A BILL FOR AN ACT

CONCERNING RESTRICTING THE USE OF LONG-TERM ISOLATED
CONFINEMENT FOR INMATES WITH SERIOUS MENTAL ILLNESS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://www.leg.state.co.us/billsummaries.)

The bill requires the department of corrections to review the status of all offenders held in long-term isolated confinement within 90 days after the effective date of the bill. If the review determines that the offender is seriously mentally ill, the department shall move the offender from long-term isolated confinement to a mental health step-down unit,
a prison mental hospital, or other appropriate housing that does not include long-term isolated confinement. The department may not place a seriously mentally ill offender in long-term isolated confinement and must do a mental health evaluation prior to placing an inmate in long-term isolated confinement prior to placement to determine whether the placement is allowed.

The bill dictates the type and manner that discipline is applied to seriously mentally ill inmates. The bill provides seriously mentally ill inmates with the opportunity for therapy and out-of-cell time.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Isolated confinement is the practice of housing prisoners in small, barren cells where they are restricted for up to twenty-three hours per day;

(b) Since its creation, the practice of prolonged isolated confinement has been subject to intense scrutiny due to its damaging effects on mental health;

(c) Prisoners with mental illness are disproportionately likely to be subjected to isolated confinement because mental illness often makes it difficult or impossible to comply with the strict behavioral expectations of prison;

(d) Once housed in isolated confinement, the mental health of prisoners with serious mental illness often decompensates further, making them a great threat to their own safety as well as to the safety of other prisoners, prison staff, and ultimately the public, since almost all Colorado prisoners will one day be released;

(e) Colorado does not currently require prisoners who have lived in isolated confinement to gain exposure to human interaction before
release to the general public;

(f) The United States department of justice and courts have agreed that the constitution forbids subjecting prisoners with serious mental illness to prolonged isolated confinement; and

(g) Since 2010, the Colorado department of corrections has worked to significantly reduce the number of prisoners with mental illness in isolated confinement.

(2) Therefore, the general assembly finds that the state must codify the practice of limiting the housing of prisoners with serious mental illness in isolated confinement.

SECTION 2. In Colorado Revised Statutes, add 17-1-113.8 as follows:

17-1-113.8. Directives for dealing with the seriously mentally ill offender - definitions. (1) To ensure that offenders held in long-term isolated confinement have been evaluated to determine their mental health status, within ninety days after the effective date of this section, the department shall review the status of all offenders held in long-term isolated confinement in the state to determine whether the offenders currently housed in long-term isolated confinement should remain in those units under the terms of this section. If the mental health clinician determines that the offender is seriously mentally ill, the department shall move the offender from long-term isolated confinement to a mental health or special needs step-down unit, a prison mental hospital, or other appropriate housing that does not include long-term isolated confinement.
(2) As of the effective date of this section, prior to placing an offender in long-term isolated confinement for either a disciplinary infraction or a nonpunitive reason, the department shall have the offender evaluated by a mental health clinician to determine if the offender is a person with serious mental illness. If the mental health clinician finds the offender is a person with a serious mental illness and other significant mental impairment, the department shall place the offender in a mental health or special needs step-down unit, a prison mental hospital, or other appropriate housing that does not include isolated confinement.

(3) A person with serious mental illness and other significant mental impairment may be subject to discipline, but the discipline shall be handled by collaboration between mental health clinicians, other required medical staff, and custody staff in a mental health or special needs step-down unit or other appropriate housing that does not include long-term isolated confinement. Any punishment must work within the individual’s mental health or rehabilitation treatment plan.

(4) The mental health or special needs step-down units shall be physically separate from any long-term isolated confinement unit and shall not be operated as a disciplinary housing unit. The department shall offer offenders in the mental health or special needs step-down units a minimum of twenty hours out-of-cell time every week, including ten hours of therapeutic activity.

(5) The department shall provide offenders in the mental
HEALTH OR SPECIAL NEEDS STEP-DOWN UNITS CLINICAL VISITS BY MENTAL
HEALTH CLINICIANS AND REHABILITATIVE MEDICAL PERSONNEL AS PART
OF THEIR TREATMENT PROGRAM. THESE VISITS MUST BE CONDUCTED IN A
CLINICAL ENVIRONMENT THAT ENSURES PRIVACY.

(6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
REQUIRES:

(a) "ISOLATED CONFINEMENT" MEANS THE STATE OF BEING
CONFINED IN ONE’S CELL FOR APPROXIMATELY TWENTY-TWO HOURS PER
DAY OR MORE WITH VERY LIMITED OUT-OF-CELL TIME AND SEVERELY
RESTRICTED ACTIVITY, MOVEMENT, AND SOCIAL INTERACTION, WHETHER
PURSUANT TO DISCIPLINARY, ADMINISTRATIVE, OR CLASSIFICATION
ACTION.

(b) "LONG-TERM ISOLATED CONFINEMENT" MEANS ISOLATED
CONFINEMENT THAT IS EXPECTED TO EXTEND OR DOES EXTEND FOR A
PERIOD OF TIME EXCEEDING THIRTY DAYS.

(c) "MENTAL HEALTH OR SPECIAL NEEDS STEP-DOWN UNITS"
MEANS RESIDENTIAL THERAPEUTIC HOUSING UNITS WITHIN A
CORRECTIONAL FACILITY THAT PROVIDE CLINICALLY APPROPRIATE AND
THERAPEUTIC PROGRAMMING TO OFFENDERS WITH SERIOUS MENTAL
ILLNESS IN LIEU OF HOUSING IN ADMINISTRATIVE OR DISCIPLINARY
SEGREGATION UNITS OR ISOLATED CONFINEMENT.

(d) "PERSON WITH SERIOUS MENTAL ILLNESS OR OTHER
SIGNIFICANT MENTAL IMPAIRMENT" MEANS A PERSON WITH A
SUBSTANTIAL DISORDER OF THOUGHT OR MOOD THAT SIGNIFICANTLY
IMPACTS JUDGMENT, BEHAVIOR, OR CAPACITY TO RECOGNIZE REALITY,
WHICH MAY INCLUDE INDIVIDUALS FOUND TO HAVE CURRENT SYMPTOMS
OR WHO ARE CURRENTLY RECEIVING TREATMENT FOR THE FOLLOWING:
(I) Type of diagnosis found in the Diagnostic and Statistical Manual 5 (DSM-5), or the most current version, including:

(A) Schizophrenia, including all sub-types;
(B) Delusional disorder;
(C) Schizotypal disorder;
(D) Schizoaffective disorder;
(E) Brief psychotic disorder;
(F) Substance-induced psychotic disorder, excluding intoxication and withdrawal;
(G) Psychotic disorder not otherwise specified;
(H) Major depressive disorders; or
(I) Bipolar affective disorder;

(II) A mental disorder that includes being actively suicidal;

(III) A serious mental illness that is frequently characterized by breaks with reality or perceptions of reality that leads the individual to significant functional impairment;

(IV) An organic brain syndrome, which results in a significant functional impairment if not treated;

(V) A severe personality disorder that is manifested by frequent episodes of psychosis or depression and results in significant functional impairment;

(VI) Any other serious mental illness or disorder that is worsened by confinement; or

(VII) Mental retardation with significant functional impairment.
SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.