

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

# 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.  
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## 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.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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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)of  
 25 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.

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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.

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