

Department of Planning and Budget 2019 Fiscal Impact Statement

1. Bill Number: SB1140

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Favola

3. Committee: Rehabilitation and Social Services

4. Title: Solitary confinement; data collection and reporting; report.

5. Summary: Requires the Department of Corrections (DOC) to submit a report to the General Assembly and the Governor by October 1 each year that contains the following statistical information, for the Department in the aggregate and for each correctional facility, regarding the Department's use of solitary confinement:

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.

The bill also defines the terms:

- *"inmate"* as an adult or juvenile who is under sentence to or confined in a state correctional facility;
- *"member of a vulnerable population"* as 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; and

- “*solitary confinement*” as 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, solitary confinement, special housing, and protective custody.

6. Budget Amendment Necessary: Yes. Item 391.

7. Fiscal Impact Estimates: Preliminary. See Item 8 below.

8. Fiscal Implications: The Department of Corrections (DOC) operates 35 correctional facilities with restrictive housing units. Virginia Corrections Information System (VACORIS) is the state’s computerized offender management system that houses certain offender data. According to DOC, there are data elements required by the bill that are currently available in VACORIS. However, other data elements are available only in paper form. Collecting this data would require additional staff and possible system updates to VACORIS or other dedicated system.

The agency reports that the following data required by this bill are only available in individual records or as part of the offender’s medical record in paper form and not entered into VACORIS:

- Within the definition of *member of a vulnerable population* an offender who:
 - (ii) has a diagnosed mental illness as defined in § 37.2-100
 - (iii) has a history of psychiatric hospitalization
 - (v) has a diagnosed developmental or intellectual disability as defined in § 37.2-100 (if identified, this would be in a paper medical form)
 - (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
- Within the statistical data required in the annual report:
 - the total number of hours such inmate served in solitary confinement on each date (from data requirement #6); and
 - the number of "sick calls" by each inmate during solitary confinement (data requirement #7)

The agency reports that the following data required by the bill are not currently collected in any form and would need to be added to paper records and/or to VACORIS or other dedicated system:

- Within the definition of *member of a vulnerable population* an offender who:
 - (ix) identifies as or is perceived to be lesbian, gay, bisexual, transgender, or intersex
- Within the statistical data required in the annual report:
 - gender identity, national origin, English proficiency status, and developmental or intellectual disability status as defined in § 37.2-100

The agency estimates that hand-compiling, analyzing, and reporting the information above would require 28 Program Support Technicians at a cost of \$1,603,756 (salary plus benefit costs) and four Research Analyst positions assigned to its Research, Statistical and Forecast Unit at headquarters at a cost of \$297,516 (salary and benefit costs). It is not known at this time how many of these positions would be permanent and, if any number of them are, how long these positions would be needed. It is not known if possible system updates or modifications to VACORIS, or other dedicated system, in order to automatically capture the above data required, would reduce the personnel cost identified by DOC.

Finally, DOC publishes average daily population (ADP) information on its public website monthly. The proposed legislation calls for this data to be reported bi-weekly (data requirement #1), which the agency estimates would require two additional Research Analyst Senior positions at a cost of \$200,418 (salary plus benefit costs) to cover the additional ADP data analysis and reporting requirements. In addition, the agency estimates that updating VACORIS with non-medical and mental health data required by the bill and to change its average ADP population reporting process to biweekly would cost approximately \$150,000.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections

10. Technical Amendment Necessary: None

11. Other Comments: None