STATE OF NEW YORK

2500

2019-2020 Regular Sessions

IN ASSEMBLY

January 23, 2019

Introduced by M. of A. AUBRY -- Multi-Sponsored by -- M. of A. ABINANTI, ARROYO, BARRETT, BARRON, BENEDETTO, BICHOTTE, BLAKE, BRONSON, CAHILL, CARROLL, COOK, CRESPO, CUSICK, DAVILA, DE LA ROSA, DICKENS, DILAN, D'URSO, ENGLEBRIGHT, FAHY, GALEF, GLICK, GOTTFRIED, HEVESI, HUNTER, HYNDMAN, JAFFEE, JEAN-PIERRE, JOYNER, KIM, LAVINE, LENTOL, LIFTON, LUPARDO, MOSLEY, ORTIZ, OTIS, PEOPLES-STOKES, PERRY, PICHARDO, PRETLOW, QUART, RAMOS, RICHARDSON, RIVERA, RODRIGUEZ, L. ROSENTHAL, ROZIC, SEAWRIGHT, SIMON, SIMOTAS, SOLAGES, STECK, STIRPE, THIELE, TITUS, VANEL, WALKER, WEPRIN, WRIGHT -- read once and referred to the Committee on Correction

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:

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

23. "Segregated confinement" means the [~~disciplinary~~] confinement of an inmate in [~~a special housing unit or in a separate keeplock housing unit. Special housing units and separate keeplock units are housing units that consist of cells grouped so as to provide separation from the general population, and may be used to house inmates confined pursuant to the disciplinary procedures described in regulations~~] **any form of cell confinement for more than seventeen hours a day other than in a facility-wide emergency or for the purpose of providing medical or mental health treatment. Cell confinement that is implemented due to medical or mental health treatment shall be within a clinical area in the correctional facility or in as close proximity to a medical or mental health unit as possible**.

§ 2. Section 2 of the correction law is amended by adding two new subdivisions 32 and 33 to read as follows:

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

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32. "Special populations" means any person: (a) twenty-one years of age or younger; (b) fifty-five years of age or older; (c) with a disability as defined in paragraph (a) of subdivision twenty-one of section two hundred ninety-two of the executive law; or (d) who is pregnant, in the first eight weeks of the post-partum recovery period after giving birth, or caring for a child in a correctional institution pursuant to subdivisions two or three of section six hundred eleven of this chapter.

33. "Residential rehabilitation unit" means a separate housing unit used for therapy, treatment, and rehabilitative programming of incarcerated people who have been determined to require more than fifteen days of segregated confinement pursuant to department proceedings. Such units shall be therapeutic and trauma-informed, and aim to address individual treatment and rehabilitation needs and underlying causes of problematic behaviors.

§ 3. Paragraph (a) of subdivision 6 of section 137 of the correction law, as amended by chapter 490 of the laws of 1974, is amended to read as follows:

(a) The inmate shall be supplied with a sufficient quantity of wholesome and nutritious food[~~, provided, however, that such food need not be the same as the food supplied to inmates who are participating in programs of the facility~~];

§ 4. Paragraph (d) of subdivision 6 of section 137 of the correction law, as added by chapter 1 of the laws of 2008, is amended to read as follows:

(d) (i) Except as set forth in clause (E) of subparagraph (ii) of this paragraph, the department, in consultation with mental health clinicians, shall divert or remove inmates with serious mental illness, as defined in paragraph (e) of this subdivision, from segregated confinement **or confinement in a residential rehabilitation unit**, where such confinement could potentially be for a period in excess of thirty days, to a residential mental health treatment unit. Nothing in this paragraph shall be deemed to prevent the disciplinary process from proceeding in accordance with department rules and regulations for disciplinary hearings.

(ii) (A) Upon placement of an inmate into segregated confinement **or a residential rehabilitation unit** at a level one or level two facility, a suicide prevention screening instrument shall be administered by staff from the department or the office of mental health who has been trained for that purpose. If such a screening instrument reveals that the inmate is at risk of suicide, a mental health clinician shall be consulted and appropriate safety precautions shall be taken. Additionally, within one business day of the placement of such an inmate into segregated confinement at a level one or level two facility, the inmate shall be assessed by a mental health clinician.

(B) Upon placement of an inmate into segregated confinement **or a residential rehabilitation unit** at a level three or level four facility, a suicide prevention screening instrument shall be administered by staff from the department or the office of mental health who has been trained for that purpose. If such a screening instrument reveals that the inmate is at risk of suicide, a mental health clinician shall be consulted and appropriate safety precautions shall be taken. All inmates placed in segregated confinement **or a residential rehabilitation unit** at a level three or level four facility shall be assessed by a mental health clinician, within [~~fourteen~~] **seven** days of such placement into segregated confinement.

(C) At the initial assessment, if the mental health clinician finds that an inmate suffers from a serious mental illness, **that person shall be diverted or removed from segregated confinement or a residential rehabilitation unit and** a recommendation shall be made whether exceptional circumstances, as described in clause (E) of this subparagraph, exist. In a facility with a joint case management committee, such recommendation shall be made by such committee. In a facility without a joint case management committee, the recommendation shall be made jointly by a committee consisting of the facility's highest ranking mental health clinician, the deputy superintendent for security, and the deputy superintendent for program services, or their equivalents. Any such recommendation shall be reviewed by the joint central office review committee. The administrative process described in this clause shall be completed within [~~fourteen~~] **seven** days of the initial assessment, and if the result of such process is that the inmate should be removed from segregated confinement **or a residential rehabilitation unit**, such removal shall occur as soon as practicable, but in no event more than seventy-two hours from the completion of the administrative process. **Pursuant to paragraph (g) of this subdivision, nothing in this section shall permit the placement of an incarcerated person with serious mental illness into segregated confinement at any time, even for the purposes of assessment.**

(D) If an inmate with a serious mental illness is not diverted or removed to a residential mental health treatment unit, such inmate shall be **diverted to a residential rehabilitation unit and** reassessed by a mental health clinician within fourteen days of the initial assessment and at least once every fourteen days thereafter. After each such additional assessment, a recommendation as to whether such inmate should be removed from [~~segregated confinement~~] **a residential rehabilitation unit** shall be made and reviewed according to the process set forth in clause (C) of this subparagraph.

(E) A recommendation or determination whether to remove an inmate from segregated confinement **or a residential rehabilitation unit** shall take into account the assessing mental health clinicians' opinions as to the inmate's mental condition and treatment needs, and shall also take into account any safety and security concerns that would be posed by the inmate's removal, even if additional restrictions were placed on the inmate's access to treatment, property, services or privileges in a residential mental health treatment unit. A recommendation or determination shall direct the inmate's removal from segregated confinement **or a residential rehabilitation unit** except in the following exceptional circumstances: (1) when the reviewer finds that removal would pose a substantial risk to the safety of the inmate or other persons, or a substantial threat to the security of the facility, even if additional restrictions were placed on the inmate's access to treatment, property, services or privileges in a residential mental health treatment unit; or (2) when the assessing mental health clinician determines that such placement is in the inmate's best interests based on his or her mental condition and that removing such inmate to a residential mental health treatment unit would be detrimental to his or her mental condition. Any determination not to remove an inmate with serious mental illness from segregated confinement **or a residential rehabilitation unit** shall be documented in writing and include the reasons for the determination.

(iii) Inmates with serious mental illness who are not diverted or removed from [~~segregated confinement~~] **a residential rehabilitation unit** shall be offered a heightened level of **mental health** care, involving a minimum of [~~two~~] **three** hours [~~each day, five days a week,~~] **daily** of

out-of-cell therapeutic treatment and programming. This heightened level of care shall not be offered only in the following circumstances:

(A) The heightened level of care shall not apply when an inmate with serious mental illness does not, in the reasonable judgment of a mental health clinician, require the heightened level of care. Such determination shall be documented with a written statement of the basis of such determination and shall be reviewed by the Central New York Psychiatric Center clinical director or his or her designee. Such a determination is subject to change should the inmate's clinical status change. Such determination shall be reviewed and documented by a mental health clinician every thirty days, and in consultation with the Central New York Psychiatric Center clinical director or his or her designee not less than every ninety days.

(B) The heightened level of care shall not apply in exceptional circumstances when providing such care would create an unacceptable risk to the safety and security of inmates or staff. Such determination shall be documented by security personnel together with the basis of such determination and shall be reviewed by the facility superintendent, in consultation with a mental health clinician, not less than every seven days for as long as the inmate remains in [~~segregated confinement~~] **a residential rehabilitation unit**. The facility shall attempt to resolve such exceptional circumstances so that the heightened level of care may be provided. If such exceptional circumstances remain unresolved for thirty days, the matter shall be referred to the joint central office review committee for review.

(iv) [~~Inmates with serious mental illness who are not diverted or removed from segregated confinement shall not be placed on a restricted diet, unless there has been a written determination that the restricted diet is necessary for reasons of safety and security. If a restricted diet is imposed, it shall be limited to seven days, except in the exceptional circumstances where the joint case management committee determines that limiting the restricted diet to seven days would pose an unacceptable risk to the safety and security of inmates or staff. In such case, the need for a restricted diet shall be reassessed by the joint case management committee every seven days.~~

~~(v)~~]All inmates in segregated confinement in a level one or level two facility who are not assessed with a serious mental illness at the initial assessment shall be offered at least one interview with a mental health clinician within [~~fourteen~~] **seven** days of their initial mental health assessment, [~~and additional interviews at least every thirty days thereafter,~~] unless the mental health clinician at the most recent interview recommends an earlier interview or assessment. All inmates in [~~segregated confinement~~] **a residential rehabilitation unit** in a level three or level four facility who are not assessed with a serious mental illness at the initial assessment shall be offered at least one interview with a mental health clinician within thirty days of their initial mental health assessment, and additional interviews at least every ninety days thereafter, unless the mental health clinician at the most recent interview recommends an earlier interview or assessment.

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

(g) Persons in a special population as defined in subdivision thirty-two of section two of this chapter shall not be placed in segregated confinement for any length of time, except in keeplock for a period prior to a disciplinary hearing pursuant to paragraph (k) of this subdi-

vision. Individuals in a special population who are in keeplock prior to a disciplinary hearing shall be given seven hours a day out-of-cell time or shall be transferred to a residential rehabilitation unit or residential mental health treatment unit as expeditiously as possible, but in no case longer than forty-eight hours from the time an individual is admitted to keeplock.

(h) No person may be placed in segregated confinement for longer than necessary and no more than fifteen consecutive days or twenty total days within any sixty day period. At these limits, he or she must be released from segregated confinement or diverted to a separate residential rehabilitation unit. If placement of such person in segregated confinement would exceed the twenty-day limit and the department establishes that the person committed an act defined in subparagraph (ii) of paragraph (j) of this subdivision, the department may place the person in segregated confinement until admission to a residential rehabilitation unit can be effectuated. Such admission to a residential rehabilitation unit shall occur as expeditiously as possible and in no case take longer than forty-eight hours from the time such person is placed in segregated confinement.

(i) (i) All segregated confinement and residential rehabilitation units shall create the least restrictive environment necessary for the safety of incarcerated persons, staff, and the security of the facility.

(ii) Persons in segregated confinement shall be offered out-of-cell programming at least four hours per day, including at least one hour for recreation. Persons admitted to residential rehabilitation units shall be offered at least six hours of daily out-of-cell congregate programming, services, treatment, and/or meals, with an additional minimum of one hour for recreation. Recreation in all residential rehabilitation units shall take place in a congregate setting, unless exceptional circumstances mean doing so would create a significant and unreasonable risk to the safety and security of other incarcerated persons, staff, or the facility.

(iii) No limitation on services, treatment, or basic needs such as clothing, food and bedding shall be imposed as a form of punishment. If provision of any such services, treatment or basic needs to an individual would create a significant and unreasonable risk to the safety and security of incarcerated persons, staff, or the facility, such services, treatment or basic needs may be withheld until it reasonably appears that the risk has ended. The department shall not impose restricted diets or any other change in diet as a form of punishment. Persons in a residential rehabilitation unit shall have access to all of their personal property unless an individual determination is made that having a specific item would pose a significant and unreasonable risk to the safety of incarcerated persons or staff or the security of the unit.

(iv) Upon admission to a residential rehabilitation unit, program and mental health staff shall administer assessments and develop an individual rehabilitation plan in consultation with the resident, based upon his or her medical, mental health, and programming needs. Such plan shall identify specific goals and programs, treatment, and services to be offered, with projected time frames for completion and discharge from the residential rehabilitation unit.

(v) An incarcerated person in a residential rehabilitation unit shall have access to programs and work assignments comparable to core programs and work assignments in general population. Such incarcerated persons shall also have access to additional out-of-cell, trauma-informed therapeutic programming aimed at promoting personal development, addressing

underlying causes of problematic behavior resulting in placement in a residential rehabilitation unit, and helping prepare for discharge from the unit and to the community.

(vi) If the department establishes that a person committed an act defined in subparagraph (ii) of paragraph (j) of this subdivision while in segregated confinement or a residential rehabilitation unit and poses a significant and unreasonable risk to the safety and security of other incarcerated persons or staff, the department may restrict such person's participation in programming and out-of-cell activities as necessary for the safety of other incarcerated persons and staff. If such restrictions are imposed, the department must provide at least four hours out-of-cell time daily, including at least two hours of therapeutic programming and two hours of recreation, and must make reasonable efforts to reinstate access to programming as soon as possible. In no case may such restrictions extend beyond fifteen days unless the person commits a new act defined herein justifying restrictions on program access, or if the commissioner and, when appropriate, the commissioner of mental health personally reasonably determine that the person poses an extraordinary and unacceptable risk of imminent harm to the safety or security of incarcerated persons or staff. Any extension of program restrictions beyond fifteen days must be meaningfully reviewed and approved at least every fifteen days by the commissioner and, when appropriate, by the commissioner of mental health. Each review must consider the impact of therapeutic programming provided during the fifteen-day period on the person's risk of imminent harm and the commissioner must articulate in writing, with a copy provided to the incarcerated person, the specific reason why the person currently poses an extraordinary and unacceptable risk of imminent harm to the safety or security of incarcerated persons or staff. In no case may restrictions imposed by the commissioner extend beyond ninety days unless the person commits a new act defined herein justifying restrictions on program access.

(vii) Restraints shall not be used when incarcerated persons are participating in out-of-cell activities within a residential rehabilitation unit unless an individual assessment is made that restraints are required because of a significant and unreasonable risk to the safety and security of other incarcerated persons or staff.

(j) (i) The department may place a person in segregated confinement for up to three consecutive days and no longer than six days in any thirty day period if, pursuant to an evidentiary hearing, it determines that the person violated department rules which permit a penalty of segregated confinement. The department may not place a person in segregated confinement for longer than three consecutive days or six days total in a thirty day period unless the provisions of subparagraph (ii) of this paragraph are met.

(ii) The department may place a person in segregated confinement beyond the limits of subparagraph (i) of this paragraph or in a residential rehabilitation unit only if, pursuant to an evidentiary hearing, it determines by written decision that the person committed one of the following acts and if the commissioner or his or her designee determines in writing based on specific objective criteria the acts were so heinous or destructive that placement of the individual in general population housing creates a significant risk of imminent serious physical injury to staff or other incarcerated persons, and creates an unreasonable risk to the security of the facility:

(A) causing or attempting to cause serious physical injury or death to another person or making an imminent threat of such serious physical

injury or death if the person has a history of causing such physical injury or death and the commissioner and, when appropriate, the commissioner of mental health or their designees reasonably determine that there is a strong likelihood that the person will carry out such threat. The commissioner of mental health or his or her designee shall be involved in such determination if the person is or has been on the mental health caseload or appears to require psychiatric attention. The department and the office of mental health shall promulgate rules and regulations pertaining to this clause;

(B) compelling or attempting to compel another person, by force or threat of force, to engage in a sexual act;

(C) extorting another, by force or threat of force, for property or money;

(D) coercing another, by force or threat of force, to violate any rule;

(E) leading, organizing, inciting, or attempting to cause a riot, insurrection, or other similarly serious disturbance that results in the taking of a hostage, major property damage, or physical harm to another person;

(F) procuring deadly weapons or other dangerous contraband that poses a serious threat to the security of the institution; or

(G) escaping, attempting to escape or facilitating an escape from a facility or escaping or attempting to escape while under supervision outside such facility.

For purposes of this section, attempting to cause a serious disturbance or to escape shall only be determined to have occurred if there is a clear finding that the inmate had the intent to cause a serious disturbance or the intent to escape and had completed significant acts in the advancement of the attempt to create a serious disturbance or escape. Evidence of withdrawal or abandonment of a plan to cause a serious disturbance or to escape shall negate a finding of intent.

(iii) No person may be placed in segregated confinement or a residential rehabilitation unit based on the same act or incident that was previously used as the basis for such placement.

(iv) No person may be held in segregated confinement for protective custody. Any unit used for protective custody must, at a minimum, conform to requirements governing residential rehabilitation units.

(k) All hearings to determine if a person may be placed in segregated confinement shall occur prior to placement in segregated confinement unless a security supervisor, with written approval of a facility superintendent or designee, reasonably believes the person fits the specified criteria for segregated confinement in subparagraph (ii) of paragraph (j) of this subdivision. If a hearing does not take place prior to placement, it shall occur as soon as reasonably practicable and at most within five days of such placement unless the charged person seeks a postponement of the hearing. Persons at such hearings shall be permitted to be represented by any attorney or law student, or by any paralegal or incarcerated person unless the department reasonably disapproves of such paralegal or incarcerated person based upon objective written criteria developed by the department.

(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 such sanction expires. If a person successfully completes his or her rehabilitation plan before the sanction expires,

the person shall have a right to be discharged from the unit upon such completion.

(ii) If an incarcerated person has not been discharged from a residential rehabilitation unit within one year of initial admission to such a unit or is within sixty days of a fixed or tentatively approved date for release from a correctional facility, he or she shall have a right to be discharged from the unit unless he or she committed an act listed in subparagraph (ii) of paragraph (j) of this subdivision within the prior one hundred eighty days and he or she poses a significant and unreasonable risk to the safety or security of incarcerated persons or staff. In any such case the decision not to discharge such person shall be immediately and automatically subjected to an independent review by the commissioner and the commissioner of mental health or their designees. A person may remain in a residential rehabilitation unit beyond the time limits provided in this section if both commissioners or both of their designees approve this decision. In extraordinary circumstances, a person who has not committed an act listed in subparagraph (ii) of paragraph (j) of this subdivision within the prior one hundred eighty days, may remain in a residential rehabilitation unit beyond the time limits provided in this section if both the commissioner and the commissioner of mental health personally determine that such individual poses an extraordinary and unacceptable risk of imminent harm to the safety or security of incarcerated persons or staff.

(iii) There shall be a meaningful periodic review of the status of each incarcerated person in a residential rehabilitation unit at least every sixty days to assess the person's progress and determine if the person should be discharged from the unit. Following such periodic review, if the person is not discharged from the unit, program and mental health staff shall specify in writing the reasons for the determination and the program, treatment, service, and/or corrective action required before discharge. The incarcerated person shall be given access to the programs, treatment and services specified, and shall have a right to be discharged from the residential rehabilitation unit upon the successful fulfillment of such requirements.

(iv) When an incarcerated person is discharged from a residential rehabilitation unit, any remaining time to serve on any underlying disciplinary sanction shall be dismissed. If an incarcerated person substantially completes his or her rehabilitation plan, he or she shall have any associated loss of good time restored upon discharge from the unit.

(m) All special housing unit, keeplock unit and residential rehabilitation unit staff and their supervisors shall undergo a minimum of thirty-seven hours and thirty minutes of training prior to assignment to such unit, and twenty-one hours of additional training annually thereafter, on substantive content developed in consultation with relevant experts, on topics including, but not limited to, the purpose and goals of the non-punitive therapeutic environment, trauma-informed care, restorative justice, and dispute resolution methods. Prior to presiding over any hearings, all hearing officers shall undergo a minimum of thirty-seven hours and thirty minutes of training, with one additional day of training annually thereafter, on relevant topics, including but not limited to, the physical and psychological effects of segregated confinement, procedural and due process rights of the accused, and restorative justice remedies.

(n) The department shall publish monthly reports on its website, with semi-annual and annual cumulative reports, of the total number of people

who are in segregated confinement and the total number of people who are in residential rehabilitation units on the first day of each month. The reports shall provide a breakdown of the number of people in segregated confinement and in residential rehabilitation units by: (i) age; (ii) race; (iii) gender; (iv) mental health treatment level; (v) special health accommodations or needs; (vi) need for and participation in substance abuse programs; (vii) pregnancy status; (viii) continuous length of stay in residential treatment units as well as length of stay in the past sixty days; (ix) number of days in segregated confinement; (x) a list of all incidents resulting in sanctions of segregated confinement by facility and date of occurrence; (xi) the number of incarcerated persons in segregated confinement by facility; and (xii) the number of incarcerated persons in residential rehabilitation units by facility.

§ 6. Section 138 of the correction law is amended by adding a new subdivision 7 to read as follows:

7. De-escalation, intervention, informational reports, and the withdrawal of incentives shall be the preferred methods of responding to misbehavior unless the department determines that non-disciplinary interventions have failed, or that non-disciplinary interventions would not succeed and the misbehavior involved an act listed in subparagraph (ii) of paragraph (j) of subdivision six of section one hundred thirty-seven of this article, in which case, as a last resort, the department shall have the authority to issue misbehavior reports, pursue disciplinary charges, or impose new or additional segregated confinement sanctions.

§ 7. Subdivision 1 of section 401 of the correction law, as amended by chapter 1 of the laws of 2008, is amended to read as follows:

1. The commissioner, in cooperation with the commissioner of mental health, shall establish programs, including but not limited to residential mental health treatment units, in such correctional facilities as he or she may deem appropriate for the treatment of mentally ill inmates confined in state correctional facilities who are in need of psychiatric services but who do not require hospitalization for the treatment of mental illness. Inmates with serious mental illness shall receive therapy and programming in settings that are appropriate to their clinical needs while maintaining the safety and security of the facility.

The conditions and services provided in the residential mental health treatment units shall be at least comparable to those in all residential rehabilitation units, and all residential mental health treatment units shall be in compliance with all provisions of paragraphs (h), (i), (j), and (k) of subdivision six of section one hundred thirty-seven of this chapter. Residential mental health treatment units that are either residential mental health unit models or behavioral health unit models shall also be in compliance with all provisions of paragraph (l) of subdivision six of section one hundred thirty-seven of this chapter.

The residential mental health treatment units shall also provide the additional mental health treatment, services, and programming delineated in this section. The administration and operation of programs established pursuant to this section shall be the joint responsibility of the commissioner of mental health and the commissioner. The professional mental health care personnel, and their administrative and support staff, for such programs shall be employees of the office of mental health. All other personnel shall be employees of the department.

§ 8. Subparagraph (i) of paragraph (a) of subdivision 2 of section 401 of the correction law, as added by chapter 1 of the laws of 2008, is amended to read as follows:

(i) In exceptional circumstances, a mental health clinician, or the highest ranking facility security supervisor in consultation with a mental health clinician who has interviewed the inmate, may determine that an inmate's access to out-of-cell therapeutic programming and/or mental health treatment in a residential mental health treatment unit presents an unacceptable risk to the safety of inmates or staff. Such determination shall be documented in writing and **such inmate shall be removed to a residential rehabilitation unit that is not a residential mental health treatment unit where** alternative mental health treatment and/or other therapeutic programming, as determined by a mental health clinician, shall be provided.

§ 9. Subdivision 5 of section 401 of the correction law, as added by chapter 1 of the laws of 2008, is amended to read as follows:

5. (a) An inmate in a residential mental health treatment unit shall not be sanctioned with segregated confinement for misconduct on the unit, or removed from the unit and placed in segregated confinement **or a residential rehabilitation unit**, except in exceptional circumstances where such inmate's conduct poses a significant and unreasonable risk to the safety of inmates or staff, or to the security of the facility **and he or she has been found to have committed an act or acts defined in subparagraph (ii) of paragraph (j) of subdivision six of section one hundred thirty-seven of this chapter**. Further, in the event that such a sanction is imposed, an inmate shall not be required to begin serving such sanction until the reviews required by paragraph (b) of this subdivision have been completed; provided, however that in extraordinary circumstances where an inmate's conduct poses an immediate unacceptable threat to the safety of inmates or staff, or to the security of the facility an inmate may be immediately moved to [~~**segregated confinement**~~] **a residential rehabilitation unit**. The determination that an immediate transfer to [~~**segregated confinement**~~] **a residential rehabilitation unit** is necessary shall be made by the highest ranking facility security supervisor in consultation with a mental health clinician.

(b) The joint case management committee shall review any disciplinary disposition imposing a sanction of segregated confinement at its next scheduled meeting. Such review shall take into account the inmate's mental condition and safety and security concerns. The joint case management committee may only thereafter recommend the removal of the inmate in exceptional circumstances where the inmate **commits an act or acts defined in subparagraph (ii) of paragraph (j) of subdivision six of section one hundred thirty-seven of this chapter and** poses a significant and unreasonable risk to the safety of inmates or staff or to the security of the facility. In the event that the inmate was immediately moved to segregated confinement, the joint case management committee may recommend that the inmate continue to serve such sanction only in exceptional circumstances where the inmate **commits an act or acts defined in subparagraph (ii) of paragraph (j) of subdivision six of section one hundred thirty-seven of this chapter and** poses a significant and unreasonable risk to the safety of inmates or staff or to the security of the facility. If a determination is made that the inmate shall not be required to serve all or any part of the segregated confinement sanction, the joint case management committee may instead recommend that a less restrictive sanction should be imposed. The recommendations made by the joint case management committee under this paragraph shall be docu-

mented in writing and referred to the superintendent for review and if the superintendent disagrees, the matter shall be referred to the joint central office review committee for a final determination. The administrative process described in this paragraph shall be completed within fourteen days. If the result of such process is that an inmate who was immediately transferred to [~~segregated confinement~~] a residential rehabilitation unit should be removed from [~~segregated confinement~~] such unit, such removal shall occur as soon as practicable, and in no event longer than seventy-two hours from the completion of the administrative process.

§ 10. Subdivision 6 of section 401 of the correction law, as amended by chapter 20 of the laws of 2016, is amended to read as follows:

6. The department shall ensure that the curriculum for new correction officers, and other new department staff who will regularly work in programs providing mental health treatment for inmates, shall include at least eight hours of training about the types and symptoms of mental illnesses, the goals of mental health treatment, the prevention of suicide and training in how to effectively and safely manage inmates with mental illness. Such training may be provided by the office of mental health or the justice center for the protection of people with special needs. All department staff who are transferring into a residential mental health treatment unit shall receive a minimum of eight additional hours of such training, and eight hours of annual training as long as they work in such a unit. All security, program services, mental health and medical staff with direct inmate contact shall receive training each year regarding identification of, and care for, inmates with mental illnesses. The department shall provide additional training on these topics on an ongoing basis as it deems appropriate. All staff working in a residential mental health treatment unit shall also receive all training mandated in paragraph (m) of subdivision six of section one hundred thirty-seven of this chapter.

§ 11. Section 401-a of the correction law is amended by adding a new subdivision 4 to read as follows:

4. The justice center shall assess the department's compliance with the provisions of sections two, one hundred thirty-seven, and one hundred thirty-eight of this chapter relating to segregated confinement and residential rehabilitation units and shall issue a public report, no less than annually, with recommendations to the department and legislature, regarding all aspects of segregated confinement and residential rehabilitation units in state correctional facilities including but not limited to policies and practices concerning: (a) placement of persons in segregated confinement and residential rehabilitation units; (b) special populations; (c) length of time spent in such units; (d) hearings and procedures; (e) programs, treatment and conditions of confinement in such units; and (f) assessments and rehabilitation plans, procedures and discharge determinations.

§ 12. Section 45 of the correction law is amended by adding a new subdivision 18 to read as follows:

18. Assess compliance of local correctional facilities with the terms of paragraphs (g), (h), (i), (j), (k), (l), (m) and (n) of subdivision six of section one hundred thirty-seven of this chapter. The commission shall issue a public report regarding all aspects of segregated confinement and residential rehabilitation units at least annually with recommendations to local correctional facilities, the governor, the legislature, including but not limited to policies and practices regarding: (a) placement of persons; (b) special populations; (c) length of time spent

in segregated confinement and residential treatment units; (d) hearings and procedures; (e) conditions, programs, services, care, and treatment; and (f) assessments, rehabilitation plans, and discharge procedures.

§ 13. Section 500-k of the correction law, as amended by chapter 2 of the laws of 2008, is amended to read as follows:

§ 500-k. Treatment of inmates. 1. Subdivisions five and six of section one hundred thirty-seven of this chapter, except paragraphs (d) and (e) of subdivision six of such section, relating to the treatment of inmates in state correctional facilities are applicable to inmates confined in county jails; except that the report required by paragraph (f) of subdivision six of such section shall be made to a person designated to receive such report in the rules and regulations of the state commission of correction, or in any county or city where there is a department of correction, to the head of such department.

2. Notwithstanding any other section of law to the contrary, subdivision thirty-three of section two of this chapter, and subparagraphs (i), (iv) and (v) of paragraph (i) and subparagraph (ii) of paragraph (l) of subdivision six of section one hundred thirty-seven of this chapter shall not apply to local correctional facilities with a total combined capacity of five hundred inmates or fewer.

§ 14. This act shall take effect one year after it shall have become a law.