

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.

LBD14770-03-6

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; ~~[or~~

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.