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SENATE BILL NO. 1140

Offered January 9, 2019

Prefiled December 30, 2018

A BILL to amend the Code of Virginia by adding a section numbered 53.1-39.1, relating to solitary confinement; data collection and reporting; report.

Patrons—Favola and Ebbin

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 53.1-39.1 as follows:

§ 53.1-39.1. Solitary confinement; data collection and reporting; report.

A. As used in this section:

"Inmate" means an adult or juvenile who is under sentence to or confined in a state correctional facility.

"Member of a vulnerable population" means any inmate who (i) is 21 years of age or younger or is 55 years of age or older; (ii) has a diagnosed mental illness as defined in § 37.2-100; (iii) has a history of psychiatric hospitalization; (iv) has recently exhibited conduct, including self-mutilation, indicating the need for further observation or evaluation to determine whether he has a mental illness; (v) has a diagnosed developmental or intellectual disability as defined in § 37.2-100; (vi) has a serious medical condition that cannot be treated effectively in solitary confinement; (vii) is pregnant, is in the postpartum period, or has recently suffered a miscarriage or terminated a pregnancy; (viii) has a significant auditory or visual impairment; or (ix) identifies as or is perceived to be lesbian, gay, bisexual, transgender, or intersex.

"Solitary confinement" means isolation of an inmate from the general population through confinement to a cell or other place for 22 or more hours within a 24-hour period and includes administrative segregation, disciplinary segregation or housing, restrictive housing, special housing, and protective custody.

B. The Department shall report to the General Assembly and the Governor on or before October 1 of each year the following information for the Department in the aggregate and for each state correctional facility, for the previous fiscal year:

1. The average daily population reported biweekly;

2. The number of inmates who were placed in solitary confinement;

3. The age, sex, gender identity, national origin, race and ethnicity, English proficiency status, developmental or intellectual disability status as defined in § 37.2-100, and security level and custody level classification of each inmate who was housed in solitary confinement;

4. The number of inmates who are a member of a vulnerable population who were placed in solitary confinement and the category of vulnerable population of such inmates;

5. The basis or bases for placement in solitary confinement for each inmate;

6. The dates on which each inmate was placed in and released from solitary confinement and the total number of hours such inmate served in solitary confinement on each date;

7. The number of "sick calls" by each inmate during solitary confinement;

8. The number of incidents of self-harm by each inmate during solitary confinement;

9. The number of inmates released from solitary confinement directly into the community;

10. The number of full-time mental health staff; and

11. Any changes made during the reporting period to written policies or procedures of the Department and each state correctional facility relating to the use and conditions of solitary confinement.

C. The Department shall submit the annual report to the Governor and the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and the annual report shall be posted on the General Assembly's website. The Department shall publish the annual report on the Department's website no later than 10 days following its submission to the Governor and the General Assembly.

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