



Rep. Suzanne Ness

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LRB102 13059 RLC 37327 a

1 AMENDMENT TO HOUSE BILL 3738

2 AMENDMENT NO. _____. Amend House Bill 3738, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the End
6 Youth Solitary Confinement Act.

7 Section 5. Purpose. The purpose of this Act is to end the
8 use of solitary confinement for young detainees in prisons,
9 jails, and other detention centers for any purpose other than
10 preventing immediate physical harm.

11 Section 10. Covered juvenile confinement.

12 (a) In this Act:

13 "Administrative hold" means the status assigned to a
14 covered juvenile who is temporarily being housed in a
15 particular covered juvenile center and includes, but is not

1 limited to: a covered juvenile awaiting transfer to the
2 Department of Corrections or another juvenile detention
3 center, a covered juvenile permanently assigned to another
4 juvenile detention center being temporarily housed for
5 purposes of attending court, the covered juvenile awaiting
6 release, and the covered juvenile who was transferred to the
7 Department of Corrections by mistake.

8 "Behavioral hold" means the status assigned to a covered
9 juvenile who is confined to the covered juvenile's own room or
10 another area because he or she is engaging in dangerous
11 behavior that poses a serious and immediate threat to his or
12 her own safety, the safety of others, or the security of the
13 juvenile detention center.

14 "Chief administrative officer" means the highest ranking
15 official of a juvenile detention center.

16 "Confinement" means any instance when an individual
17 covered juvenile is held for 15 minutes or more in a room,
18 cell, or other area separated from other covered juveniles.
19 Confinement may occur in locked or unlocked rooms.

20 "Confinement" includes an administrative hold, behavioral
21 hold, or investigative status. "Confinement" does not include
22 medical isolation or quarantine, situations when a covered
23 juvenile requests to go to his or her room, the movement of the
24 covered juvenile between offices and classrooms while
25 attending school, a covered juvenile who receives individual
26 counseling or other therapeutic services, or staff who are in

1 ongoing continuous conversation or processing with the covered
2 juvenile such as a cool down.

3 "Covered juvenile" means any person under 18 years of age
4 incarcerated in a correctional facility, jail, or detention
5 facility of any kind operated by the Department of Juvenile
6 Justice, a county, or a municipality.

7 "Investigative status" meaning a status assigned to a
8 covered juvenile for whom confinement is necessary for the
9 efficient and effective investigation of a Tier 2 or Tier 3
10 offense, as defined in the Department of Juvenile Justice's
11 Administrative Directive 04.01.140.

12 "Tier 2" or "Tier 3" offense means a major rules violation
13 that results in immediate disciplinary consequences that are
14 assigned by the staff of the facility reporting the violation.

15 (b) The use of room confinement at a juvenile or
16 correctional facility for discipline, punishment, retaliation,
17 or any reason other than as a temporary response to a
18 juvenile's behavior that poses a serious and immediate risk of
19 physical harm to any individual, including the juvenile, is
20 prohibited.

21 (b-5) A covered juvenile may be placed on an
22 administrative hold and confined when temporarily being housed
23 in a particular juvenile detention center or for
24 administrative or security purposes as personally determined
25 by the chief administrative officer.

26 (b-6) Placement on administrative hold shall be subject to

1 the following time limitations:

2 (1) when the covered juvenile is awaiting transfer to
3 the Department of Corrections or a more secure setting,
4 the administrative hold may not exceed 3 business days;
5 and

6 (2) the administrative hold may not exceed 7 calendar
7 days when the covered juvenile is temporarily transferred
8 to a different facility for the purposes of placement
9 interviews, court appearances, or medical treatment.

10 (b-7) Whenever a covered juvenile is on an administrative
11 hold, the Department shall provide the covered juvenile with
12 access to the same programs and services received by covered
13 juveniles in the general population. Any restrictions on
14 movement or access to programs and services shall be
15 documented and justified by the chief administrative officer.

16 (c) If a covered juvenile poses a serious and immediate
17 risk of physical harm to any individual, including the
18 juvenile, before a staff member of the facility places a
19 covered juvenile in room confinement, the staff member shall
20 attempt to use other less restrictive options, unless
21 attempting those options poses a threat to the safety or
22 security of any minor or staff.

23 (d) If a covered juvenile is placed in room confinement
24 because the covered juvenile poses a serious and immediate
25 risk of physical harm to himself or herself, or to others, the
26 covered juvenile shall be released:

1 (1) immediately when the covered juvenile has
2 sufficiently gained control so as to no longer engage in
3 behavior that threatens serious and immediate risk of
4 physical harm to himself or herself, or to others; or

5 (2) no more than 24 hours after being placed in room
6 confinement if a covered juvenile does not sufficiently
7 gain control as described in paragraph (1) of this
8 subsection (d) and poses a serious and immediate risk of
9 physical harm to himself or herself or others, not later
10 than:

11 (A) 3 hours after being placed in room
12 confinement, in the case of a covered juvenile who
13 poses a serious and immediate risk of physical harm to
14 others; or

15 (B) 30 minutes after being placed in room
16 confinement, in the case of a covered juvenile who
17 poses a serious and immediate risk of physical harm
18 only to himself or herself.

19 (e) If, after the applicable maximum period of confinement
20 has expired, a covered juvenile continues to pose a serious
21 and immediate risk of physical harm to others:

22 (1) the covered juvenile shall be transferred to
23 another juvenile facility or internal location where
24 services can be provided to the covered juvenile without
25 relying on room confinement; or

26 (2) if a qualified mental health professional believes

1 the level of crisis service needed is not currently
2 available, a staff member of the facility shall initiate a
3 referral to a location that can meet the needs of the
4 covered juvenile.

5 (f) Each facility detaining covered juveniles shall report
6 the use of each incident of room confinement to an independent
7 ombudsperson for the Department of Juvenile Justice each
8 month, including:

9 (1) the name of the covered juvenile;

10 (2) demographic data, including, at a minimum, age,
11 race, gender, and primary language;

12 (3) the reason for room confinement, including how
13 detention facility officials determined the covered
14 juvenile posed an immediate risk of physical harm to
15 others or to him or herself;

16 (4) the length of room confinement;

17 (5) the number of covered juveniles transferred to
18 another facility or referral to a separate crisis location
19 covered under subsection (e); and

20 (6) the name of detention facility officials involved
21 in each instance of room confinement.

22 (g) An independent ombudsperson for the Department of
23 Juvenile Justice shall be empowered to review and enforce
24 detention facility's adherence to this Section."