

8588--A

I N A S S E M B L Y

January 24, 2014

Introduced by M. of A. AUBRY, PERRY -- read once and referred to the Committee on Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the correction law, in relation to restricting the use of segregated confinement and creating alternative therapeutic and rehabilitative confinement options

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

1 Section 1. Section 137 of the correction law is amended by adding a  
2 new subdivision 5-a to read as follows:

3 5-A. THE USE OF SEGREGATED CONFINEMENT, EXCLUSION OF CERTAIN SPECIAL  
4 POPULATIONS, AND LENGTH OF TIME ANY PERSON CAN SPEND IN SEGREGATED  
5 CONFINEMENT SHALL BE RESTRICTED IN ACCORDANCE WITH PARAGRAPHS (G), (H),  
6 (I), (J), (K), (L), (M), AND (N) OF SUBDIVISION SIX OF THIS SECTION OR  
7 ANY OTHER APPLICABLE LAW.

8 S 2. Subdivision 23 of section 2 of the correction law, as added by  
9 chapter 1 of the laws of 2008, is amended to read as follows:

10 23. "Segregated confinement" means the [disciplinary] confinement,  
11 OTHER THAN FOR EMERGENCY CONFINEMENT AS DEFINED IN SUBDIVISION  
12 THIRTY-THREE OF THIS SECTION, OR FOR DOCUMENTED MEDICAL REASONS OR  
13 MENTAL HEALTH EMERGENCIES, of an inmate in a special housing unit or in  
14 a separate keeplock housing unit OR ANY FORM OF KEEPLOCK, OR CELL  
15 CONFINEMENT FOR MORE THAN SEVENTEEN HOURS A DAY OTHER THAN IN A FACILI-  
16 TY-WIDE LOCKDOWN. Special housing units and separate keeplock units are  
17 housing units that consist of cells grouped so as to provide separation  
18 from the general population, and may be used to house inmates confined  
19 pursuant to the disciplinary procedures described in regulations.

20 S 3. Section 2 of the correction law is amended by adding five new  
21 subdivisions 32, 33, 34, 35, and 36 to read as follows:

22 32. "SPECIAL POPULATIONS" MEANS ANY PERSON: (A) TWENTY-ONE YEARS OF  
23 AGE OR YOUNGER; (B) FIFTY-FIVE YEARS OF AGE OR OLDER; (C) WITH A DISA-  
24 BILITY AS DEFINED IN SUBDIVISION TWENTY-ONE OF SECTION TWO HUNDRED NINE-  
25 TY-TWO OF THE EXECUTIVE LAW, INCLUDING BUT NOT LIMITED TO, FOR PURPOSES  
26 OF MENTAL IMPAIRMENT, PERSONS WITH A SERIOUS MENTAL ILLNESS AS DEFINED

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD13381-03-4

1 IN PARAGRAPH (E) OF SUBDIVISION SIX OF SECTION ONE HUNDRED THIRTY-SEVEN  
2 OF THIS CHAPTER; (D) WHO IS PREGNANT, IS IN THE FIRST EIGHT WEEKS OF THE  
3 POST-PARTUM RECOVERY PERIOD AFTER GIVING BIRTH, OR IS CARING FOR A CHILD  
4 IN A CORRECTIONAL INSTITUTION PURSUANT TO SUBDIVISIONS TWO OR THREE OF  
5 SECTION SIX HUNDRED ELEVEN OF THIS CHAPTER; OR (E) WHO IS OR IS  
6 PERCEIVED TO BE LESBIAN, GAY, BISEXUAL, TRANSGENDER, OR INTERSEX.

7 33. "EMERGENCY CONFINEMENT" MEANS CONFINEMENT IN ANY CELL FOR NO MORE  
8 THAN TWENTY-FOUR CONSECUTIVE HOURS AND NO MORE THAN FORTY-EIGHT TOTAL  
9 HOURS IN ANY FIFTEEN DAY PERIOD, WITH AT LEAST ONE HOUR OF OUT-OF-CELL  
10 RECREATION FOR EVERY TWENTY-FOUR HOURS.

11 34. "SHORT-TERM SEGREGATED CONFINEMENT" MEANS SEGREGATED CONFINEMENT  
12 OF NO MORE THAN THREE CONSECUTIVE DAYS AND SIX DAYS TOTAL WITHIN ANY  
13 THIRTY DAY PERIOD.

14 35. "EXTENDED SEGREGATED CONFINEMENT" MEANS SEGREGATED CONFINEMENT OF  
15 NO MORE THAN FIFTEEN CONSECUTIVE DAYS AND TWENTY DAYS TOTAL WITHIN ANY  
16 SIXTY DAY PERIOD.

17 36. "RESIDENTIAL REHABILITATION UNIT" MEANS SECURE AND SEPARATE UNITS  
18 USED FOR THERAPY, TREATMENT, AND REHABILITATIVE PROGRAMMING OF PEOPLE  
19 WHO WOULD BE PLACED IN SEGREGATED CONFINEMENT FOR MORE THAN FIFTEEN  
20 DAYS. SUCH UNITS ARE THERAPEUTIC AND TRAUMA-INFORMED, AND AIM TO ADDRESS  
21 INDIVIDUAL TREATMENT AND REHABILITATION NEEDS AND UNDERLYING CAUSES OF  
22 PROBLEMATIC BEHAVIORS.

23 S 4. Subdivision 6 of section 137 of the correction law is amended by  
24 adding eight new paragraphs (g), (h), (i), (j), (k), (l), (m), and (n)  
25 to read as follows:

26 (G) PERSONS IN A SPECIAL POPULATION AS DEFINED IN SUBDIVISION THIRTY-  
27 TWO OF SECTION TWO OF THIS CHAPTER SHALL NOT BE PLACED IN SEGREGATED  
28 CONFINEMENT FOR ANY LENGTH OF TIME. ANY SUCH PERSONS THE DEPARTMENT  
29 WOULD OTHERWISE PLACE IN SEGREGATED CONFINEMENT SHALL REMAIN IN GENERAL  
30 POPULATION OR BE DIVERTED TO A RESIDENTIAL REHABILITATION UNIT. IF A  
31 PERSON IN A SPECIAL POPULATION IS PLACED IN EMERGENCY CONFINEMENT FOR  
32 MORE THAN SIXTEEN HOURS, HE OR SHE SHALL BE ALLOWED OUT-OF-CELL AT LEAST  
33 FOUR HOURS.

34 (H) NO PERSON MAY BE IN SEGREGATED CONFINEMENT FOR LONGER THAN NECES-  
35 SARY AND NEVER MORE THAN FIFTEEN CONSECUTIVE DAYS NOR TWENTY TOTAL DAYS  
36 WITHIN ANY SIXTY DAY PERIOD. AT THESE LIMITS, PERSONS MUST BE RELEASED  
37 FROM SEGREGATED CONFINEMENT OR DIVERTED TO A SEPARATE SECURE RESIDENTIAL  
38 REHABILITATION UNIT.

39 (I) (I) ALL SEGREGATED CONFINEMENT AND RESIDENTIAL REHABILITATION  
40 UNITS SHALL CREATE THE LEAST RESTRICTIVE ENVIRONMENT NECESSARY FOR THE  
41 SAFETY OF RESIDENTS, STAFF, AND THE SECURITY OF THE FACILITY.

42 (II) PERSONS IN SEGREGATED CONFINEMENT SHALL BE ALLOWED OUT-OF-CELL AT  
43 LEAST FOUR HOURS PER DAY, INCLUDING AT LEAST ONE HOUR FOR RECREATION.  
44 PERSONS IN RESIDENTIAL REHABILITATION UNITS SHALL BE ALLOWED AT LEAST  
45 SIX HOURS PER DAY OUT-OF-CELL FOR PROGRAMMING, SERVICES, TREATMENT,  
46 AND/OR MEALS, AND AN ADDITIONAL MINIMUM OF ONE HOUR FOR RECREATION.  
47 RECREATION IN ALL UNITS SHALL TAKE PLACE IN A CONGREGATE SETTING, UNLESS  
48 EXCEPTIONAL CIRCUMSTANCES MEAN DOING SO WOULD CREATE A SIGNIFICANT AND  
49 UNREASONABLE RISK TO THE SAFETY AND SECURITY OF OTHER INCARCERATED  
50 PERSONS, STAFF, OR THE FACILITY.

51 (III) PERSONS IN SEGREGATED CONFINEMENT AND RESIDENTIAL REHABILITATION  
52 UNITS SHALL: (A) RECEIVE AT LEAST COMPARABLE MEDICAL AND MENTAL HEALTH  
53 CARE TO GENERAL POPULATION, INCLUDING OBSTETRICAL AND GYNECOLOGICAL  
54 SERVICES, IN A SETTING ENSURING PRIVACY AND CONFIDENTIALITY; (B) HAVE  
55 THEIR BASIC NEEDS MET IN A MANNER COMPARABLE TO GENERAL POPULATION, AND  
56 NEVER HAVE RESTRICTED DIETS NOR ANY ORDER RESTRICTING ANY BASIC NEED

1 IMPOSED AS A FORM OF PUNISHMENT; (C) IF IN A RESIDENTIAL REHABILITATION  
2 UNIT BE ABLE TO RETAIN ALL THEIR PROPERTY WITH THEM; (D) HAVE COMPARABLE  
3 ACCESS TO ALL SERVICES AND MATERIALS AS IN GENERAL POPULATION; AND (E)  
4 BE ABLE TO RETAIN PROGRAM MATERIALS, COMPLETE PROGRAM ASSIGNMENTS, AND  
5 CONTINUE UPON RETURN ALL UNCOMPLETED PROGRAMS THEY WERE IN PRIOR TO  
6 PLACEMENT IN SEGREGATED CONFINEMENT OR A RESIDENTIAL REHABILITATION  
7 UNIT.

8 (IV) WITHIN TEN DAYS OF ADMISSION TO A RESIDENTIAL REHABILITATION  
9 UNIT, AN ASSESSMENT COMMITTEE COMPRISED OF PROGRAM, REHABILITATION,  
10 MENTAL HEALTH, AND SECURITY STAFF SHALL ADMINISTER AN ASSESSMENT AND  
11 DEVELOP IN COLLABORATION WITH THE RESIDENT AN INDIVIDUAL REHABILITATION  
12 PLAN, BASED UPON THE PERSON'S MEDICAL, MENTAL HEALTH, AND PROGRAMMING  
13 NEEDS, THAT IDENTIFIES SPECIFIC GOALS AND PROGRAMS, TREATMENT, AND  
14 SERVICES TO BE OFFERED, WITH PROJECTED TIME FRAMES FOR COMPLETION AND  
15 RELEASE FROM THE RESIDENTIAL REHABILITATION UNIT.

16 (V) RESIDENTS IN RESIDENTIAL REHABILITATION UNITS SHALL HAVE ACCESS TO  
17 PROGRAMS AND JOBS COMPARABLE TO ALL CORE OUT-OF-CELL PROGRAMS IN GENERAL  
18 POPULATION. SUCH RESIDENTS SHALL ALSO HAVE ACCESS TO ADDITIONAL  
19 OUT-OF-CELL, TRAUMA-INFORMED THERAPEUTIC PROGRAMMING AIMED AT PROMOTING  
20 PERSONAL DEVELOPMENT, ADDRESSING UNDERLYING CAUSES OF PROBLEMATIC BEHAV-  
21 IOR RESULTING IN PLACEMENT IN A RESIDENTIAL REHABILITATION UNIT, AND  
22 HELPING PREPARE FOR DISCHARGE FROM THE UNIT AND TO THE COMMUNITY.

23 (VI) IF THE DEPARTMENT ESTABLISHES THAT A PERSON COMMITTED AN ACT  
24 DEFINED IN SUBPARAGRAPH (III) OF PARAGRAPH (J) OF THIS SUBDIVISION WHILE  
25 IN SEGREGATED CONFINEMENT OR A RESIDENTIAL REHABILITATION UNIT AND POSES  
26 A SIGNIFICANT AND UNREASONABLE RISK TO THE SAFETY AND SECURITY OF OTHER  
27 RESIDENTS OR STAFF, THE DEPARTMENT MAY RESTRICT THAT PERSON'S PARTIC-  
28 IPATION IN PROGRAMMING AND OUT-OF-CELL TIME AS NECESSARY FOR THE SAFETY  
29 OF OTHER RESIDENTS AND STAFF. IF RESTRICTIONS ARE IMPOSED IN SEGREGATED  
30 CONFINEMENT, THE DEPARTMENT MUST STILL PROVIDE AT LEAST TWO HOURS  
31 OUT-OF-CELL TIME. IF RESTRICTIONS ARE IMPOSED IN A RESIDENTIAL REHABILI-  
32 TATION UNIT, THE DEPARTMENT SHALL DEVELOP A NEW REHABILITATION PLAN,  
33 PROVIDE AT LEAST THREE HOURS OUT-OF-CELL TIME, AND ON EACH DAY PROGRAM-  
34 MING RESTRICTIONS ARE IMPOSED PROVIDE AT LEAST TWO HOURS OF OUT-OF-CELL  
35 ONE-ON-ONE THERAPY WITH THE RESIDENT AND ONE HOUR OF OUT-OF-CELL RECRE-  
36 ATION. THE DEPARTMENT SHALL REMOVE ALL RESTRICTIONS WITHIN FIFTEEN DAYS,  
37 AND MAY NOT IMPOSE NEW RESTRICTIONS UNLESS THE PERSON COMMITS A NEW ACT  
38 DEFINED IN SUBPARAGRAPH (III) OF PARAGRAPH (J) OF THIS SUBDIVISION.

39 (VII) RESTRAINTS SHALL NOT BE USED WHEN RESIDENTS LEAVE A CELL OR  
40 HOUSING AREA FOR ON-UNIT OPERATIONS, UNLESS A RESIDENT WAS FOUND AT A  
41 HEARING TO HAVE COMMITTED AN ACT OF VIOLENCE ON THE RESIDENTIAL REHABIL-  
42 ITATION UNIT WITHIN THE PREVIOUS SEVEN DAYS OR IS CURRENTLY ACTING IN AN  
43 UNACCEPTABLY VIOLENT MANNER, AND NOT USING RESTRAINTS WOULD CREATE A  
44 SIGNIFICANT AND UNREASONABLE RISK TO THE SAFETY AND SECURITY OF OTHER  
45 RESIDENTS OR STAFF.

46 (VIII) THERE SHALL BE A PRESUMPTION AGAINST THE IMPOSITION OF MISBE-  
47 HAVIOR REPORTS, PURSUIT OF DISCIPLINARY CHARGES, OR IMPOSITION OF ADDI-  
48 TIONAL TIME IN SEGREGATED CONFINEMENT FOR INDIVIDUALS IN SEGREGATED  
49 CONFINEMENT OR RESIDENTIAL REHABILITATION UNITS. THE DEPARTMENT SHALL  
50 USE OTHER NON-DISCIPLINARY INTERVENTIONS TO ADDRESS ANY PROBLEMATIC  
51 BEHAVIOR. NO RESIDENT SHALL RECEIVE SEGREGATED CONFINEMENT TIME WHILE IN  
52 SEGREGATED CONFINEMENT OR A RESIDENTIAL REHABILITATION UNIT EXCEPT WHERE  
53 IT IS DETERMINED PURSUANT TO A DISCIPLINARY HEARING THAT HE OR SHE  
54 COMMITTED ONE OR MORE ACT LISTED IN SUBPARAGRAPH (III) OF PARAGRAPH (J)  
55 OF THIS SUBDIVISION WHILE ON THE UNIT, AND THAT HE OR SHE POSES A

1 SIGNIFICANT AND UNREASONABLE RISK TO THE SAFETY OF RESIDENTS OR STAFF,  
2 OR THE SECURITY OF THE FACILITY.

3 (J) (I) THE DEPARTMENT MAY PLACE A PERSON IN EMERGENCY CONFINEMENT  
4 WITHOUT A HEARING IF NECESSARY FOR IMMEDIATELY DEFUSING A SUBSTANTIAL  
5 AND IMMINENT THREAT TO SAFETY OR SECURITY OF INCARCERATED PERSONS OR  
6 STAFF.

7 (II) THE DEPARTMENT IS ENCOURAGED TO USE RESPONSES OTHER THAN SEGRE-  
8 GATED CONFINEMENT IN RESPONSE TO DEPARTMENT RULE VIOLATIONS. THE DEPART-  
9 MENT MAY PLACE A PERSON IN SHORT TERM SEGREGATED CONFINEMENT IF IT  
10 DETERMINES, PURSUANT TO AN EVIDENTIARY HEARING, THAT THE PERSON COMMIT-  
11 TED A DEPARTMENT RULE VIOLATION WARRANTING SUCH CONFINEMENT AND THE  
12 LENGTH OF SEGREGATED CONFINEMENT IMPOSED IS PROPORTIONATE TO THE  
13 VIOLATION.

14 (III) THE DEPARTMENT MAY PLACE A PERSON IN EXTENDED SEGREGATED  
15 CONFINEMENT OR A RESIDENTIAL REHABILITATION UNIT ONLY IF, PURSUANT TO AN  
16 EVIDENTIARY HEARING, IT DETERMINES THE PERSON COMMITTED, WHILE UNDER  
17 DEPARTMENT CUSTODY, OR PRIOR TO CUSTODY IF THE COMMISSIONER OR HIS OR  
18 HER DESIGNEE DETERMINES IN WRITING BASED ON SPECIFIC OBJECTIVE CRITERIA  
19 THE ACTS WERE SO HEINOUS OR DESTRUCTIVE THAT GENERAL POPULATION HOUSING  
20 CREATES A SIGNIFICANT RISK OF IMMINENT SERIOUS PHYSICAL INJURY TO STAFF  
21 OR OTHER INCARCERATED PERSONS, ONE OF THE FOLLOWING ACTS: (A) CAUSING OR  
22 ATTEMPTING TO CAUSE SERIOUS PHYSICAL INJURY OR DEATH TO ANOTHER PERSON;  
23 (B) COMPELLING OR ATTEMPTING TO COMPEL ANOTHER PERSON, BY FORCE OR  
24 THREAT OF FORCE, TO ENGAGE IN A SEXUAL ACT; (C) EXTORTING ANOTHER, BY  
25 FORCE OR THREAT OF FORCE, FOR PROPERTY OR MONEY; (D) COERCING ANOTHER,  
26 BY FORCE OR THREAT OF FORCE, TO VIOLATE ANY RULE; (E) LEADING, ORGANIZ-  
27 ING, OR INCITING A SERIOUS DISTURBANCE THAT RESULTS IN THE TAKING OF A  
28 HOSTAGE, MAJOR PROPERTY DAMAGE, OR PHYSICAL HARM TO ANOTHER PERSON; (F)  
29 PROCURING DEADLY WEAPONS OR OTHER DANGEROUS CONTRABAND THAT POSES A  
30 SERIOUS THREAT TO THE SECURITY OF THE INSTITUTION; OR (G) ESCAPING,  
31 ATTEMPTING TO ESCAPE OR FACILITATING AN ESCAPE FROM A FACILITY, OR WHILE  
32 UNDER SUPERVISION OUTSIDE OF SUCH A FACILITY, RESULTING IN PHYSICAL HARM  
33 OR THREATENED PHYSICAL HARM TO OTHERS, OR IN MAJOR DESTRUCTION TO THE  
34 PHYSICAL PLANT.

35 (IV) NO PERSON MAY BE HELD IN SEGREGATED CONFINEMENT FOR PROTECTIVE  
36 CUSTODY. ANY UNIT USED FOR PROTECTIVE CUSTODY MUST, AT A MINIMUM,  
37 CONFORM TO REQUIREMENTS GOVERNING RESIDENTIAL REHABILITATION UNITS UNDER  
38 PARAGRAPHS (I), (L), (M), AND (N) OF THIS SUBDIVISION. WHEN APPLIED TO A  
39 PERSON IN PROTECTIVE CUSTODY, THE CRITERIA IN SUBPARAGRAPH (II) AND  
40 CLAUSE (A) OF SUBPARAGRAPH (III) OF PARAGRAPH (L) OF THIS SUBDIVISION  
41 SHALL BE THAT "THE PERSON STILL IS IN NEED OF PROTECTIVE CUSTODY"; AND  
42 THE CRITERIA IN SUBPARAGRAPH (IV) OF PARAGRAPH (L) OF THIS SUBDIVISION  
43 SHALL BE THAT "THE PERSON IS IN VOLUNTARY PROTECTIVE CUSTODY."

44 (K) (I) ALL HEARINGS TO DETERMINE IF A PERSON MAY BE PLACED IN SHORT  
45 TERM OR EXTENDED SEGREGATED CONFINEMENT SHALL OCCUR PRIOR TO PLACEMENT  
46 IN SEGREGATED CONFINEMENT UNLESS A SECURITY SUPERVISOR, WITH WRITTEN  
47 APPROVAL OF A FACILITY SUPERINTENDENT OR DESIGNEE, REASONABLY BELIEVES  
48 THE PERSON FITS THE CRITERIA FOR EXTENDED SEGREGATED CONFINEMENT. IF A  
49 HEARING DOES NOT TAKE PLACE PRIOR TO PLACEMENT, IT SHALL OCCUR AS SOON  
50 AS REASONABLY PRACTICABLE AND AT MOST WITHIN FIVE DAYS OF TRANSFER  
51 UNLESS THE CHARGED PERSON SEEKS MORE TIME. ALL HEARINGS SHALL AT A MINI-  
52 MUM COMPLY WITH THE STANDARDS OF ALL DEPARTMENT RULES FOR DISCIPLINARY  
53 HEARINGS AS OF JANUARY FIRST, TWO THOUSAND FIFTEEN. PERSONS AT ALL  
54 HEARINGS SHALL BE PERMITTED TO BE REPRESENTED BY ANY PRO BONO OR  
55 RETAINED ATTORNEY, OR LAW STUDENT; OR ANY PARALEGAL OR INCARCERATED  
56 PERSON UNLESS THE DEPARTMENT REASONABLY DISAPPROVES OF SUCH PARALEGAL OR

1 INCARCERATED PERSON BASED UPON OBJECTIVE WRITTEN CRITERIA DEVELOPED BY  
2 THE DEPARTMENT CONCERNING QUALIFICATIONS TO BE AN ASSISTANT AT A HEAR-  
3 ING.

4 (II) ON NOTIFICATION A PERSON IS TO BE PLACED IN SEGREGATED CONFINEMENT AND PRIOR TO SUCH PLACEMENT, HE OR SHE SHALL BE ASSESSED BY RELEVANT LICENSED MEDICAL, SOCIAL, AND/OR MENTAL HEALTH PROFESSIONALS TO DETERMINE WHETHER HE OR SHE BELONGS TO ANY SPECIAL POPULATION AS DEFINED IN SUBDIVISION THIRTY-TWO OF SECTION TWO OF THIS CHAPTER. IF A PERSON DISPUTES A DETERMINATION THAT HE OR SHE IS NOT IN A SPECIAL POPULATION, HE OR SHE SHALL BE PROVIDED A HEARING WITHIN SEVENTY-TWO HOURS OF PLACEMENT IN SEGREGATED CONFINEMENT TO CHALLENGE SUCH DETERMINATION.

12 (L) (I) ANY SANCTION IMPOSED ON AN INCARCERATED PERSON REQUIRING SEGREGATED CONFINEMENT SHALL RUN WHILE THE PERSON IS IN A RESIDENTIAL REHABILITATION UNIT AND THE PERSON SHALL BE DISCHARGED FROM THE UNIT BEFORE OR AT THE TIME THAT SANCTION EXPIRES.

16 (II) WITHIN THIRTY DAYS OF ADMISSION TO A RESIDENTIAL REHABILITATION UNIT AND EVERY SIXTY DAYS THEREAFTER, THE ASSESSMENT COMMITTEE SHALL REVIEW EACH RESIDENT'S PROGRESS AND DISCHARGE A RESIDENT UNLESS IT DETERMINES IN WRITING THROUGH CREDIBLE AND RELIABLE EVIDENCE THAT THERE IS CURRENTLY A SUBSTANTIAL LIKELIHOOD THAT THE RESIDENT WILL COMMIT AN ACT LISTED IN SUBPARAGRAPH (III) OF PARAGRAPH (J) OF THIS SUBDIVISION.

22 (III) WITHIN ONE HUNDRED DAYS AFTER ADMISSION TO A RESIDENTIAL REHABILITATION UNIT AND EVERY ONE HUNDRED TWENTY DAYS THEREAFTER, A REHABILITATION REVIEW COMMITTEE, COMPRISED OF CORRECTIONAL FACILITY EXECUTIVE LEVEL PROGRAM, REHABILITATION, AND SECURITY STAFF SHALL DISCHARGE A RESIDENT FROM A RESIDENTIAL REHABILITATION UNIT UNLESS IT DETERMINES IN WRITING, AFTER CONSIDERING THE RESIDENT'S ORAL STATEMENT AND ANY WRITTEN SUBMISSIONS BY THE RESIDENT OR OTHERS, THAT: (A) THERE IS CURRENTLY A SUBSTANTIAL LIKELIHOOD THAT THE RESIDENT WILL COMMIT AN ACT LISTED IN SUBPARAGRAPH (III) OF PARAGRAPH (J) OF THIS SUBDIVISION, SIGNIFICANT THERAPEUTIC REASONS EXIST FOR KEEPING THE RESIDENT IN THE UNIT TO COMPLETE SPECIFIC PROGRAM OR TREATMENT GOALS, AND REMAINING IN THE UNIT IS IN THE BEST INTEREST OF THE RESIDENT; OR (B) THE RESIDENT HAS COMMITTED AN ACT LISTED IN SUBPARAGRAPH (III) OF PARAGRAPH (J) OF THIS SUBDIVISION DURING THE ONE HUNDRED TWENTY DAYS PRIOR TO THE REVIEW.

36 (IV) IF A RESIDENT HAS SPENT ONE YEAR IN A RESIDENTIAL REHABILITATION UNIT OR IS WITHIN SIXTY DAYS OF A FIXED OR TENTATIVELY APPROVED DATE FOR RELEASE FROM A CORRECTIONAL FACILITY, HE SHALL BE DISCHARGED FROM THE UNIT UNLESS HE OR SHE COMMITTED AN ACT LISTED IN SUBPARAGRAPH (III) OF PARAGRAPH (J) OF THIS SUBDIVISION WITHIN THE PRIOR ONE HUNDRED EIGHTY DAYS OR HE OR SHE CAUSED THE DEATH OF ANOTHER PERSON WHILE UNDER DEPARTMENT CUSTODY OR ESCAPED OR ATTEMPTED TO ESCAPE FROM DEPARTMENT OR OTHER POLICE CUSTODY AND THE REHABILITATION REVIEW COMMITTEE DETERMINES HE OR SHE POSES A SIGNIFICANT AND UNREASONABLE RISK TO THE SAFETY OR SECURITY OF INCARCERATED PERSONS OR STAFF, BUT IN ANY SUCH CASE THE DECISION NOT TO DISCHARGE SUCH PERSON SHALL BE IMMEDIATELY AND AUTOMATICALLY SUBJECTED TO AN INDEPENDENT REVIEW BY THE JUSTICE CENTER ENTITY WITH OVERSIGHT RESPONSIBILITIES UNDER SECTION FOUR HUNDRED ONE-A OF THIS CHAPTER, WITH TIMELY NOTICE GIVEN TO THE INCARCERATED PERSON OF THE SUBMISSION OF THE CASE TO THE JUSTICE CENTER AND OF THE DECISION OF THE JUSTICE CENTER. IF THE JUSTICE CENTER DISAGREES WITH THE DECISION TO NOT DISCHARGE, THE RESIDENT WILL BE IMMEDIATELY RELEASED FROM THE RESIDENTIAL REHABILITATION UNIT. IF THE JUSTICE CENTER AGREES WITH THE DECISION TO NOT DISCHARGE, THE DISCHARGE PROCEDURES SET FORTH IN THIS PARAGRAPH SHALL APPLY INCLUDING ANNUAL REVIEWS BY THE JUSTICE CENTER OF A DECISION BY THE REHABILITATION REVIEW COMMITTEE TO REFUSE TO RELEASE A

1 RESIDENT, HOWEVER, UNDER NO CIRCUMSTANCES SHALL ANY SUCH PERSON BE HELD  
2 IN THE RESIDENTIAL REHABILITATION UNIT FOR MORE THAN THREE YEARS UNLESS  
3 THE REHABILITATION REVIEW COMMITTEE DETERMINES HE OR SHE COMMITTED AN  
4 ACT LISTED IN SUBPARAGRAPH (III) OF PARAGRAPH (J) OF THIS SUBDIVISION  
5 WITHIN ONE HUNDRED EIGHTY DAYS PRIOR TO THE EXPIRATION OF THE THREE YEAR  
6 PERIOD AND POSES A SIGNIFICANT AND UNREASONABLE RISK TO THE SAFETY OR  
7 SECURITY OF INCARCERATED PERSONS OR STAFF.

8 (V) AFTER EACH ASSESSMENT COMMITTEE AND REHABILITATION REVIEW COMMIT-  
9 TEE DECISION, IF A RESIDENT IS NOT DISCHARGED FROM THE RESIDENTIAL REHA-  
10 BILITATION UNIT, THE RESPECTIVE COMMITTEE SHALL SPECIFY IN WRITING (A)  
11 THE REASONS FOR THE DETERMINATION AND (B) THE PROGRAM, TREATMENT,  
12 SERVICE, AND/OR CORRECTIVE ACTION REQUIREMENTS FOR DISCHARGE. THE RESI-  
13 DENT SHALL BE GIVEN ACCESS TO THE PROGRAMS, TREATMENT AND SERVICES SPEC-  
14 IFIED, AND SHALL BE DISCHARGED FROM THE RESIDENTIAL REHABILITATION UNIT  
15 UPON COMPLETION UNLESS THE RESIDENT HAS COMMITTED AN ACT LISTED IN  
16 SUBPARAGRAPH (III) OF PARAGRAPH (J) OF THIS SUBDIVISION DURING THE  
17 PREVIOUS ONE HUNDRED TWENTY DAYS.

18 (VI) WHEN A RESIDENT IS DISCHARGED FROM A RESIDENTIAL REHABILITATION  
19 UNIT, ANY REMAINING SENTENCE TO SEGREGATED CONFINEMENT TIME WILL BE  
20 DISMISSED. IF A RESIDENT SUBSTANTIALLY COMPLETES HIS REHABILITATION  
21 PLAN, HE OR SHE WILL HAVE ALL GOOD TIME RESTORED UPON DISCHARGE FROM THE  
22 UNIT.

23 (M) ALL STAFF, INCLUDING SUPERVISORY STAFF, WORKING IN A SEGREGATED  
24 CONFINEMENT OR RESIDENTIAL REHABILITATION UNIT SHALL UNDERGO A MINIMUM  
25 OF FORTY HOURS OF TRAINING PRIOR TO WORKING ON THE UNIT AND TWENTY-FOUR  
26 HOURS ANNUALLY THEREAFTER, ON SUBSTANTIVE CONTENT DEVELOPED IN CONSULTA-  
27 TION WITH RELEVANT EXPERTS, INCLUDING TRAUMA, PSYCHIATRIC AND RESTORA-  
28 TIVE JUSTICE EXPERTS, ON TOPICS INCLUDING, BUT NOT LIMITED TO, THE  
29 PURPOSE AND GOALS OF THE NON-PUNITIVE THERAPEUTIC ENVIRONMENT AND  
30 DISPUTE RESOLUTION METHODS. PRIOR TO PRESIDING OVER ANY HEARINGS, ALL  
31 HEARING OFFICERS SHALL UNDERGO A MINIMUM OF FORTY HOURS OF TRAINING, AND  
32 EIGHT HOURS ANNUALLY THEREAFTER, ON RELEVANT TOPICS, INCLUDING BUT NOT  
33 LIMITED TO, THE PHYSICAL AND PSYCHOLOGICAL EFFECTS OF SEGREGATED  
34 CONFINEMENT, PROCEDURAL AND DUE PROCESS RIGHTS OF THE ACCUSED, AND  
35 RESTORATIVE JUSTICE REMEDIES.

36 (N) THE DEPARTMENT SHALL MAKE PUBLICLY AVAILABLE MONTHLY REPORTS OF  
37 THE NUMBER OF PEOPLE AS OF THE FIRST DAY OF EACH MONTH, AND SEMI-ANNUAL  
38 AND ANNUAL CUMULATIVE REPORTS OF THE TOTAL NUMBER OF PEOPLE, WHO ARE (I)  
39 IN SEGREGATED CONFINEMENT; AND (II) IN RESIDENTIAL REHABILITATION UNITS;  
40 ALONG WITH A BREAKDOWN OF THE NUMBER OF PEOPLE (III) IN SEGREGATED  
41 CONFINEMENT AND (IV) IN RESIDENTIAL REHABILITATION UNITS BY (A) AGE; (B)  
42 RACE; (C) GENDER; (D) MENTAL HEALTH LEVEL; (E) HEALTH STATUS; (F) DRUG  
43 ADDICTION STATUS; (G) PREGNANCY STATUS; (H) LESBIAN, GAY, BISEXUAL,  
44 TRANSGENDER, OR INTERSEX STATUS; AND (I) TOTAL CONTINUOUS LENGTH OF  
45 STAY, AND TOTAL LENGTH OF STAY IN THE PAST SIXTY DAYS, IN SEGREGATED  
46 CONFINEMENT OR A RESIDENTIAL REHABILITATION UNIT.

47 S 5. Section 401-a of the correction law is amended by adding a new  
48 subdivision 4 to read as follows:

49 4. THE JUSTICE CENTER SHALL ASSESS COMPLIANCE WITH THE TERMS OF, AND  
50 AT LEAST ANNUALLY REPORT ON AND MAKE RECOMMENDATIONS TO THE DEPARTMENT,  
51 LEGISLATURE, AND PUBLIC IN WRITING, REGARDING ALL ASPECTS OF SEGREGATED  
52 CONFINEMENT AND RESIDENTIAL REHABILITATION UNITS IN STATE CORRECTIONAL  
53 FACILITIES PURSUANT TO SECTION ONE HUNDRED THIRTY-SEVEN OF THIS CHAPTER,  
54 INCLUDING BUT NOT LIMITED TO POLICIES AND PRACTICES REGARDING: (A)  
55 PLACEMENT OF PERSONS; (B) SPECIAL POPULATIONS; (C) LENGTH OF TIME SPENT;  
56 (D) HEARINGS AND PROCEDURES; (E) CONDITIONS, PROGRAMS, SERVICES, CARE,

1 AND TREATMENT; AND (F) ASSESSMENTS AND REHABILITATION PLANS, AND PROCE-  
2 DURES AND DETERMINATIONS MADE AS TO WHETHER PERSONS SHOULD REMAIN IN  
3 RESIDENTIAL REHABILITATION UNITS.

4 S 6. Subdivision 4 of section 45 of the correction law, as amended by  
5 section 15 of subpart A of part C of chapter 62 of the laws of 2011, is  
6 amended to read as follows:

7 4. (A) Establish procedures to assure effective investigation of  
8 grievances of, and conditions affecting, inmates of local correctional  
9 facilities. Such procedures shall include but not be limited to receipt  
10 of written complaints, interviews of persons, and on-site monitoring of  
11 conditions. In addition, the commission shall establish procedures for  
12 the speedy and impartial review of grievances referred to it by the  
13 commissioner of the department of corrections and community supervision.

14 (B) THE COMMISSION SHALL ALSO ASSESS COMPLIANCE WITH THE TERMS OF, AND  
15 AT LEAST ANNUALLY REPORT ON AND MAKE RECOMMENDATIONS TO THE DEPARTMENT,  
16 LEGISLATURE, AND PUBLIC, REGARDING ALL ASPECTS OF SEGREGATED CONFINEMENT  
17 AND RESIDENTIAL REHABILITATION UNITS IN FACILITIES GOVERNED BY SECTION  
18 FIVE HUNDRED-K OF THIS CHAPTER, INCLUDING BUT NOT LIMITED TO POLICIES  
19 AND PRACTICES FOR BOTH REGARDING: (I) PLACEMENT OF PERSONS; (II) SPECIAL  
20 POPULATIONS; (III) LENGTH OF TIME SPENT; (IV) HEARINGS AND PROCEDURES;  
21 (V) CONDITIONS, PROGRAMS, SERVICES, CARE, AND TREATMENT; AND (VI)  
22 ASSESSMENTS AND REHABILITATION PLANS, AND PROCEDURES AND DETERMINATIONS  
23 MADE AS TO WHETHER PERSONS SHOULD REMAIN IN RESIDENTIAL REHABILITATION  
24 UNITS.

25 S 7. This act shall take effect immediately.