

# STATE OF NEW YORK

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787

2019-2020 Regular Sessions

## IN SENATE

(Prefiled)

January 9, 2019

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Introduced by Sens. MONTGOMERY, COMRIE, HOYLMAN, KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the correction law, in relation to limiting the segregated confinement of persons in a correctional facility with serious mental illness

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraphs (c), (d), (e) and (f) of subdivision 6 of  
2 section 137 of the correction law are relettered paragraphs (e), (f),  
3 (g) and (h) and two new paragraphs (c) and (d) are added to read as  
4 follows:

5 (c) Inmates shall not be in segregated confinement for reason of  
6 discipline, detention, administrative segregation, protective custody,  
7 keeplock, or any other reason for admission, unless they have engaged in  
8 highly dangerous or serious escape-related behavior while incarcerated  
9 in that facility;

10 (d) Confinement in segregated confinement shall be limited to not more  
11 than thirty days, except for an inmate whose behavior exposes a pattern  
12 of extreme violence or danger to himself or others and, provided that  
13 for those confined longer than thirty days, there shall be a review  
14 every thirty days by an independent review board, to be known as the  
15 inmate's special housing unit review council to determine whether  
16 continued segregated confinement is warranted and necessary. Such coun-  
17 cil shall be composed of seven members appointed by the governor with  
18 the advice and consent of the senate. One member shall be an attorney  
19 admitted to practice law in this state, one member shall be a mental  
20 health professional, one member shall be a criminal justice expert  
21 appointed from within employees of the state university system, and one  
22 member shall be a former inmate;

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

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1 § 2. Subparagraph (i) of paragraph (f) of subdivision 6 of section 137  
2 of the correction law, as added by chapter 1 of the laws of 2008 and  
3 such paragraph as relettered by section one of this act, is amended to  
4 read as follows:

5 (i) Except as set forth in clause (E) of subparagraph (ii) of this  
6 paragraph, the department, in consultation with mental health clini-  
7 cians, shall divert to a residential mental health treatment unit, or  
8 shall remove inmates with serious mental illness from segregated  
9 confinement, whether such serious mental illness, as defined in para-  
10 graph [~~(e)~~] (g) of this subdivision, [~~from segregated confinement, where~~  
11 ~~such confinement could potentially be for a period in excess of thirty~~  
12 ~~days, to a residential mental health treatment unit~~] preceded such  
13 confinement or developed during the course of such confinement. Nothing  
14 in this paragraph shall be deemed to prevent the disciplinary process  
15 from proceeding in accordance with department rules and regulations for  
16 disciplinary hearings.

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

19 § 500-k. Treatment of inmates. Subdivisions five and six of section  
20 one hundred thirty-seven of this chapter, except paragraphs [~~(d)~~] (f)  
21 and [~~(e)~~] (g) of subdivision six of such section, relating to the treat-  
22 ment of inmates in state correctional facilities are applicable to  
23 inmates confined in county jails; except that the report required by  
24 paragraph [~~(f)~~] (h) of subdivision six of such section shall be made to  
25 a person designated to receive such report in the rules and regulations  
26 of the state commission of correction, or in any county or city where  
27 there is a department of [~~correction~~] correctional services, to the head  
28 of such department.

29 § 4. This act shall take effect on the one hundred twentieth day after  
30 it shall have become a law. Effective immediately, the addition, amend-  
31 ment and/or repeal of any rule or regulation necessary for the implemen-  
32 tation of this act on its effective date are authorized to be made on or  
33 before such date.