

SENATE BILL NO. 402—SENATORS SPEARMAN, SEGERBLOM,
MANENDO; CANCELA, DENIS, RATTI AND WOODHOUSE

MARCH 20, 2017

JOINT SPONSORS: ASSEMBLYMEN NEAL; ARAUJO,
FRIERSON AND THOMPSON

Referred to Committee on Judiciary

SUMMARY—Restricts the use of solitary confinement on persons
in confinement. (BDR 16-1087)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the administration of justice; restricting the use
of solitary confinement on persons who are in
confinement; and providing other matters properly
relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes the use of corrective room restriction on a child who is
2 detained in a state, local or regional facility for the detention of children only if all
3 other less-restrictive options have been exhausted and only to: (1) modify the
4 negative behavior of the child; (2) hold the child accountable for a violation of a
5 rule of the facility; or (3) ensure the safety of the child, the staff or others or to
6 ensure the security of the facility. Existing law also: (1) specifies certain actions
7 that must be taken with respect to a child subjected to corrective room restriction;
8 (2) provides that if a child is subjected to corrective room restriction, the period of
9 corrective room restriction must be the minimum time required to address the
10 negative behavior, rule violation or threat; and (3) provides that a child must not be
11 subjected to corrective room restriction for more than 72 consecutive hours. (NRS
12 62B.215, 63.505) **Section 7** of this bill repeals these provisions of existing law, and
13 **sections 1 and 2** of this bill replace those provisions with restrictions on the use of
14 solitary confinement on a child who is detained in a state, local or regional facility
15 for the detention of children.

16 **Sections 1 and 2** prohibit the use of solitary confinement on a child who is
17 detained in a state, local or regional facility for the detention of children, unless: (1)
18 the child is not a child with serious mental illness or other significant mental
19 impairment; (2) the child presents a serious and immediate risk of harm to himself



20 or herself, staff or others or to the security of the facility; and (3) all other less-
21 restrictive options have been exhausted. **Sections 1 and 2** further prohibit the use of
22 solitary confinement for the purpose of disciplining or punishing a child and
23 provide that if a child is held in solitary confinement, the period of solitary
24 confinement must be the minimum time required to address the threat and must end
25 if the mental or physical health of the child is compromised.

26 **Sections 3 and 4** of this bill apply the same prohibitions and limitations on the
27 use of solitary confinement on a person confined in a prison, jail or other detention
28 facility, with similar exceptions.

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

1 **Section 1.** Chapter 62B of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. A local or regional facility for the detention of children*
4 *shall not:*

5 *(a) Use solitary confinement for the purpose of disciplining or*
6 *punishing a child; or*

7 *(b) Subject a child with serious mental illness or other*
8 *significant mental impairment to solitary confinement.*

9 *2. A child who is detained in a local or regional facility for*
10 *the detention of children must not be subjected to solitary*
11 *confinement unless:*

12 *(a) There are compelling reasons to believe that the child*
13 *presents a serious and immediate threat of harm to himself or*
14 *herself, staff or others or to the security of the facility; and*

15 *(b) All other less-restrictive options have been exhausted.*

16 *3. A child who is held in solitary confinement may be held in*
17 *solitary confinement only for the minimum time required to*
18 *address the threat of harm to the child, staff or others or to the*
19 *security of the facility, but only if the mental and physical health*
20 *of the child is not compromised.*

21 *4. As used in this section:*

22 *(a) "Child with serious mental illness or other significant*
23 *mental impairment" means a child with a substantial disorder of*
24 *thought or mood that significantly impairs judgment, behavior or*
25 *capacity to recognize reality, which may include a child who is*
26 *found to have current symptoms of, or who is currently receiving*
27 *treatment for, any of the following:*

28 *(I) A type of diagnosis found in the most recent edition of*
29 *the Diagnostic and Statistical Manual of Mental Disorders,*
30 *published by the American Psychiatric Association, including:*

31 *(I) Schizophrenia, including all subtypes;*

32 *(II) Delusional disorder;*

33 *(III) Schizophreniform disorder;*



- 1 (IV) *Schizoaffective disorder;*
- 2 (V) *Brief psychotic disorder;*
- 3 (VI) *Substance/Medication-induced psychotic disorder,*
- 4 *excluding intoxication and withdrawal;*
- 5 (VII) *Psychotic disorder not otherwise specified;*
- 6 (VIII) *Major depressive disorder; or*
- 7 (IX) *Bipolar and related disorders;*
- 8 (2) *A mental disorder that includes being actively suicidal;*
- 9 (3) *A serious mental illness that is frequently characterized*
- 10 *by breaks with reality or perceptions of reality that leads the*
- 11 *person to significant functional impairment;*
- 12 (4) *An organic brain syndrome, which results in a*
- 13 *significant functional impairment if not treated;*
- 14 (5) *A severe personality disorder that is manifested by*
- 15 *frequent episodes of psychosis or depression and results in*
- 16 *significant functional impairment;*
- 17 (6) *Any other serious mental illness or disorder that is*
- 18 *worsened by confinement; or*
- 19 (7) *Mental retardation with significant functional*
- 20 *impairment.*

21 (b) *“Solitary confinement” means the involuntary holding of a*

22 *child in isolation from any other person, other than staff and an*

23 *attorney, for 16 or more hours per day.*

24 **Sec. 2.** Chapter 63 of NRS is hereby amended by adding

25 thereto a new section to read as follows:

- 26 **1. A facility shall not:**
- 27 (a) *Use solitary confinement for the purpose of disciplining or*
- 28 *punishing a child; or*
- 29 (b) *Subject a child with serious mental illness or other*
- 30 *significant mental impairment to solitary confinement.*
- 31 **2. A child who is detained in a facility must not be subjected**
- 32 **to solitary confinement unless:**
- 33 (a) *There are compelling reasons to believe that the child*
- 34 *presents a serious and immediate threat of harm to himself or*
- 35 *herself, staff or others or to the security of the facility; and*
- 36 (b) *All other less-restrictive options have been exhausted.*
- 37 **3. A child who is held in solitary confinement may be held in**
- 38 **solitary confinement only for the minimum time required to**
- 39 **address the threat of harm to the child, staff or others or to the**
- 40 **security of the facility, but only if the mental and physical health**
- 41 **of the child is not compromised.**
- 42 **4. As used in this section:**
- 43 (a) *“Child with serious mental illness or other significant*
- 44 *mental impairment” means a child with a substantial disorder of*
- 45 *thought or mood that significantly impairs judgment, behavior or*



1 *capacity to recognize reality, which may include a child who is*
2 *found to have current symptoms of, or who is currently receiving*
3 *treatment for, any of the following:*

4 *(1) A type of diagnosis found in the most recent edition of*
5 *the Diagnostic and Statistical Manual of Mental Disorders,*
6 *published by the American Psychiatric Association, including:*

7 *(I) Schizophrenia, including all subtypes;*

8 *(II) Delusional disorder;*

9 *(III) Schizophreniform disorder;*

10 *(IV) Schizoaffective disorder;*

11 *(V) Brief psychotic disorder;*

12 *(VI) Substance/Medication-induced psychotic disorder,*
13 *excluding intoxication and withdrawal;*

14 *(VII) Psychotic disorder not otherwise specified;*

15 *(VIII) Major depressive disorder; or*

16 *(IX) Bipolar and related disorders;*

17 *(2) A mental disorder that includes being actively suicidal;*

18 *(3) A serious mental illness that is frequently characterized*
19 *by breaks with reality or perceptions of reality that leads the*
20 *person to significant functional impairment;*

21 *(4) An organic brain syndrome, which results in a*
22 *significant functional impairment if not treated;*

23 *(5) A severe personality disorder that is manifested by*
24 *frequent episodes of psychosis or depression and results in*
25 *significant functional impairment;*

26 *(6) Any other serious mental illness or disorder that is*
27 *worsened by confinement; or*

28 *(7) Mental retardation with significant functional*
29 *impairment.*

30 *(b) "Solitary confinement" means the involuntary holding of a*
31 *child in isolation from any other person, other than staff and an*
32 *attorney, for 16 or more hours per day.*

33 **Sec. 3.** Chapter 209 of NRS is hereby amended by adding
34 thereto a new section to read as follows:

35 *1. The Department or a private facility or institution shall*
36 *not:*

37 *(a) Use solitary confinement for the purpose of disciplining or*
38 *punishing an offender; or*

39 *(b) Subject an offender with serious mental illness or other*
40 *significant mental impairment to solitary confinement.*

41 *2. An offender who is confined in an institution or facility of*
42 *the Department or a private facility or institution must not be*
43 *subjected to solitary confinement unless:*

44 *(a) There are compelling reasons to believe that the offender*
45 *presents a serious and immediate threat of harm to himself or*



1 herself, staff or others or to the security of the institution or
2 facility; and

3 (b) All other less-restrictive options have been exhausted.

4 3. An offender who is held in solitary confinement may be
5 held in solitary confinement only for the minimum time required
6 to address the threat of harm to the offender, staff or others or to
7 the security of the institution or facility, but only if the mental and
8 physical health of the offender is not compromised.

9 4. As used in this section:

10 (a) "Offender with serious mental illness or other significant
11 mental impairment" means a person with a substantial disorder of
12 thought or mood that significantly impairs judgment, behavior or
13 capacity to recognize reality, which may include a person who is
14 found to have current symptoms of, or who is currently receiving
15 treatment for, any of the following:

16 (1) A type of diagnosis found in the most recent edition of
17 the Diagnostic and Statistical Manual of Mental Disorders,
18 published by the American Psychiatric Association, including:

19 (I) Schizophrenia, including all subtypes;

20 (II) Delusional disorder;

21 (III) Schizophreniform disorder;

22 (IV) Schizoaffective disorder;

23 (V) Brief psychotic disorder;

24 (VI) Substance/Medication-induced psychotic disorder,
25 excluding intoxication and withdrawal;

26 (VII) Psychotic disorder not otherwise specified;

27 (VIII) Major depressive disorder; or

28 (IX) Bipolar and related disorders;

29 (2) A mental disorder that includes being actively suicidal;

30 (3) A serious mental illness that is frequently characterized
31 by breaks with reality or perceptions of reality that leads the
32 person to significant functional impairment;

33 (4) An organic brain syndrome, which results in a
34 significant functional impairment if not treated;

35 (5) A severe personality disorder that is manifested by
36 frequent episodes of psychosis or depression and results in
37 significant functional impairment;

38 (6) Any other serious mental illness or disorder that is
39 worsened by confinement; or

40 (7) Mental retardation with significant functional
41 impairment.

42 (b) "Solitary confinement" means the involuntary holding of
43 an offender in isolation from any other person, other than staff
44 and an attorney, for 16 or more hours per day.



1 **Sec. 4.** Chapter 211 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *A sheriff, chief of police or town marshal shall not:*

4 (a) *Use solitary confinement for the purpose of disciplining or*
5 *punishing a prisoner; or*

6 (b) *Subject a prisoner with serious mental illness or other*
7 *significant mental impairment to solitary confinement.*

8 2. *A prisoner who is confined in a county, city or town jail or*
9 *detention facility must not be subjected to solitary confinement*
10 *unless:*

11 (a) *There are compelling reasons to believe that the prisoner*
12 *presents a serious and immediate threat of harm to himself or*
13 *herself, staff or others or to the security of the jail or detention*
14 *facility; and*

15 (b) *All other less-restrictive options have been exhausted.*

16 3. *A prisoner who is held in solitary confinement may be held*
17 *in solitary confinement only for the minimum time required to*
18 *address the threat of harm to the prisoner, staff or others or to the*
19 *security of the jail or detention facility, but only if the mental and*
20 *physical health of the prisoner is not compromised.*

21 4. *As used in this section:*

22 (a) *“Prisoner with serious mental illness or other significant*
23 *mental impairment” means a person with a substantial disorder of*
24 *thought or mood that significantly impairs judgment, behavior or*
25 *capacity to recognize reality, which may include a person who is*
26 *found to have current symptoms of, or who is currently receiving*
27 *treatment for, any of the following:*

28 (1) *A type of diagnosis found in the most recent edition of*
29 *the Diagnostic and Statistical Manual of Mental Disorders,*
30 *published by the American Psychiatric Association, including:*

31 (I) *Schizophrenia, including all subtypes;*

32 (II) *Delusional disorder;*

33 (III) *Schizophreniform disorder;*

34 (IV) *Schizoaffective disorder;*

35 (V) *Brief psychotic disorder;*

36 (VI) *Substance/Medication-induced psychotic disorder,*
37 *excluding intoxication and withdrawal;*

38 (VII) *Psychotic disorder not otherwise specified;*

39 (VIII) *Major depressive disorder; or*

40 (IX) *Bipolar and related disorders;*

41 (2) *A mental disorder that includes being actively suicidal;*

42 (3) *A serious mental illness that is frequently characterized*
43 *by breaks with reality or perceptions of reality that leads the*
44 *person to significant functional impairment;*



1 (4) *An organic brain syndrome, which results in a*
2 *significant functional impairment if not treated;*

3 (5) *A severe personality disorder that is manifested by*
4 *frequent episodes of psychosis or depression and results in*
5 *significant functional impairment;*

6 (6) *Any other serious mental illness or disorder that is*
7 *worsened by confinement; or*

8 (7) *Mental retardation with significant functional*
9 *impairment.*

10 (b) *“Solitary confinement” means the involuntary holding of a*
11 *prisoner in isolation from any other person, other than staff and*
12 *an attorney, for 16 or more hours per day.*

13 **Sec. 5.** NRS 211.118 is hereby amended to read as follows:

14 211.118 As used in NRS 211.118 to 211.200, inclusive, *and*
15 *section 4 of this act*, “public works” means the renovation, repair or
16 cleaning of any street, drainage facility, road, sidewalk, public
17 square, park or building, or cutting away hills, grading, putting in
18 sewers or other work, which is authorized to be done by and for the
19 use of any of the counties, cities or towns, and the expense of which
20 is not to be borne exclusively by persons or property particularly
21 benefited thereby. The term does not include any project to which
22 the provisions of NRS 338.020 apply.

23 **Sec. 6.** NRS 211.150 is hereby amended to read as follows:

24 211.150 1. ~~##~~ *Except as otherwise provided in section 4 of*
25 *this act, if* a prisoner is disobedient or disorderly, or does not
26 faithfully perform his or her tasks, the officers having charge of the
27 prisoner may take action to discipline and punish the prisoner. The
28 action may include confinement to an individual cell separate from
29 other prisoners for the protection of the staff of the jail and other
30 prisoners. An officer who confines a prisoner to an individual cell
31 for any reason shall report his or her action as soon as possible to
32 the person in charge of the jail.

33 2. A report of the number of prisoners who are performing
34 work and the amount and type of work performed must be submitted
35 to the person in charge of the jail on the last day of each month.

36 **Sec. 7.** NRS 62B.215 and 63.505 are hereby repealed.

37 **Sec. 8.** This act becomes effective on July 1, 2017.



TEXT OF REPEALED SECTIONS

62B.215 Conditions and limitations on use of corrective room restriction by certain facilities for detention of children; reporting requirement.

1. A child who is detained in a local or regional facility for the detention of children may be subjected to corrective room restriction only if all other less-restrictive options have been exhausted and only for the purpose of:

- (a) Modifying the negative behavior of the child;
- (b) Holding the child accountable for a violation of a rule of the facility; or
- (c) Ensuring the safety of the child, staff or others or ensuring the security of the facility.

2. Any action that results in corrective room restriction for more than 2 hours must be documented in writing and approved by a supervisor.

3. A local or regional facility for the detention of children shall conduct a safety and well-being check on a child subjected to corrective room restriction at least once every 10 minutes while the child is subjected to corrective room restriction.

4. A child may be subjected to corrective room restriction only for the minimum time required to address the negative behavior, rule violation or threat to the safety of the child, staff or others or to the security of the facility, and the child must be returned to the general population of the facility as soon as reasonably possible.

5. A child who is subjected to corrective room restriction for more than 24 hours must be provided:

(a) Not less than 1 hour of out-of-room, large muscle exercise each day, including, without limitation, access to outdoor recreation if weather permits;

(b) Access to the same meals and medical and mental health treatment, the same access to contact with parents or legal guardians, and the same access to legal assistance and educational services as is provided to children in the general population of the facility; and

(c) A review of the corrective room restriction status at least once every 24 hours. If, upon review, the corrective room restriction is continued, the continuation must be documented in writing, including, without limitation, an explanation as to why no other less-restrictive option is available.



6. A local or regional facility for the detention of children shall not subject a child to corrective room restriction for more than 72 consecutive hours.

7. A local or regional facility for the detention of children shall report monthly to the Juvenile Justice Programs Office of the Division of Child and Family Services the number of children who were subjected to corrective room restriction during that month and the length of time that each child was in corrective room restriction. Any incident that resulted in the use of corrective room restriction for 72 consecutive hours must be addressed in the monthly report, and the report must include the reason or reasons any attempt to return the child to the general population of the facility was unsuccessful.

8. As used in this section, "corrective room restriction" means the confinement of a child to his or her room as a disciplinary or protective action and includes, without limitation:

- (a) Administrative seclusion;
- (b) Behavioral room confinement;
- (c) Corrective room rest; and
- (d) Room confinement.

63.505 Conditions and limitations on use of corrective room restriction by facility; reporting requirement.

1. A child who is detained in a facility may be subjected to corrective room restriction only if all other less-restrictive options have been exhausted and only for the purpose of:

- (a) Modifying the negative behavior of the child;
- (b) Holding the child accountable for a violation of a rule of the facility; or
- (c) Ensuring the safety of the child, staff or others or ensuring the security of the facility.

2. Any action that results in corrective room restriction for more than 2 hours must be documented in writing and approved by a supervisor.

3. A facility shall conduct a safety and well-being check on a child subjected to corrective room restriction at least once every 10 minutes while the child is subjected to corrective room restriction.

4. A child may be subjected to corrective room restriction only for the minimum time required to address the negative behavior, rule violation or threat to the safety of the child, staff or others or to the security of the facility, and the child must be returned to the general population of the facility as soon as reasonably possible.

5. A child who is subjected to corrective room restriction for more than 24 hours must be provided:



(a) Not less than 1 hour of out-of-room, large muscle exercise each day, including, without limitation, access to outdoor recreation if weather permits;

(b) Access to the same meals and medical and mental health treatment, the same access to contact with parents or legal guardians, and the same access to legal assistance and educational services as is provided to children in the general population of the facility; and

(c) A review of the corrective room restriction status at least once every 24 hours. If, upon review, the corrective room restriction is continued, the continuation must be documented in writing, including, without limitation, an explanation as to why no other less-restrictive option is available.

6. A facility shall not subject a child to corrective room restriction for more than 72 consecutive hours.

7. A facility shall report monthly to the Juvenile Justice Programs Office of the Division of Child and Family Services the number of children who were subjected to corrective room restriction during that month and the length of time that each child was in corrective room restriction. Any incident that resulted in the use of corrective room restriction for more than 72 consecutive hours must be addressed in the monthly report, and the report must include the reason or reasons any attempt to return the child to the general population of the facility was unsuccessful.

8. As used in this section, "corrective room restriction" means the confinement of a child to his or her room as a disciplinary or protective action and includes, without limitation:

- (a) Administrative seclusion;
- (b) Behavioral room confinement;
- (c) Corrective room rest; and
- (d) Room confinement.

