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SENATE BILL NO. 1085

Offered January 9, 2019

Prefiled December 17, 2018

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

Patrons—Marsden, Ebbin, McClellan and Favola; Delegates: Carr and Kory

Referred to Committee on General Laws and Technology

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. Restrictive housing; 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 restrictive housing; (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.

"Restrictive housing" 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.

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 restrictive housing;
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 restrictive housing;
4. The number of inmates who are a member of a vulnerable population who were placed in restrictive housing and the category of vulnerable population of such inmates;
5. The basis or bases for placement in restrictive housing for each inmate;
6. The dates on which each inmate was placed in and released from restrictive housing and the total number of hours such inmate served in restrictive housing on each date;
7. The number of "sick calls" by each inmate during restrictive housing;
8. The number of incidents of self-harm by each inmate during restrictive housing;
9. The number of inmates released from restrictive housing directly into the community;
10. The number of full-time mental health staff, including the rate position vacancy for those positions; 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 restrictive housing.

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.

INTRODUCED

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