

2022 Regular Session

HOUSE BILL NO. 746

BY REPRESENTATIVES DUPLESSIS, WILFORD CARTER, CORMIER, EDMONSTON, FISHER, FREEMAN, FREIBERG, GAINES, GREEN, HUGHES, JEFFERSON, JENKINS, JORDAN, LAFLEUR, LANDRY, LARVADAIN, LYONS, MARCELLE, MARINO, DUSTIN MILLER, NEWELL, SELDERS, AND WILLARD

1 AN ACT

2 To enact R.S. 15:905(F), relative to juvenile institutions; to provide relative to solitary
3 confinement in juvenile facilities; to provide relative to a definition; to provide
4 relative to documentation; to provide relative to submission of reports; to provide
5 relative to training; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 15:905(F) is hereby enacted to read as follows:

8 §905. Rules and regulations; education; training and discipline, work opportunities,
9 vocational training, contracts and agreements; solitary confinement

10 * * *

11 F. No juvenile in the custody of the office of juvenile justice shall be placed
12 in any form of solitary confinement for any reason other than a temporary response
13 to behavior that poses a serious and immediate threat of physical harm to the juvenile
14 or others.

15 (1) For the purposes of this Subsection, "solitary confinement" shall mean
16 the involuntary placement of a juvenile alone in a cell, room, or other area, except
17 during regularly scheduled sleeping hours. It includes but is not limited to any
18 behavioral intervention, seclusion, isolation, room isolation, segregation,
19 administrative segregation, or room confinement, in response to rule violations,
20 staffing shortages, or for any other reason that is not an emergency response to
21 behavior that poses a serious and immediate threat of physical harm to the juvenile
22 or others.

1 (2)(a) A juvenile shall not be placed in solitary confinement for the purposes
2 of discipline, punishment, administrative convenience, retaliation, protective
3 custody, suicide intervention, general behavior management that is not a response
4 to a serious and immediate threat of physical harm to the juvenile or others, rule
5 violations, in response to staffing shortages, or for any other reason that is not an
6 emergency response to behavior that poses a serious and immediate threat of
7 physical harm to the juvenile or others.

8 (b) Under no circumstance shall a juvenile who has expressed suicidal
9 ideations or attempted suicide be placed in solitary confinement.

10 (3) A juvenile may be held in solitary confinement only under either of the
11 following conditions:

12 (a) Progressive protocols, beginning with verbal calming and other
13 de-escalation techniques attempted by facility staff, have proven unsuccessful at
14 resolving the imminent threat of physical harm.

15 (b) There is a need to eliminate the serious and immediate risk of physical
16 harm to the juvenile or others.

17 (4)(a) All protocols and techniques provided in Subparagraph (3)(a) of this
18 Subsection shall be documented, along with an explanation of why solitary
19 confinement was ultimately deemed necessary.

20 (b) A juvenile placed in solitary confinement pursuant to Subparagraph
21 (3)(b) of this Subsection shall be released from solitary confinement as soon as the
22 serious and immediate risk of physical harm to self or others is resolved.

23 (5) A juvenile shall be held in solitary confinement only for a period that
24 does not compromise or harm his physical health or mental health, as determined by
25 a mental health practitioner.

26 (a) Except as provided in this Paragraph, no period of solitary confinement
27 shall exceed eight hours.

28 (b) After eight hours, the juvenile shall be returned to the general population.
29 If a mental health professional determines that the juvenile continues to pose a
30 serious and immediate threat of physical harm to the juvenile or others after eight

1 hours, the juvenile may be transported to a mental health facility upon the
2 recommendation of a mental health professional, or the facility staff shall implement
3 a mental health crisis plan that allows for the juvenile to return to the general
4 population safely.

5 (c) If, after an in-person evaluation by a mental health professional at the
6 facility, it is determined that these options are not practicable, the juvenile may be
7 placed into solitary confinement for an additional period of time not to exceed eight-
8 hour increments only upon recommendation of the mental health professional.

9 (i) Each additional eight-hour increment shall be preceded by an additional
10 evaluation by a mental health professional and a recommendation by the mental
11 health professional that the juvenile may continue to be placed into solitary
12 confinement.

13 (ii) Under no circumstances shall the juvenile who has been evaluated
14 pursuant to this Subparagraph be held in solitary confinement for longer than twenty-
15 four hours.

16 (6) The use of consecutive periods of room confinement to avoid the intent
17 and purpose of this Subsection is prohibited.

18 (7) All instances of solitary confinement shall be approved immediately by
19 the facility director, deputy director, or the supervisor with the highest level of
20 authority who is present at the facility at the time, and only after consultation with
21 a qualified mental health practitioner who has spoken with the juvenile. Approval
22 shall be re-affirmed every hour thereafter.

23 (a) The facility director, deputy director, or the supervisor with the highest
24 level of authority who is present at the facility at the time shall immediately notify
25 the deputy secretary and the senior administrative team any time a juvenile is placed
26 in solitary confinement.

27 (b) Within two hours of placing a juvenile in solitary confinement, the
28 facility shall contact the juvenile's parent or guardian and the juvenile's attorney of
29 record to provide notice that the juvenile was placed in solitary confinement and the
30 reason for the confinement.

1 (8) Juveniles in solitary confinement shall be continuously monitored.
2 Facility staff shall engage in continued crisis intervention and de-escalation
3 techniques and make visual and verbal contact with each youth in solitary
4 confinement at least every ten minutes. The intent and purpose of this intervention
5 is to help de-escalate the juvenile's behavior so the juvenile can rejoin the general
6 population as soon as possible. Staff shall document the time and nature of the
7 observation and interventions.

8 (9) Within the first hour of solitary confinement and every hour thereafter,
9 a qualified mental health practitioner shall speak to the juvenile to help the juvenile
10 de-escalate and exit solitary confinement as soon as possible.

11 (10) Staff shall return the juvenile to programming as soon as the juvenile
12 has regained self-control and is no longer engaging in behavior that threatens serious
13 and immediate harm to himself or others. If necessary, staff may return the juvenile
14 to a separate area other than a cell or other isolated space where staff can help the
15 juvenile self-regulate and become ready to return to the general population.

16 (11) All rooms used for solitary confinement shall have adequate and
17 operating lighting, heating and cooling, and ventilation for the comfort of the
18 juvenile. Rooms shall be clean and resistant to suicide and self-harm.

19 (12) Juveniles in solitary confinement shall have access to all of the
20 following:

21 (a) Sunlight.

22 (b) Drinking water.

23 (c) Toilet facilities.

24 (d) Working showers.

25 (e) Hygiene supplies.

26 (f) Mattresses

27 (g) Reading materials.

28 (h) Meals.

29 (i) Contact with parents or legal guardians.

30 (j) Legal assistance.

1 (k) Educational programming.

2 (l) Appropriate medical and mental health services, which shall be provided
 3 by mental health staff as needed.

4 (13) Every instance of solitary confinement shall be documented
 5 electronically and in the aggregate. Unidentified data on the frequency and length
 6 of time that the juvenile spends in solitary confinement shall be available upon
 7 request as a public record. Documentation of the solitary confinement shall include
 8 all of the following:

9 (a) The date of the occurrence.

10 (b) The race, ethnicity, age, gender, and disability status of the juvenile.

11 (c) The reason for the juvenile's placement in solitary confinement.

12 (d) An explanation of why less restrictive means for placement were
 13 unsuccessful.

14 (e) The ultimate duration of the juvenile's placement in solitary confinement.

15 (f) Facility staffing levels at the time of the juvenile's confinement.

16 (g) Any incidents of self-harm, suicide attempts, or suicide committed by the
 17 juvenile while the juvenile was confined and where the juvenile was placed after
 18 leaving solitary confinement.

19 (14)(a) The office of juvenile justice shall submit a report on the use of
 20 solitary confinement quarterly to the Juvenile Justice Reform Act Commission. This
 21 report shall include all of the following:

22 (i) The length of time each juvenile was in solitary confinement.

23 (ii) The race, ethnicity, age, gender, and disability status of each juvenile
 24 placed in solitary confinement.

25 (iii) The facility staffing levels at the time of the juvenile's confinement.

26 (iv) The reason each juvenile was placed in confinement, and where the
 27 juvenile was placed after leaving solitary confinement.

28 (b) All of the following shall be included in the report:

1 (i) Each instance of solitary confinement exceeding eight hours, including
 2 all reasons why attempts to return the juvenile to the general population of the
 3 facility were unsuccessful.

4 (ii) All corrective measures taken in response to noncompliance with this
 5 Subsection.

6 (iii) Redacted personal identifying information that provides individual, not
 7 aggregate data.

8 (c) The initial quarterly report shall be submitted within two weeks after the
 9 quarter ending on September 30, 2022. Subsequent reports shall be submitted for the
 10 ensuing quarters within two weeks after the end of each quarter.

11 (d) The office of juvenile justice shall post a report on the use of solitary
 12 confinement on its website quarterly with deidentified aggregate data including but
 13 not limited to all of the following:

14 (i) Total number of juveniles placed in solitary confinement that quarter.

15 (ii) Race and ethnicity, age, and gender of juveniles placed in solitary
 16 confinement.

17 (iii) Disability status of juveniles placed in solitary confinement.

18 (iv) Number of instances of solitary confinement exceeding eight hours.

19 (v) Number of instances, if any, of self-harm while in solitary confinement.

20 (vi) Number of instances, if any, of suicide attempts while in solitary
 21 confinement.

22 (vii) Number of instances, if any, of suicides while in solitary confinement.

23 (e) Data shall be disaggregated by facility.

24 (15) All agency staff shall be trained on the appropriate use of solitary
 25 confinement during their initial training to work at the office of juvenile justice and
 26 subsequently at regular intervals. Staff shall be required to demonstrate proficiency
 27 with decisions regarding when and how to use solitary confinement before
 28 completing their initial training to work in office of juvenile justice facilities and
 29 ongoing during their employment.

1 (16) Every juvenile placed in the custody of the office of juvenile justice
2 shall receive an explanation on the solitary confinement policy by staff promptly
3 upon arrival to a facility, and information on this policy shall be communicated to
4 the juvenile's parents or guardians through the most direct means possible, with in-
5 person communication being most preferable.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____