

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: H2/23/21

A Bill

HOUSE BILL 1470

5 By: Representatives Scott, Pilkington, Gazaway
6 By: Senator A. Clark
7

For An Act To Be Entitled

9 AN ACT CONCERNING SOLITARY CONFINEMENT OR RESTRICTIVE
10 HOUSING FOR PREGNANT OR RECENTLY PREGNANT INMATES OR
11 DETAINEES IN THE DIVISION OF CORRECTION, IN A LOCAL
12 OR REGIONAL DETENTION FACILITY, OR IN A JUVENILE
13 DETENTION FACILITY; AND FOR OTHER PURPOSES.
14
15

Subtitle

16 CONCERNING SOLITARY CONFINEMENT OR
17 RESTRICTIVE HOUSING FOR PREGNANT OR
18 RECENTLY PREGNANT INMATES OR DETAINEES IN
19 THE DIVISION OF CORRECTION, IN A LOCAL OR
20 REGIONAL DETENTION FACILITY, OR IN A
21 JUVENILE DETENTION FACILITY.
22
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code § 9-27-371 is amended to read as follows:

28 9-27-371. Punitive isolation or solitary confinement of juveniles –
29 Definitions.

30 (a) As used in this section:

31 (1) “Punitive isolation” means the placement of a juvenile in a
32 location that is separate from the general population as a punishment; and

33 (2) “Solitary confinement” means the isolation of a juvenile in
34 a cell separate from the general population as a punishment.

35 (b) A Subject to subsection (c) of this section, a juvenile who has
36 been placed or detained in a juvenile detention facility shall not be placed



1 in punitive isolation or solitary confinement as a disciplinary measure for
2 more than twenty-four (24) hours unless the:

3 (1) Placement of the juvenile in punitive isolation or solitary
4 confinement is due to:

5 (A) A physical or sexual assault committed by the juvenile
6 while in the juvenile detention facility;

7 (B) Conduct of the juvenile that poses an imminent threat
8 of harm to the safety or well-being of the juvenile, the staff, or other
9 juveniles in the juvenile detention facility; or

10 (C) The juvenile's escaping or attempting to escape from
11 the juvenile detention facility; and

12 (2)(A) Director of the juvenile detention facility provides
13 written authorization to place the juvenile in punitive isolation or solitary
14 confinement for more than twenty-four (24) hours.

15 (B) The director of the juvenile detention facility shall
16 provide the written authorization described in subdivision (b)(2)(A) of this
17 section for every twenty-four-hour period during which the juvenile remains
18 in punitive isolation or solitary confinement after the initial twenty-four
19 (24) hours.

20 (c)(1) A juvenile who has been placed or detained in a juvenile
21 detention facility shall not be placed in solitary confinement if the
22 juvenile:

23 (A) Is pregnant;

24 (B) Has delivered a child prior to or within thirty (30)
25 days of being detained;

26 (C) Is breastfeeding;

27 (D) Is suffering from postpartum depression or another
28 medically verifiable postpartum condition; or

29 (E) Is caring for a child in a juvenile detention
30 facility.

31 (2) This subsection does not apply if:

32 (A) The juvenile has engaged in an act of violence while
33 incarcerated or detained that either resulted in or was likely to result in
34 serious physical injury or death to another person; or

35 (B) There is reasonable cause to believe that the use of
36 solitary confinement is necessary to reduce a substantial risk of imminent

1 serious physical injury or death to another person, as evidenced by the
2 juvenile's recent conduct while incarcerated or detained.

3
4 SECTION 2. Arkansas Code Title 12, Chapter 32, is amended to add an
5 additional section to read as follows:

6 12-32-104. Restrictive housing prohibited.

7 (a) As used in this section, "restrictive housing" means a housing
8 placement that requires an inmate or detainee to be confined in a cell for at
9 least twenty-two (22) hours per day.

10 (b) An inmate or detainee in a correctional or detention facility
11 shall not be placed in restrictive housing for thirty (30) or more days if
12 the inmate or detainee:

13 (1) Is pregnant;

14 (2) Has delivered a child within the previous thirty (30) days
15 and is not currently breastfeeding;

16 (3) Is breastfeeding; or

17 (4) Is under a physician's care for postpartum depression or
18 other medically verifiable postpartum condition.

19 (c) A pregnant inmate or detainee may not be placed in restrictive
20 housing for any length of time unless the correctional or detention facility
21 determines that the pregnant inmate's or detainee's continued presence in the
22 general population of the correctional or detention facility poses:

23 (1) A direct threat to:

24 (A) The safety of a person; or

25 (B) An unborn child or children; or

26 (2) A clear threat to the safe and secure operations of the
27 correctional or detention facility.

28 (d)(1) A housing assignment for a pregnant inmate or detainee shall be
29 made in conjunction with a licensed medical provider responsible for
30 providing medical care for the pregnant inmate or detainee.

31 (2) A housing assignment under subdivision (d)(1) of this
32 section shall be reviewed by the correctional or detention facility and the
33 licensed medical provider responsible for providing medical care for the
34 pregnant inmate or detainee every five (5) days if the pregnant inmate or
35 detainee has been placed in restrictive housing for up to thirty (30) days as
36 authorized under subsection (b) of this section.

1 (d) This section does not apply if:

2 (1) The inmate or detainee has engaged in an act of violence
3 while incarcerated or detained that either resulted in or was likely to
4 result in serious physical injury or death to another person; or

5 (2) There is reasonable cause to believe that the use of
6 restrictive housing is necessary to reduce a substantial risk of imminent
7 serious physical injury or death to another person, as evidenced by the
8 inmate or detainee's recent conduct while incarcerated or detained.

9
10 /s/Scott

11
12
13 **APPROVED: 3/23/21**
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36