before "report" insert "semiannual"
- 2 In line 57, after "may" insert "serve until a successor is appointed and
3 confirmed in accordance with this section and"
- 4 In line 137, after "investigation." insert "The person to whom such
5 subpoena is issued may, not later than fifteen days after service of such
6 subpoena, or on or before the time specified in the subpoena for
7 compliance if such time is less than fifteen days after service, serve upon
8 the Correction Ombuds written objection to the subpoena and file such
9 objection in the superior court for the judicial district of Hartford which
10 shall adjudicate such objection in accordance with the rules of the court."
- 11 In line 138, after "fails to", insert "so object to or"

12 In line 163, after "section.", insert "A person may appeal any
13 determination not to disclose information pursuant to this section in
14 accordance with section 4-183."

15 In line 170, strike "and any volunteer appointed"

16 In line 171, strike "by the Correction Ombuds"

17 In line 175, strike "or appointment"

18 In line 211, strike "sixteen" and insert "seventeen and one-half"

19 Strike subsection (b) of section 2 in its entirety and substitute the
20 following in lieu thereof:

21 "(b) (1) On and after July 1, 2022, each incarcerated person shall have
22 the opportunity to be outside of his or her cell for at least six and one-
23 half hours each day, except for those incarcerated persons on restrictive
24 housing status, or as otherwise provided in the case of an incarcerated
25 person held in seclusion pursuant to subsection (d) of this section or
26 except as provided in subdivision (4) of this subsection or in response to
27 (A) a serious incident resulting in a correctional facility-wide lockdown;
28 (B) a substantiated threat of imminent physical harm to another person
29 as evidenced by recent conduct; or (C) an incarcerated person's request
30 for segregation for such person's protection.

31 (2) On and after July 1, 2023, each incarcerated person shall have the
32 opportunity to be outside of his or her cell for at least six and one-half
33 hours each day, including those incarcerated persons on restrictive
34 housing status, except in the case of an incarcerated person held in
35 seclusion pursuant to subsection (d) of this section or except as provided
36 in subdivision (4) of this subsection or in response to (A) a serious
37 incident resulting in a correctional facility-wide lockdown; (B) a
38 substantiated threat of imminent physical harm to another person as
39 evidenced by recent conduct; or (C) an incarcerated person's request for
40 segregation for such person's protection.

41 (3) Prior to holding any incarcerated person in isolated confinement

42 due to one of the situations described in subparagraph (A), (B) or (C) of
43 subdivision (1) of this subsection, the department shall attempt to
44 defuse the instant situation by using de-escalation methods and less
45 restrictive measures. Only if such methods and measures fail to defuse
46 the instant situation may the department hold a person in isolated
47 confinement.

48 (4) If holding an incarcerated person in isolated confinement, the
49 department shall:

50 (A) Not later than twenty-four hours after initiating the process of
51 holding such person in isolated confinement, ensure a physician
52 personally conducts a physical examination and a therapist personally
53 conducts a mental health evaluation of such person to determine
54 whether such person is a member of a vulnerable population;

55 (B) Ensure continuous monitoring to ensure the person's safety and
56 well-being;

57 (C) Ensure that any person held in isolated confinement shall have
58 sufficient and regular access to a toilet, water, food, light, air and heat;

59 (D) Continue de-escalation efforts; and

60 (E) End isolated confinement of the person as soon as the threat of the
61 serious incident or of imminent physical harm to others has passed or
62 such person no longer requests segregation for such person's protection.

63 (5) The department shall not subject any incarcerated person to
64 isolated confinement (A) because of the incarcerated person's race,
65 creed, color, national origin, nationality, ancestry, age, marital status,
66 domestic partnership or civil union status, affectional or sexual
67 orientation, genetic information, pregnancy or breastfeeding status, sex,
68 gender identity or expression, disability or atypical hereditary cellular
69 or blood trait, or (B) for any continuous period longer than seventy-two
70 hours, or for more than seventy-two hours during any fourteen-day
71 period.

72 (6) No staff member with a rank lower than captain may order an
73 incarcerated person to be held in isolated confinement. A staff member
74 with a rank of captain or higher or the commissioner or deputy
75 commissioner may order an incarcerated person to be held in isolated
76 confinement for an initial period of not more than eight hours. If there
77 is no staff member on duty during a period of time at a facility with the
78 rank of captain or higher, the warden of such facility may authorize an
79 officer who has the highest rank of those on duty during such period of
80 time to have the ability to order an incarcerated person to be held in
81 isolated confinement for an initial period of not more than eight hours.
82 Only a staff member with a rank of deputy warden or warden or the
83 commissioner or deputy commissioner may order the continuation of a
84 period of isolated confinement in increments of no more than eight
85 hours and not more than a total of forty-eight hours. Only the
86 commissioner or deputy commissioner may order the continuation of a
87 period of isolated confinement of not more than a total of seventy-two
88 hours."

89 Strike subparagraph (D) of subdivision (1) of subsection (a) of section
90 3 and insert the following in lieu thereof:

91 "(D) Provide that no incarcerated person, except one who has a
92 history of contraband violations, may be deprived of a contact social
93 visit under this subsection without first having a hearing at which the
94 Department of Correction shall bear the burden of showing by clear and
95 convincing evidence that the denial of contact social visits is necessary
96 (i) to protect against a substantiated threat of imminent physical harm
97 to department employees, the visitor or another person; or (ii) to prevent
98 the introduction of contraband. If the department fails to make such
99 showing, the incarcerated person shall have such contact social visits
100 reinstated. Any such incarcerated person who has a history of
101 contraband violations may be deprived of contact social visits without
102 first having a hearing, provided such person may request a hearing to
103 have such contact social visits reinstated. Hearings conducted pursuant
104 to this subparagraph shall be guided by written procedures developed
105 under section 502 of this act. Any incarcerated person who has a social

106 contact visit denied pursuant to this section shall have an opportunity
107 for a social visit not involving contact in the place of such social contact
108 visit."

109 Strike lines 657 to 666, inclusive, in their entirety

110 In line 667, strike "(4)" and insert "(3)" in lieu thereof

111 Strike lines 670 to 679, inclusive, in their entirety

112 Strike sections 4 to 8, inclusive, in their entirety and renumber the
113 remaining sections and internal references accordingly

114 After the last section, add the following and renumber sections and
115 internal references accordingly:

116 "Sec. 501. (*Effective from passage*) (a) The Commissioner of Correction
117 may, not later than July 1, 2023, develop a plan to govern how each
118 incarcerated person on restrictive housing status shall have the
119 opportunity to be outside of his or her cell for at least six and one-half
120 hours each day, except as otherwise provided in subsection (b) of section
121 18-96b of the general statutes, as amended by this act. Regardless of
122 whether such plan is developed, each such incarcerated person shall
123 have the opportunity to be outside of his or her cell for at least six and
124 one-half hours each day, as provided in said subsection (b)."

125 (b) Not later than two weeks after any plan is developed pursuant to
126 subsection (a) of this section, the commissioner shall report such plan in
127 accordance with the provisions of section 11-4a of the general statutes
128 to the joint standing committee of the General Assembly having
129 cognizance of matters relating to the Department of Correction.

130 Sec. 502. (*Effective from passage*) Not later than September 30, 2021, the
131 Commissioner of Correction shall develop written procedures for
132 hearings conducted pursuant to section 18-81gg of the general statutes,
133 as amended by this act. Such procedures shall guide such hearings on
134 and after October 1, 2021. Not later than October 1, 2021, the
135 commissioner shall report such procedures in accordance with the

136 provisions of section 11-4a of the general statutes to the joint standing
137 committee of the General Assembly having cognizance of matters
138 relating to the Department of Correction."

This act shall take effect as follows and shall amend the following sections:

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| Sec. 501 | <i>from passage</i> | New section |
| Sec. 502 | <i>from passage</i> | New section |