

# STATE OF NEW YORK

9487

## IN SENATE

March 17, 2026

Introduced by Sen. GALLIVAN -- 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 reforming 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. Subparagraph (ii) of paragraph (i) and subparagraph (vi) of  
2 paragraph (j) of subdivision 6 of section 137 of the correction law,  
3 subparagraph (ii) of paragraph (i) as amended by section 3 of part NNN  
4 of chapter 59 of the laws of 2021, and subparagraph (vi) of paragraph  
5 (j) as added by chapter 93 of the laws of 2021, are amended to read as  
6 follows:

7 (ii) For offenses determined pursuant to paragraph (l) of this subdivi-  
8 sion to constitute [~~a violent felony~~] an act defined in subparagraph  
9 (ii) of paragraph (k) of this subdivision, if occurring more than one  
10 time within any sixty day period, up to an additional fifteen consec-  
11 utive days in segregated confinement may occur for each such additional  
12 incident. If such subsequent incident takes place in a residential reha-  
13 bilitation unit or general population, the person may be returned to  
14 segregated confinement for up to fifteen consecutive days. If such  
15 subsequent incident takes place in segregated confinement and causes  
16 physical injury to another person, the person may receive up to an addi-  
17 tional fifteen consecutive days in segregated confinement, provided  
18 however that the person must spend at least fifteen days in a residen-  
19 tial rehabilitation unit in between each placement of up to fifteen  
20 consecutive days in segregated confinement. Custody under this subpara-  
21 graph shall otherwise be in accordance with this chapter.

22 (vi) If the department establishes that a person committed an act  
23 defined in subparagraph (ii) of paragraph (k) of this subdivision while  
24 in segregated confinement or a residential rehabilitation unit and poses  
25 a significant and unreasonable risk to the safety and security of other  
26 incarcerated persons or staff, the department may restrict such person's

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

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1 participation in programming and out-of-cell activities as necessary for  
2 the safety of other incarcerated persons and staff. If such restrictions  
3 are imposed, the department must provide at least four hours out-of-cell  
4 time daily, including [~~at least two hours of~~] therapeutic programming  
5 [~~and two hours of recreation, and must make reasonable efforts to rein-~~  
6 ~~state access to programming as soon as possible~~] or recreation, that is  
7 tailored to the individual's misconduct while making reasonable efforts  
8 to prevent disruption to other incarcerated individual's access to  
9 programming or recreation. In no case may such restrictions extend  
10 beyond fifteen days unless the person commits a new act defined herein  
11 justifying restrictions on program access, or if the commissioner and,  
12 when appropriate, the commissioner of mental health personally reason-  
13 ably determine that the person poses an extraordinary and unacceptable  
14 risk of imminent harm to the safety or security of incarcerated persons  
15 or staff. Any extension of program restrictions beyond fifteen days must  
16 be meaningfully reviewed and approved at least every fifteen days by the  
17 commissioner and, when appropriate, by the commissioner of mental  
18 health. Each review must consider the impact of therapeutic programming  
19 provided during the fifteen-day period on the person's risk of imminent  
20 harm and the commissioner must articulate in writing, with a copy  
21 provided to the incarcerated person, the specific reason why the person  
22 currently poses an extraordinary and unacceptable risk of imminent harm  
23 to the safety or security of incarcerated persons or staff. In no case  
24 may restrictions imposed by the commissioner extend beyond ninety days  
25 unless the person commits a new act defined herein justifying  
26 restrictions on program access.

27 § 2. Paragraph (k) of subdivision 6 of section 137 of the correction  
28 law, as added by chapter 93 of the laws of 2021, clause (F) of subpara-  
29 graph (ii) as amended by section 5 of part NNN of chapter 59 of the laws  
30 of 2021, and the closing paragraph of subparagraph (ii) as further  
31 amended by chapter 322 of the laws of 2021, is amended to read as  
32 follows:

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

41 (ii) The department may place a person in segregated confinement  
42 beyond the limits of subparagraph (i) of this paragraph or in a residen-  
43 tial rehabilitation unit only if, pursuant to an evidentiary hearing, it  
44 determines by written decision that the person committed one of the  
45 following acts [~~and~~] or if the commissioner or [~~his or her~~] such commis-  
46 sioner's designee determines in writing based on specific objective  
47 criteria that the [~~acts were~~] person committed any act so heinous or  
48 destructive that placement of the individual in general population hous-  
49 ing creates a significant risk of [~~imminent serious~~] physical injury to  
50 staff or other incarcerated persons, and creates an unreasonable risk to  
51 the security of the facility:

52 (A) committing an act consistent with conduct defined as a violent  
53 felony offense in section 70.02 of the penal law;

54 (B) causing or attempting to cause serious physical injury or death to  
55 another person or making an imminent threat of such serious physical  
56 injury or death if the person has a history of causing such physical

1 injury or death and the commissioner and, when appropriate, the commis-  
2 sioner of mental health or their designees reasonably determine that  
3 there is a strong likelihood that the person will carry out such threat.  
4 The commissioner of mental health or [~~his or her~~] such commissioner's  
5 designee shall be involved in such determination if the person is or has  
6 been on the mental health caseload or appears to require psychiatric  
7 attention. The department and the office of mental health shall promul-  
8 gate rules and regulations pertaining to this clause;

9 [~~(B)~~] (C) compelling or attempting to compel another person, by force  
10 or threat of force, to engage in a sexual act;

11 [~~(C) extorting another, by force or threat of force, for property or~~  
12 ~~money;~~]

13 (D) engaging in lewd conduct or harassment directed at an employee,  
14 incarcerated individual, or other person within a correctional facility,  
15 including but not limited to: (1) intentional exposure of the genitals,  
16 buttocks, or female breasts for the purpose of sexual arousal, gratifi-  
17 cation, degradation, or abuse; (2) masturbatory or other sexual acts  
18 performed in the presence or view of another person without that  
19 person's consent; or (3) verbal or physical conduct of a sexual nature  
20 that is severe or pervasive enough to create an intimidating, hostile,  
21 or abusive environment for staff or incarcerated individuals;

22 (E) engaging in a pattern of extortion in connection with a gang,  
23 unauthorized organization, or criminal enterprise for the purpose of  
24 profiting or benefiting from such misconduct;

25 (F) coercing another, by force or threat of force, to violate any  
26 rule;

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

31 [~~(F)~~] (H) procuring a deadly weapon or other dangerous contraband that  
32 poses a serious threat to the security of the institution; [~~ex~~

33 ~~(G)~~] (I) escaping, attempting to escape or facilitating an escape from  
34 a facility or escaping or attempting to escape while under supervision  
35 outside such facility; or

36 (J) committing conduct against an employee that is consistent with the  
37 offense of aggravated harassment of an employee by an incarcerated indi-  
38 vidual as defined in section 240.32 of the penal law, including but not  
39 limited to the intentional throwing, tossing, expelling, or causing to  
40 be projected of urine, feces, blood, saliva, seminal fluid, or other  
41 bodily substance, or any mixture containing such substance, or any other  
42 unhygienic act likely to cause alarm, distress, or a risk to health or  
43 safety.

44 [~~For purposes of this section, attempting to cause a serious disturb-~~  
45 ~~ance or to escape shall only be determined to have occurred if there is~~  
46 ~~a clear finding that the incarcerated individual had the intent to cause~~  
47 ~~a serious disturbance or the intent to escape and had completed signif-~~  
48 ~~icant acts in the advancement of the attempt to create a serious~~  
49 ~~disturbance or escape. Evidence of withdrawal or abandonment of a plan~~  
50 ~~to cause a serious disturbance or to escape shall negate a finding of~~  
51 ~~intent.]~~

52 (iii) [~~No person may be placed~~] In cases of recidivist misconduct  
53 occurring in general population, the department may place an incarcerat-  
54 ed individual in segregated confinement or a residential rehabilitation  
55 unit [~~based on the same act or incident that was previously used as the~~

1 ~~basis for such placement~~ ] for a period not to exceed fifteen days, where  
2 it has been determined that:

3 (A) the person has engaged in no fewer than three separate acts of  
4 misconduct that do not qualify for placement in segregated confinement  
5 committed within the preceding thirty days, each established pursuant to  
6 applicable disciplinary procedures; and

7 (B) alternative interventions, including but not limited to coun-  
8 seling, program modifications, and other non-segregation based measures,  
9 have been attempted and failed, and the ongoing misbehavior creates an  
10 unreasonable risk to safety or a disruption to the operation of the  
11 facility.

12 (iv) [~~No person may be held in segregated confinement for protective~~  
13 ~~custody. Any unit used for protective custody must,~~] Notwithstanding any  
14 other provision of law, when there is an unreasonable risk to the safety  
15 of an incarcerated person or others, and no other suitable alternative  
16 housing is readily available at [a minimum, conform to requirements  
17 governing] the facility, the department may temporarily place a person  
18 under protective custody in segregated confinement or a residential  
19 rehabilitation [units] unit for a period not to exceed three days. The  
20 department shall provide at least seven hours of daily out-of-cell time,  
21 including access to congregate programming, services, treatment, recre-  
22 ation, activities and/or meals, consistent with the minimum standards  
23 applicable to residential rehabilitation units, except where an individ-  
24 ualized determination is made that such congregate setting would pose an  
25 imminent risk of serious physical injury to the incarcerated person or  
26 others, in which case alternative out-of-cell activities shall be  
27 provided to the greatest extent practicable.

28 § 3. Subdivision 3 of section 803 of the correction law, as amended by  
29 section 37 of subpart B of part C of chapter 62 of the laws of 2011, is  
30 amended to read as follows:

31 3. The commissioner of corrections and community supervision shall  
32 promulgate, and when deemed necessary, amend or modify such rules and  
33 regulations as may be required for the granting, withholding, forfei-  
34 ture, cancellation and restoration of allowances authorized by this  
35 section in accordance with the criteria herein specified. Due consider-  
36 ation shall be given to the incarcerated individual's personal growth,  
37 demonstrated accomplishments, institutional adjustment, and efforts  
38 toward rehabilitation. Such rules and regulations shall include  
39 provisions designating the person or committee in each correctional  
40 institution delegated to make discretionary determinations with respect  
41 to the allowances, the books and records to be kept, and a procedure for  
42 review of the institutional determinations by the commissioner.

43 § 4. This act shall take effect on the ninetieth day after it shall  
44 have become a law.