

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

SENATE BILL 586

5 By: Senator G. Leding  
6 By: Representative Scott  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING INMATES OF STATE  
10 FACILITIES; TO ESTABLISH PARAMETERS REGARDING THE USE  
11 OF SEGREGATED CONFINEMENT; TO ESTABLISH ALTERNATIVE  
12 THERAPEUTIC AND REHABILITATIVE CONFINEMENT OPTIONS;  
13 AND FOR OTHER PURPOSES.  
14  
15

## Subtitle

16 TO AMEND THE LAW CONCERNING INMATES OF  
17 STATE FACILITIES; TO ESTABLISH PARAMETERS  
18 REGARDING THE USE OF SEGREGATED  
19 CONFINEMENT; AND TO ESTABLISH ALTERNATIVE  
20 THERAPEUTIC AND REHABILITATIVE  
21 CONFINEMENT OPTIONS.  
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23  
24

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

27 SECTION 1. Arkansas Code Title 12, Chapter 29, is amended to add an  
28 additional subchapter to read as follows:

29 Subchapter 7 – Segregated Confinement and Alternative Therapeutic and  
30 Rehabilitative Confinement Options

31  
32 12-29-701. Definitions.

33 As used in this subchapter:

34 (1) "Residential rehabilitation unit" means a separate housing  
35 unit in a state correctional facility that is:

36 (A) Used for therapy, treatment, and rehabilitative



1 programming of inmates who have been determined to require more than fifteen  
2 (15) days of segregated confinement under Department of Corrections  
3 proceedings; and

4 (B) Therapeutic and trauma-informed and aimed at  
5 addressing individual treatment and rehabilitation needs and underlying  
6 causes of problematic behaviors;

7 (2)(A) "Segregated confinement" means the disciplinary  
8 confinement of an inmate in a special housing unit.

9 (B) "Segregated confinement" includes without any  
10 limitation any form of cell confinement for more than twenty-three (23) hours  
11 a day other than:

12 (i) In a facility-wide emergency; or

13 (ii) For the purpose of providing medical or mental  
14 health treatment if the confinement is within a clinical area in the  
15 correctional facility or in as close proximity to a medical or mental health  
16 unit as possible;

17 (3) "Special housing unit" means a housing unit in a state  
18 correctional facility that consist of cells grouped to provide separation  
19 from the general population of the state correctional facility and may be  
20 used to house inmates confined under disciplinary procedures; and

21 (4) "Special population" means an inmate who:

22 (A) Is twenty-one (21) years of age or younger;

23 (B) Is fifty-five (55) years of age or older;

24 (C) Has a disability;

25 (D) Is pregnant; or

26 (E) Is in the first eight (8) weeks of the postpartum  
27 recovery period after giving birth.

28  
29 12-29-702. Provision of food – Restricted diet.

30 (a) An inmate shall be supplied with a sufficient quantity of  
31 wholesome and nutritious food while in segregated confinement.

32 (b) The food provided to an inmate under subsection (a) of this  
33 section does not need to be the same as the food supplied to inmates who are  
34 participating in programs of the state correctional facility.

35 (c)(1) An inmate with a serious mental illness who is not diverted or  
36 removed from segregated confinement shall not be placed on a restricted diet.

1 unless there has been a written determination that the restricted diet is  
2 necessary for reasons of safety and security.

3 (2) If a restricted diet is imposed under subdivision (c)(1) of  
4 this section, the restricted diet shall be:

5 (A) Limited to seven (7) days, except in exceptional  
6 circumstances in which the state correctional facility determines that  
7 limiting the restricted diet to seven (7) days would pose an unacceptable  
8 risk to the safety and security of inmates or staff; and

9 (B) Reassessed by the state correctional facility every  
10 seven (7) days.

11 (d) A state correctional facility shall not impose a restricted diet  
12 or any other change in diet as a form of punishment for an inmate.

13  
14 12-29-703. Diversion or removal – Assessments.

15 (a)(1)(A) Except as provided in subdivision (a)(2) of this section,  
16 the warden of a state correctional facility, in consultation with mental  
17 health providers, shall divert or remove inmates with a serious mental  
18 illness from segregated confinement or confinement in a residential  
19 rehabilitation unit, if the segregated confinement or confinement in a  
20 residential rehabilitation unit could potentially be for a period in excess  
21 of thirty (30) days, to a residential mental health treatment unit.

22 (B) Subdivision (a)(1)(A) of this section does not prevent  
23 the disciplinary process from proceeding in accordance with Department of  
24 Corrections rules for disciplinary hearings.

25 (2)(A) Upon placement of an inmate into segregated confinement  
26 or a residential rehabilitation unit, a suicide prevention screening  
27 instrument shall be administered by a staff person from the state  
28 correctional facility who has been trained to perform a suicide prevention  
29 screening.

30 (B) If the suicide prevention screening instrument  
31 administered under subdivision (a)(2)(A) of this section reveals that the  
32 inmate is at risk of suicide:

33 (i) A mental health provider shall be consulted and  
34 appropriate safety precautions taken; and

35 (ii) Within one (1) business day of the placement of  
36 the inmate into segregated confinement or a residential rehabilitation unit,

1 the inmate shall be assessed by a mental health provider.

2 (b) An inmate placed into segregated confinement or a residential  
3 rehabilitation unit who is not at risk of suicide according to the suicide  
4 prevention screening instrument administered under subdivision (a)(2)(A)  
5 shall be initially assessed by a mental health provider within seven (7) days  
6 of placement into segregated confinement or the residential rehabilitation  
7 unit.

8 (c) If a mental health provider finds that an inmate suffers from a  
9 serious mental illness after conducting an initial assessment under  
10 subdivision (a)(2)(B)(ii) or subsection (b) of this section, the state  
11 correctional facility shall:

12 (1) Divert or remove the inmate from segregated confinement or  
13 the residential rehabilitation unit; and

14 (2) Determine whether exceptional circumstances under subsection  
15 (f) of this section exist.

16 (d)(1) A placement committee consisting of the following individuals  
17 or their equivalents employed by the state correctional facility shall make a  
18 determination regarding whether exceptional circumstances exist:

19 (A) The highest ranking mental health provider;

20 (B) The deputy superintendent for security; and

21 (C) The deputy superintendent for program services.

22 (2)(A) The placement committee shall make the determination  
23 under subdivision (d)(1) of this section within seven (7) days of the initial  
24 assessment, and, if the result is that the inmate should be removed from  
25 segregated confinement or a residential rehabilitation unit, the removal  
26 shall occur as soon as practicable but no more than seventy-two (72) hours  
27 from the determination under subdivision (d)(1) of this section.

28 (e)(1) This section does not permit the placement of an inmate with a  
29 serious mental illness into segregated confinement at any time, even for the  
30 purposes of assessment.

31 (2) If an inmate with a serious mental illness has not been  
32 diverted or removed to a residential mental health treatment unit, the inmate  
33 shall be:

34 (A) Diverted to a residential rehabilitation unit; and

35 (B) Reassessed by a mental health provider within fourteen  
36 (14) days of the initial assessment and at least one (1) time every fourteen

1 (14) days after.

2 (3) After each additional assessment, the placement committee  
3 shall make a recommendation of whether the inmate should be removed from  
4 segregated confinement or the residential rehabilitation unit and reviewed  
5 according to the process set forth in subsection (d) of this section.

6 (f)(1) In making a recommendation or determination to remove an inmate  
7 from segregated confinement or a residential rehabilitation unit, the  
8 placement committee shall take into account:

9 (A) The assessing mental health provider's opinions as to  
10 the inmate's mental condition and treatment needs; and

11 (B) Account for any safety and security concerns that  
12 would be posed by the inmate's removal, even if additional restrictions were  
13 placed on the inmate's access to treatment, property, services, or privileges  
14 in a residential mental health treatment unit.

15 (2) A recommendation or determination by the placement committee  
16 shall direct the inmate's removal from segregated confinement or a  
17 residential rehabilitation unit except in the following exceptional  
18 circumstances:

19 (A) The placement committee finds that removal, even if  
20 additional restrictions were placed on the inmate's access to treatment,  
21 property, services, or privileges in a residential mental health treatment  
22 unit, would pose a:

23 (i) Substantial risk to the safety of the inmate or  
24 other persons; or

25 (ii) Substantial threat to the security of the state  
26 correctional facility; or

27 (B) The assessing mental health provider determines that:

28 (i) The placement is in the inmate's best interests  
29 based on his or her mental condition; and

30 (ii) Removing the inmate to a residential mental  
31 health treatment unit would be detrimental to his or her mental condition.

32 (3)(A) The placement committee's determination not to remove an  
33 inmate with a serious mental illness from segregated confinement or a  
34 residential rehabilitation unit shall be documented in writing and include  
35 the reasons for the determination.

36 (B)(i) An inmate with a serious mental illness who is not

1 diverted or removed from segregated confinement or a residential  
2 rehabilitation unit shall be offered a heightened level of mental health  
3 care, including without limitation a minimum of three (3) hours daily of out-  
4 of-cell therapeutic treatment and programming.

5 (ii) The heightened level of care required under  
6 subdivision (f)(3)(B)(i) of this section shall not be offered if, in the  
7 reasonable judgment of a mental health provider, an inmate with a serious  
8 mental illness does not require a heightened level of care.

9 (iii) The mental health provider’s determination  
10 that the inmate does not require a heightened level of care under subdivision  
11 (f)(3)(B)(ii) of this section shall be:

12 (a) Documented with a written statement of the  
13 basis of the determination;

14 (b) Reviewed by the clinical director of the  
15 state correctional facility or his or her designee;

16 (c) Subject to change if the inmate’s clinical  
17 status changes; and

18 (d) Reviewed and documented by a mental health  
19 provider every thirty (30) days, and in consultation with the clinical  
20 director of the Arkansas State Hospital or his or her designee not less than  
21 every ninety (90) days.

22 (4)(A) The heightened level of care required under subdivision  
23 (f)(3)(B)(i) of this section shall not apply in exceptional circumstances  
24 when providing the heightened level of care would create an unacceptable risk  
25 to the safety and security of inmates or staff.

26 (B) The determination under subdivision (f)(4)(A) of this  
27 section shall be:

28 (i) Documented by security personnel together with  
29 the basis of the determination; and

30 (ii) Reviewed by the warden of the state  
31 correctional facility, in consultation with a mental health provider, not  
32 less than every seven (7) days as long as the inmate remains in segregated  
33 confinement or in a residential rehabilitation unit.

34 (C)(i) The state correctional facility shall attempt to  
35 resolve the exceptional circumstances so that the heightened level of care  
36 may be provided.

1                   (ii) If the exceptional circumstances remain  
2 unresolved for thirty (30) days, the matter shall be referred to the  
3 Secretary of the Department of Corrections for review.

4  
5           12-29-704. Segregated confinement or residential rehabilitation unit.

6           (a) An inmate in segregated confinement or a residential  
7 rehabilitation unit who was not assessed as having a serious mental illness  
8 at the initial assessment under § 12-29-703 shall be offered:

9                   (1) At least one (1) interview with a mental health provider  
10 within seven (7) days of the initial mental health assessment; and

11                   (2) Additional interviews at least every thirty (30) days after  
12 a prior interview unless the mental health provider at the most recent  
13 interview recommends an earlier interview or assessment.

14           (b)(1) An inmate in a special population shall not be placed in  
15 segregated confinement for any length of time, except in solitary confinement  
16 for a period prior to a disciplinary hearing.

17                   (2) An inmate in a special population who is in solitary  
18 confinement prior to a disciplinary hearing shall be:

19                           (A) Given seven (7) hours a day out-of-cell time; or

20                           (B) Transferred to a residential rehabilitation unit or  
21 residential mental health treatment unit as expeditiously as possible but no  
22 longer than forty-eight (48) hours from the time the inmate is admitted to  
23 solitary confinement.

24           (c)(1) An inmate shall not be placed into segregated confinement for:

25                           (A) Longer than necessary and no more than fifteen (15)  
26 consecutive days; and

27                           (B) More than twenty (20) total days within any sixty (60)  
28 day period except as otherwise provided in subdivision (c)(3) of this  
29 section.

30                   (2) After reaching the time limits in subdivision (c)(1) of this  
31 section, the inmate shall be released from segregated confinement or diverted  
32 to a separate residential rehabilitation unit.

33                   (3)(A) If placement of the inmate into segregated confinement  
34 would exceed the twenty-day limit under subdivision (c)(1)(B) of this section  
35 and the state correctional facility establishes that the inmate committed a  
36 violent act, the state correctional facility may place the inmate in

1 segregated confinement until admission to a residential rehabilitation unit  
2 can be effectuated.

3 (B) The admission to a residential rehabilitation unit  
4 shall occur as expeditiously as possible and take no longer than forty-eight  
5 (48) hours from the time the inmate is placed into segregated confinement.

6 (4)(A) For an offense that is determined to be a violent act, if  
7 occurring more than one (1) time within any sixty (60) day period, up to an  
8 additional fifteen (15) consecutive days in segregated confinement may be  
9 imposed for each additional offense.

10 (B) If the subsequent offense takes place in a residential  
11 rehabilitation unit or general population, the inmate may be returned to  
12 segregated confinement for up to fifteen (15) consecutive days.

13 (C) If the subsequent offense takes place in segregated  
14 confinement and causes physical injury to another person, the inmate may  
15 receive up to an additional fifteen (15) consecutive days in segregated  
16 confinement, however, the inmate shall spend at least fifteen (15) days in a  
17 residential rehabilitation unit in between each placement of up to fifteen  
18 (15) consecutive days in segregated confinement.

19 (d)(1) All segregated confinement and residential rehabilitation units  
20 shall create the least restrictive environment necessary for the safety of  
21 inmates, staff, and the security of the state correctional facility.

22 (2) An inmate in segregated confinement shall be offered out-of-  
23 cell programming at least four (4) hours per day, including at least one (1)  
24 hour for recreation.

25 (3) An inmate admitted to a residential rehabilitation unit  
26 shall be offered at least six (6) hours of daily out-of-cell group  
27 programming, services, treatment, recreation, activities, and meals, with an  
28 additional minimum of one (1) hour for recreation.

29 (4) Recreation in all residential rehabilitation units shall  
30 take place in a group setting, unless exceptional circumstances mean doing so  
31 would create a significant and unreasonable risk to the safety and security  
32 of other inmates, staff, or the state correctional facility.

33 (5) Inmates in segregated confinement or a residential  
34 rehabilitation unit shall be offered programming led by program or  
35 therapeutic staff five (5) days per week, except on recognized state legal  
36 holidays.

1           (6) All other out-of-cell time may include without limitation:

2                   (i) Peer-led programs;

3                   (ii) Time in a day room or out-of-cell recreation area  
4 with other people;

5                   (iii) Group meals;

6                   (iv) Volunteer programs; or

7                   (v) Other group activities.

8           (e)(1) The state correctional facility shall not impose a limitation  
9 on services, treatment, or basic needs, including without limitation  
10 clothing, food, and bedding, as a form of punishment.

11           (2) If the provision of services, treatment, or basic needs to  
12 an inmate would create a significant and unreasonable risk to the safety and  
13 security of inmates, staff, or the state correctional facility, the services,  
14 treatment, or basic needs may be withheld until it reasonably appears that  
15 the significant and unreasonable risk has ended.

16           (3) An inmate in a residential rehabilitation unit shall have  
17 access to all of his or her personal property unless an individual  
18 determination is made that having a specific item would pose a significant  
19 and unreasonable risk to the safety of inmates or staff or the security of  
20 the residential rehabilitation unit.

21  
22           12-29-705. Residential rehabilitation unit – Individual rehabilitation  
23 plan.

24           (a) Upon admission of an inmate to a residential rehabilitation unit,  
25 program staff and mental health staff of the residential rehabilitation unit  
26 shall:

27                   (1) Administer assessments to the inmate; and

28                   (2) Develop an individual rehabilitation plan in consultation  
29 with the inmate based upon his or her medical, mental health, and programming  
30 needs.

31           (b) The individual rehabilitation plan required under subsection (a)  
32 of this section shall identify:

33                   (1) Specific goals and programs, treatment, and services to be  
34 offered to the inmate; and

35                   (2) Projected time frames for completion by and discharge of the  
36 inmate from the residential rehabilitation unit.

1           (c)(1) An inmate in a residential rehabilitation unit shall have  
2 access to programs and work assignments comparable to core programs and types  
3 of work assignments accessible to the general population of the state  
4 correctional facility.

5           (2) The inmate shall have access to additional out-of-cell,  
6 trauma-informed therapeutic programming aimed at promoting personal  
7 development that:

8                   (A) Addresses underlying causes of the problematic  
9 behavior that resulted in the placement of the inmate in the residential  
10 rehabilitation unit; and

11                   (B) Helps prepare the inmate for discharge from the  
12 residential rehabilitation unit and into the community.

13           (d)(1) If the state correctional facility establishes that an inmate  
14 committed a violent act while in segregated confinement or a residential  
15 rehabilitation unit and poses a significant and unreasonable risk to the  
16 safety and security of other inmates or staff, the state correctional  
17 facility may restrict the inmate's participation in programming and out-of-  
18 cell activities as necessary for the safety of other inmates and staff.

19           (2) If restrictions are imposed, the state correctional facility  
20 shall:

21                   (A) Provide at least four (4) hours out-of-cell time  
22 daily, including without limitation at least two (2) hours of therapeutic  
23 programming and two (2) hours of recreation; and

24                   (B) Make reasonable efforts to reinstate access to  
25 programming as soon as possible.

26           (3) The restrictions shall not extend beyond fifteen (15) days  
27 unless:

28                   (A) The inmate commits a new violent act justifying  
29 further restrictions on program access; or

30                   (B) The state correctional facility and, when appropriate,  
31 a mental health provider reasonably determine that the inmate poses an  
32 extraordinary and unacceptable risk of imminent harm to the safety or  
33 security of inmates or staff.

34           (4)(A) An extension of program restrictions beyond fifteen (15)  
35 days shall be reviewed and approved at least every fifteen (15) days by the  
36 state correctional facility and, when appropriate, by a mental health

1 provider.

2 (B) Each review shall consider the impact of the  
3 therapeutic programming provided during the fifteen-day period on the  
4 inmate's risk of posing imminent harm.

5 (C) The state correctional facility shall articulate in  
6 writing, with a copy provided to the inmate, the specific reason why the  
7 inmate currently poses an extraordinary and unacceptable risk of imminent  
8 harm to the safety or security of inmates or staff.

9 (D) Restrictions imposed by the state correctional  
10 facility shall not extend beyond ninety (90) days, unless the inmate commits  
11 a new violent act justifying further restrictions on program access.

12 (e) A state correctional facility shall not use restraints when an  
13 inmate is participating in out-of-cell activities within a residential  
14 rehabilitation unit unless an individual assessment is made that restraints  
15 are required because of a significant and unreasonable risk to the safety and  
16 security of other inmates or staff.

17  
18 12-79-706. Length of time in segregated confinement – Limitations.

19 (a)(1) Except as provided in subdivision (a)(2) of this section, a  
20 state correctional facility may place an inmate in segregated confinement for  
21 up to three (3) consecutive days but no longer than six (6) days in any  
22 thirty (30) day period if, following an evidentiary hearing, the state  
23 correctional facility determines that the inmate violated a rule that permits  
24 a penalty of segregated confinement.

25 (2) The state correctional facility may place an inmate in  
26 segregated confinement beyond the limits provided in subdivision (a)(1) of  
27 this section or in a residential rehabilitation unit only if, following an  
28 evidentiary hearing, the state correctional facility determines by written  
29 decision based on specific objective criteria that the inmate committed one  
30 (1) of the following acts and that the act was so heinous or destructive that  
31 placement of the inmate in the general population of the state correctional  
32 facility would create a significant risk of imminent serious physical injury  
33 to staff or other inmates and creates an unreasonable risk to the security of  
34 the state correctional facility:

35 (A)(i) Causes or attempts to cause serious physical injury  
36 or death to another person or makes a threat of imminent serious physical

1 injury or death to another person if the inmate has a history of causing  
2 physical injury or death.

3 (ii) The determination of a threat of imminent  
4 serious physical injury or death under subdivision (a)(2)(A)(i) of this  
5 section shall be made by the warden of the state correctional facility and,  
6 when appropriate, a mental health provider, upon a finding that if there is a  
7 strong likelihood that the inmate will carry out the threat.

8 (iii) A mental health provider or his or her  
9 designee shall be involved in the determination under subdivision  
10 (a)(2)(A)(ii) of this section if the inmate is or has been receiving mental  
11 health treatment or appears to require psychiatric attention.

12 (B) Compels or attempts to compel another person by force  
13 or threat of force to engage in a sexual act;

14 (C) Extorts another person by force or threat of force for  
15 property or money;

16 (D) Coerces another person by force or threat of force to  
17 violate any rule of the state correctional facility;

18 (E) Leads, organizes, incites, or attempts to cause a  
19 riot, insurrection, or other similarly serious disturbance that results in  
20 the taking of a hostage, major property damage, or physical harm to another  
21 person;

22 (F) Procures a deadly weapon or other dangerous contraband  
23 that poses a serious threat to the security of the state correctional  
24 facility;

25 (G) Escapes, attempts to escape, or facilitates an escape  
26 from a state correctional facility; or

27 (H) Escapes or attempts to escape while under supervision  
28 outside a state correctional facility.

29 (b)(1) For purposes of this section, attempting to cause a serious  
30 disturbance or to escape shall only be determined to have occurred if there  
31 is a clear finding that the inmate had the purpose to cause a serious  
32 disturbance or the purpose to escape and had completed significant acts in  
33 the advancement of the attempt to create a serious disturbance or to escape.

34 (2) Evidence of withdrawal or abandonment of a plan to cause a  
35 serious disturbance or to escape shall negate a finding of purpose.

36 (c) A state correctional facility shall not:

1           (1) Place an inmate in segregated confinement or a residential  
2 rehabilitation unit based on the same act or incident that was previously  
3 used as the basis for the placement; or

4           (2) Hold an inmate in segregated confinement for protective  
5 custody.

6           (d) At a minimum, a residential rehabilitation unit used for  
7 protective custody shall conform to requirements governing other residential  
8 rehabilitation units.

9           (e)(1) Prior to placing an inmate in segregated confinement, a state  
10 correctional facility shall hold a hearing to determine whether to place the  
11 inmate in segregated confinement unless a security supervisor, with written  
12 approval of the warden of the state correctional facility or his or her  
13 designee, reasonably believes the inmate fits the specified criteria for  
14 segregated confinement under subsection (a) of this section.

15           (2) If the state correctional facility does not hold a hearing  
16 prior to placement of an inmate into segregated confinement, the hearing  
17 shall occur as soon as reasonably practicable and at most within five (5)  
18 days of the placement unless the inmate seeks a postponement of the hearing.

19           (3) An inmate is permitted to be represented by an attorney, law  
20 student, paralegal, or other inmate unless the state correctional facility  
21 reasonably disapproves of the paralegal or inmate based upon objective  
22 written criteria developed by the state correctional facility.

23           (f)(1)(A) A sanction imposed on an inmate requiring segregated  
24 confinement shall run while the inmate is in a residential rehabilitation  
25 unit.

26           (B) The inmate shall be discharged from the residential  
27 rehabilitation unit before or at the time the sanction expires.

28           (C) If an inmate successfully completes his or her  
29 rehabilitation plan before the sanction expires, the inmate shall have a  
30 right to be discharged from the residential rehabilitation unit upon  
31 completion.

32           (2)(A) If an inmate has not been discharged from a residential  
33 rehabilitation unit within one (1) year of initial admission to the  
34 residential rehabilitation unit or is within sixty (60) days of a fixed or  
35 tentatively approved date for release from a state correctional facility, he  
36 or she shall have a right to be discharged from the residential

1 rehabilitation unit unless he or she:

2 (i) Has committed an act listed in subsection (a) of  
3 this section within the previous one hundred eighty (180) days; and

4 (ii) Poses a significant and unreasonable risk to  
5 the safety or security of inmates or staff.

6 (B) The decision not to discharge the inmate shall be  
7 immediately and automatically subjected to an independent review by the  
8 Secretary of the Department of Corrections.

9 (3) An inmate may remain in a residential rehabilitation unit  
10 beyond the time limits provided in this section if the secretary approves.

11 (4) In extraordinary circumstances, an inmate who has not  
12 committed an act listed in subsection (a) of this section within the previous  
13 one hundred eighty (180) days may remain in a residential rehabilitation unit  
14 beyond the time limits under this section if the secretary personally  
15 determines that the inmate poses an extraordinary and unacceptable risk of  
16 imminent harm to the safety or security of other inmates or staff.

17 (g)(1) A state correctional facility shall conduct a periodic review  
18 of the status of each inmate in a residential rehabilitation unit at least  
19 every sixty (60) days to assess the inmate's progress to determine if the  
20 inmate should be discharged from the residential rehabilitation unit.

21 (2)(A) Following the periodic review, if the inmate is not  
22 discharged from the residential rehabilitation unit, program staff and mental  
23 health staff shall specify in writing the reasons for the determination and  
24 the program, treatment, service, or corrective action required before  
25 discharge.

26 (B) The inmate shall:

27 (i) Be given access to the programs, treatment, and  
28 services specified in the writing under subdivision (g)(2)(A) of this section  
29 and the opportunity to perform the corrective action; and

30 (ii) Have a right to be discharged from the  
31 residential rehabilitation unit upon the successful fulfillment of the  
32 requirements under subdivision (g)(2)(A) of this section.

33 (h)(1) When an inmate is discharged from a residential rehabilitation  
34 unit, any remaining time to serve on any underlying disciplinary sanction  
35 shall be dismissed.

36 (2) If an inmate substantially completes his or her

1 rehabilitation plan, he or she shall have any associated loss of meritorious  
2 good time restored upon discharge from the residential rehabilitation unit.

3  
4 12-29-707. Specialized training.

5 (a)(1) All special housing unit and residential rehabilitation unit  
6 staff and supervisors shall undergo specialized training prior to assignment  
7 to a special housing unit or residential rehabilitation unit.

8 (2) Staff of a special housing unit or residential  
9 rehabilitation unit shall undergo regular specialized training on substantive  
10 content developed in consultation with relevant experts on topics including  
11 without limitation:

12 (A) The purpose and goals of the nonpunitive therapeutic  
13 environment;

14 (B) Trauma-informed care;

15 (C) Restorative justice; and

16 (D) Dispute resolution methods.

17 (b) Prior to presiding over a hearing in a state correctional  
18 facility, a hearing officer in a state correctional facility shall undergo a  
19 minimum of thirty-seven (37) hours of training, with one (1) additional day  
20 of training annually on relevant topics, including without limitation:

21 (1) The physical and psychological effects of segregated  
22 confinement;

23 (2) Procedural and due process rights of an accused inmate; and

24 (3) Restorative justice remedies.

25 (c)(1) The Department of Corrections shall ensure that the curriculum  
26 for new correction officers and other new department staff who will regularly  
27 work in programs providing mental health treatment for inmates includes  
28 without limitation at least eight (8) hours of training about:

29 (A) The types and symptoms of mental illnesses;

30 (B) The goals of mental health treatment;

31 (C) The prevention of suicide; and

32 (D) How to effectively and safely manage inmates with  
33 mental illness.

34 (2) The training required under subdivision (c)(1) of this  
35 section may be provided by the department or mental health professionals.

36 (3) All department staff who are transferring into a residential

1 mental health treatment unit shall receive:

2 (A) A minimum of eight (8) additional hours of the  
3 training required under this section; and

4 (B) Eight hours (8) of annual training as long as he or  
5 she works in a residential mental health treatment unit.

6 (4) All security, program services, mental health, and medical  
7 staff with direct inmate contact shall receive training annually regarding  
8 identification of, and care for, inmates with mental illnesses.

9 (d) The department shall provide additional training on topics  
10 described in this section on an ongoing basis as the department deems  
11 appropriate.

12 (e) All staff working in a residential mental health treatment unit  
13 shall also receive the training described in subsections (a) and (b) of this  
14 section.

15  
16 12-29-708. Reports.

17 (a) On the first day of each month, the Department of Corrections  
18 shall publish a report on its website of the total number of inmates who are  
19 in:

20 (1) Segregated confinement; and

21 (2) Residential rehabilitation units.

22 (b) The reports shall provide a breakdown of the number of inmates in  
23 segregated confinement and in residential rehabilitation units by:

24 (1) Age;

25 (2) Race;

26 (3) Gender;

27 (4) Mental health treatment level;

28 (5) Special health accommodations or needs;

29 (6) Need for and participation in substance use disorder  
30 programs;

31 (7) Pregnancy or postpartum status;

32 (8) Continuous length of stay in residential treatment units and  
33 length of stay in the past sixty (60) days;

34 (9) Number of days in segregated confinement;

35 (10) A list of all incidents resulting in sanctions of  
36 segregated confinement by a state correctional facility and date of

1 occurrence;

2 (11) The number of inmates in segregated confinement by state  
3 correctional facility; and

4 (12) The number of incarcerated persons in residential  
5 rehabilitation units by state correctional facility.

6 (c) The department shall use the data published in the monthly reports  
7 to publish semiannual and annual cumulative reports.

8  
9 12-29-709. Non-disciplinary interventions preferred.

10 (a) The following non-disciplinary interventions are the preferred  
11 methods of responding to a rule infraction by an inmate in a state  
12 correctional facility:

13 (1) De-escalation;

14 (2) Intervention;

15 (3) Informational reports; and

16 (4) Withdrawal of incentives.

17 (b) If the state correctional facility determines that the non-  
18 disciplinary interventions listed under subsection (a) of this section have  
19 failed or that the non-disciplinary interventions would not succeed and the  
20 rule infraction involved is an act listed in § 12-29-706, the state  
21 correctional facility may:

22 (1) Issue rule infraction reports;

23 (2) Pursue disciplinary charges; or

24 (3) Impose new or additional segregated confinement sanctions.

25  
26 12-29-710. Programs – Residential mental health treatment units.

27 (a) The Secretary of the Department of Corrections shall establish  
28 programs in the state correctional facilities as he or she deems appropriate  
29 for the treatment of inmates with a mental illness confined in state  
30 correctional facilities who are in need of psychiatric services but who do  
31 not require hospitalization for the treatment of mental illness, including  
32 without limitation residential mental health treatment units.

33 (b) An inmate with a serious mental illness shall receive therapy and  
34 programming in a setting that is appropriate to the clinical needs of the  
35 inmate while maintaining the safety and security of the state correctional  
36 facility.

1       (c) The conditions and services provided in the residential mental  
2 health treatment units authorized under subsection (a) of this section shall  
3 be at least comparable to the conditions and services in residential  
4 rehabilitation units.

5       (d) A residential mental health treatment unit shall provide the  
6 additional mental health treatment, services, and programming delineated in  
7 this section.

8       (e)(1) The administration and operation of programs established under  
9 this section shall be the joint responsibility of the mental health providers  
10 and the secretary.

11       (2) The professional mental healthcare personnel and the  
12 administrative and support staff for the programs shall be employees of the  
13 mental health provider.

14       (3) All other personnel shall be employees of the Department of  
15 Corrections.

16       (f)(1) In exceptional circumstances, a mental health clinician, or the  
17 highest ranking facility security supervisor in consultation with a mental  
18 health provider who has interviewed an inmate, may determine that an inmate's  
19 access to out-of-cell therapeutic programming or mental health treatment in a  
20 residential mental health treatment unit presents an unacceptable risk to the  
21 safety of other inmates or staff.

22       (2) A determination under subdivision (f)(1) of this section  
23 shall be documented in writing, and the inmate may be removed to a  
24 residential rehabilitation unit that is not a residential mental health  
25 treatment unit where alternative mental health treatment or other therapeutic  
26 programming, as determined by a mental health provider, shall be provided.

27       (g)(1) Except in exceptional circumstances where an inmate's conduct  
28 poses a significant and unreasonable risk to the safety of inmates or staff  
29 or to the security of the state correctional facility, and he or she has been  
30 found to have committed an act under § 12-29-706, an inmate in a residential  
31 mental health treatment unit shall not be:

32       (A) Sanctioned with segregated confinement for misconduct  
33 in the residential mental health treatment unit; or

34       (B) Removed from the residential mental health treatment  
35 unit and placed into segregated confinement or a residential rehabilitation  
36 unit.

1           (2)(A) If a sanction is imposed, an inmate is not required to  
2 begin serving the sanction until the reviews required by subsection (h) of  
3 this section have been completed.

4           (B) In extraordinary circumstances in which an inmate's  
5 conduct poses an immediate unacceptable threat to the safety of inmates or  
6 staff or to the security of the state correctional facility, the inmate may  
7 be moved immediately to segregated confinement or a residential  
8 rehabilitation unit.

9           (C) The highest ranking facility security supervisor, in  
10 consultation with a mental health provider, shall make the determination that  
11 an immediate transfer into segregated confinement or a residential  
12 rehabilitation unit is necessary.

13           (h)(1) A joint case management committee shall review any disciplinary  
14 disposition imposing a sanction of segregated confinement at the joint case  
15 management committee's next scheduled meeting.

16           (2) The review shall take into account the inmate's mental  
17 condition and safety and security concerns.

18           (3) The joint case management committee may only recommend the  
19 removal of an inmate in exceptional circumstances in which the inmate commits  
20 an act under § 12-29-706 and poses a significant and unreasonable risk to the  
21 safety of other inmates or staff or to the security of the facility.

22           (4) In the event that an inmate was immediately moved into  
23 segregated confinement, the joint case management committee may recommend  
24 that the inmate continue to serve the sanction only in exceptional  
25 circumstances in which the inmate commits an act under § 12-29-706 and poses  
26 a significant and unreasonable risk to the safety of other inmates or staff  
27 or to the security of the facility.

28           (5)(A) If a determination is made that an inmate shall not be  
29 required to serve all or any part of the segregated confinement sanction, the  
30 joint case management committee may instead recommend that a less restrictive  
31 sanction be imposed.

32           (B)(i) The recommendations made by the joint case  
33 management committee under this section shall be documented in writing and  
34 referred to the warden of the state correctional facility for review.

35           (ii) If the warden of the state correctional  
36 facility disagrees, the matter shall be referred to the department for a

1 final determination.

2 (iii) The administrative process described in this  
3 subdivision (h)(5) shall be completed within fourteen (14) days.

4 (iv) If the result of the administrative process is  
5 that an inmate who was immediately transferred into segregated confinement or  
6 a residential rehabilitation unit should be removed from segregated  
7 confinement or the residential rehabilitation unit, the removal shall occur  
8 as soon as practicable and no longer than seventy-two (72) hours from the  
9 completion of the administrative process.

10  
11 12-29-711. Compliance

12 (a) The Department of Corrections shall:

13 (1) Assess compliance with this subchapter relating to  
14 segregated confinement and residential rehabilitation units; and

15 (2) Issue a public report at least annually.

16 (b) The report under subdivision (a)(2) of this section shall include  
17 recommendations to the General Assembly regarding all aspects of segregated  
18 confinement and residential rehabilitation units in state correctional  
19 facilities, including without limitation policies and practices concerning:

20 (1) Placement of inmates into segregated confinement and  
21 residential rehabilitation units;

22 (2) Special populations;

23 (3) Length of time spent in segregated confinement or a  
24 residential rehabilitation unit;

25 (4) Hearings and procedures;

26 (5) Programs, treatment, and conditions of confinement in  
27 segregated confinement or a residential rehabilitation unit; and

28 (6) Assessments and rehabilitation plans, procedures, and  
29 discharge determinations.

30  
31 12-29-712. Rules.

32 The Department of Corrections may promulgate rules to implement this  
33 subchapter.