

SB2257



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2257

Introduced 2/10/2023, by Sen. Robert Peters

SYNOPSIS AS INTRODUCED:

New Act
730 ILCS 5/3-8-7

from Ch. 38, par. 1003-8-7

Provides that the Act may be referred to as the Nelson Mandela Act. Creates the Isolated Confinement Restriction Act. Provides that, except for a committed person in protective custody who opts out of that status by providing informal, voluntary, written refusal of that status, the use of isolated confinement in correctional institutions is restricted to isolated confinement of no more than 10 days in any 180-day period or no more than 10 days in any 180-day period. Amends the Unified Code of Corrections to make conforming changes. Effective immediately.

LRB103 28776 RLC 55160 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title; referral.

5 (a) This Act may be cited as the Isolated Confinement
6 Restriction Act.

7 (b) This Act may be referred to as the Nelson Mandela Act.

8 Section 5. Findings.

9 (a) The General Assembly honors the legacy of Nelson
10 Mandela, the first and former President of South Africa, and
11 recognizes that after release from 27 years of imprisonment,
12 much of which was spent in isolated confinement, he became a
13 world leader in his commitment to democracy and international
14 human rights.

15 (b) Mandela was repeatedly subjected to isolated
16 confinement.

17 (c) Mandela's isolation began with 23 hours a day of
18 isolated confinement with just 2 thirty-minute exercise
19 periods allowed per day. Such hours were spent in a cell
20 measuring 8 feet by 7 feet, with walls of concrete, without
21 windows, and furnished with a single light bulb to substitute
22 natural light.

23 (d) Mandela described isolated confinement as "the most

1 forbidding aspect of prison life", with no end and no
2 beginning.

3 (e) After 27 years of incarceration under the South
4 African government, Mandela went on to receive a Nobel Peace
5 Prize and numerous other honors as a global icon of democracy
6 and social justice.

7 (f) In an attempt to ensure that no one else would be
8 subjected to the inhumane treatment Mandela survived, the
9 United Nations adopted the Mandela Rules establishing Standard
10 Minimum Rules for the Treatment of Prisoners, on December 17,
11 2015. Those rules finalize a set of principles that provide
12 all people who are in prison with respect and protection from
13 torture, and other cruel, inhuman, or degrading treatments or
14 punishments.

15 (g) Rule 1 of the Mandela Rules sets the guiding principle
16 for these standards, requiring that: "All prisoners shall be
17 treated with the respect due to their inherent dignity and
18 value as human beings"; and

19 (h) The Mandela Rules provide that: "the prison system
20 shall not, except as incidental to justifiable separation or
21 the maintenance of discipline, aggravate the suffering
22 inherent in ... a situation" involving the deprivation of
23 liberty; and

24 (i) As a result of these requirements and recognizing the
25 horrific consequences of Mandela's prolonged isolation, the
26 Mandela Rules specifically prohibit prolonged placement in a

1 cell.

2 (j) Rule 44 of the Mandela Rules specifically states:
3 "Rule 44: For the purpose of these rules, solitary confinement
4 shall refer to the confinement of prisoners for 22 hours or
5 more a day without meaningful human contact. Prolonged
6 solitary confinement shall refer to solitary confinement for a
7 time period in excess of 15 consecutive days.

8 (k) Nelson Mandela stated: "[N]o one truly knows a nation
9 until one has been inside its jails. A nation should not be
10 judged by how it treats its highest citizens, but its lowest
11 ones.

12 (l) To be judged as a worldwide leader, Illinois must
13 recognize the horrific consequences that Nelson Mandela and
14 other incarcerated individuals have experienced from being
15 confined to a cell for prolonged periods and comply with the
16 international mandates required by the Mandela Rules.

17 (m) It is therefore in Illinois' best interests to operate
18 its prisons in compliance with internationally recognized
19 minimum standards.

20 (n) The Nelson Mandela Act is hereby enacted.

21 Section 10. Definitions. In this Act:

22 "Correctional facility" means any State correctional
23 facility or county correctional facility, and any State,
24 county, or private facility detaining persons under any
25 intergovernmental service agreement or other contract with any

1 State, county, or federal agency, including, but not limited
2 to, United States Immigration and Customs Enforcement.

3 "Facility administrator" means the chief operating
4 officer, senior administrative designee, or warden of a
5 correctional facility.

6 "Isolated confinement" means confinement of a committed
7 person in a correctional facility in a cell or confined living
8 space, alone or with other inmates, for more than 20 hours in
9 any 24-hour period.

10 "Protective custody" means confinement of a committed
11 person in a cell or confined living space under conditions
12 necessary to protect the committed person or others.

13 Section 15. Restrictions on the use of isolated
14 confinement.

15 (a) Except as provided in subsection (b), the use of
16 isolated confinement in correctional facilities in this State
17 shall be restricted as follows:

18 (1) A committed person may not be placed in isolated
19 confinement for more than 10 consecutive days.

20 (2) A committed person may not be placed in isolated
21 confinement for more than 10 days in any 180-day period.

22 (3) While out of cell, committed persons may have
23 access to activities, including, but not limited to: job
24 assignments, educational classes, vocational classes,
25 meals, recreation, yard or gymnasium, day room, bathing

1 facilities, medical appointments, visits, and group
2 therapy.

3 (b) A committed person in protective custody may opt out
4 of that status by providing informed, voluntary, written
5 refusal of that status.

6 (c) Nothing in this Act is intended to restrict any rights
7 or privileges a committed person may have under any other
8 statute, rule, or regulation.

9 Section 20. Data publication. The Department of
10 Corrections shall post on the Department's official website
11 quarterly reports on the use of isolated confinement. Those
12 reports shall include data on the use of isolated confinement
13 by age, sex, gender identity, ethnicity, incidence of mental
14 illness, and type of confinement status, at each facility;
15 these reports shall include the population on the last day of
16 each quarter and a non-duplicative cumulative count of persons
17 exposed to isolated confinement for each fiscal year. These
18 reports shall include the incidence of emergency confinement,
19 self-harm, suicide, and assault in any isolated confinement
20 unit, as well as explanations for each instance of
21 facility-wide lockdown. These reports shall include data on
22 the access to health care, including the time it takes for a
23 confined person to access medical care following a request and
24 the time between routine mental and physical checkups. These
25 reports shall not include personally identifiable information

1 regarding any committed person.

2 Section 90. The Unified Code of Corrections is amended by
3 changing Section 3-8-7 as follows:

4 (730 ILCS 5/3-8-7) (from Ch. 38, par. 1003-8-7)

5 Sec. 3-8-7. Disciplinary Procedures.†

6 (a) All disciplinary action shall be consistent with this
7 Chapter. Rules of behavior and conduct, the penalties for
8 violation thereof, and the disciplinary procedure by which
9 such penalties may be imposed shall be available to committed
10 persons.

11 (b) (1) Corporal punishment and disciplinary restrictions
12 on diet, medical or sanitary facilities, mail or access to
13 legal materials are prohibited.

14 (2) (Blank).

15 (3) (Blank).

16 (c) Review of disciplinary action imposed under this
17 Section shall be provided by means of the grievance procedure
18 under Section 3-8-8. The Department shall provide a
19 disciplined person with a review of his or her disciplinary
20 action in a timely manner as required by law.

21 (d) All institutions and facilities of the Department of
22 Corrections shall establish, subject to the approval of the
23 Director, procedures for hearing disciplinary cases except
24 those that may involve the imposition of disciplinary

1 segregation and isolation; the loss of good time credit under
2 Section 3-6-3 or eligibility to earn good time credit.

3 (e) In disciplinary cases which may involve ~~the imposition~~
4 ~~of disciplinary segregation and isolation,~~ the loss of good
5 time credit or eligibility to earn good time credit, the
6 Director shall establish disciplinary procedures consistent
7 with the following principles:

8 (1) Any person or persons who initiate a disciplinary
9 charge against a person shall not determine the
10 disposition of the charge. The Director may establish one
11 or more disciplinary boards to hear and determine charges.

12 (2) Any committed person charged with a violation of
13 Department rules of behavior shall be given notice of the
14 charge including a statement of the misconduct alleged and
15 of the rules this conduct is alleged to violate.

16 (3) Any person charged with a violation of rules is
17 entitled to a hearing on that charge at which time he shall
18 have an opportunity to appear before and address the
19 person or persons deciding the charge.

20 (4) The person or persons determining the disposition
21 of the charge may also summon to testify any witnesses or
22 other persons with relevant knowledge of the incident.

23 (5) If the charge is sustained, the person charged is
24 entitled to a written statement of the decision by the
25 persons determining the disposition of the charge which
26 shall include the basis for the decision and the

1 disciplinary action, if any, to be imposed.

2 (6) (Blank).

3 (f) In disciplinary cases which may involve the imposition
4 of segregation and isolation, isolated confinement, or
5 restrictive housing, the Director shall establish disciplinary
6 procedures consistent with the Isolated Confinement
7 Restriction Act.

8 (Source: P.A. 97-1083, eff. 8-24-12.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.