

2022 Regular Session

HOUSE BILL NO. 746

BY REPRESENTATIVE DUPLESSIS

JUVENILES/DETENTION FAC: Provides relative to solitary confinement in juvenile facilities

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

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

1 behavior that poses a serious and immediate threat of physical harm to the juvenile  
2 or others.

3 (2)(a) A juvenile shall never be placed in solitary confinement for the  
4 purposes of discipline, punishment, administrative convenience, retaliation,  
5 protective custody, suicide intervention, general behavior management, rule  
6 violations, in response to staffing shortages, or for any other reason that is not an  
7 emergency response to behavior that poses a serious and immediate threat of  
8 physical harm to the juvenile or others.

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

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

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

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

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

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

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

26 (a) Under no circumstances shall any period of solitary confinement last  
27 longer than eight hours.

28 (b) After eight hours, the juvenile shall be returned to the general population.

29 If the juvenile is still in crisis, the juvenile may be transported to a mental health

1 facility upon the recommendation of a mental health professional, or the facility staff  
2 shall implement a mental health crisis plan that allows for the juvenile to return to  
3 the general population safely. Under no circumstances shall this plan allow for the  
4 juvenile to remain in solitary confinement longer than eight hours.

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

7 (7) All instances of solitary confinement shall be approved immediately by  
8 the facility director or deputy director, and only after consultation with a qualified  
9 mental health practitioner who has spoken with the juvenile. Approval must be  
10 re-affirmed every hour thereafter.

11 (a) The facility director or deputy director shall immediately notify the  
12 deputy secretary and the senior administrative team any time a juvenile is placed in  
13 solitary confinement.

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

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

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

28 (10) Staff shall return the juvenile to programming as soon as the juvenile  
29 has regained self control and is no longer engaging in behavior that threatens serious

1 and immediate harm to himself or others. If necessary, staff can return the juvenile  
2 to a separate area other than a cell or other isolated space where staff can help the  
3 juvenile self-regulate and become ready to return to the general population.

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

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

9 (a) Sunlight.

10 (b) Drinking water.

11 (c) Toilet facilities.

12 (d) Working showers.

13 (e) Hygiene supplies.

14 (f) Mattresses

15 (g) Reading materials.

16 (h) Meals.

17 (i) Contact with parents or legal guardians.

18 (j) Legal assistance.

19 (k) Educational programming.

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

22 (13) Every instance of solitary confinement shall be documented  
23 electronically and in the aggregate. Unidentified data on the frequency and length  
24 of time that the juvenile spends in solitary confinement shall be available upon  
25 request as a public record. Documentation of the solitary confinement shall include  
26 all of the following:

27 (a) The date of the occurrence.

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

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

1           (d) An explanation of why less restrictive means for placement were  
2           unsuccessful.

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

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

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

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

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

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

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

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

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

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

21           (ii) All corrective measures taken in response to noncompliance with this  
22          Section.

23           (iii) Redacted personal identifying information that provides individual, not  
24          aggregate, data.

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

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

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

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

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

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

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

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

12          (vii) Number of instances, if any, of completed suicides while in solitary  
13          confinement.

14          (e) Data shall be disaggregated by facility.

15          (15) All agency staff shall be trained on the appropriate use of solitary  
16          confinement during their initial training to work at the office of juvenile justice, and  
17          subsequently at regular intervals. Staff shall be required to demonstrate proficiency  
18          with decisions regarding when and how to use solitary confinement before  
19          completing their initial training to work in office of juvenile justice facilities and  
20          ongoing during their employment.

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

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**DIGEST**

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 746 Engrossed

2022 Regular Session

Duplessis

**Abstract:** Provides relative to solitary confinement of juveniles.

Present law provides for the rules, regulations, education, training, discipline, work opportunities, vocational training, and contracts in juvenile institutions.

Proposed law retains present law.

Proposed law provides that no juvenile in the custody of the office of juvenile justice shall be placed in any form of solitary confinement for any reason other than a temporary response to behavior that poses a serious and immediate threat of physical harm to the juvenile or others.

Proposed law defines "solitary confinement" for purposes of R.S. 15:905(F).

Proposed law provides that a juvenile shall never be placed in solitary confinement for the purposes of discipline, punishment, administrative convenience, retaliation, protective custody, suicide intervention, general behavior management, rule violations, in response to staffing shortages, or for any other reason that is not an emergency response to behavior that poses a serious and immediate threat of physical harm to the juvenile or others.

Proposed law provides that under no circumstances shall a juvenile who has expressed suicidal ideations or attempted suicide be placed in solitary confinement.

Proposed law provides that a juvenile may only be held in solitary confinement in either of the following circumstances:

- (1) Progressive protocols, beginning with verbal calming and other de-escalation techniques attempted by facility staff, have proven unsuccessful at resolving the imminent threat of physical harm.
- (2) There is a need to eliminate the serious and immediate risk of physical harm to the juvenile or others.

Proposed law provides that all protocols and techniques provided in proposed law shall be documented, along with an explanation of why solitary confinement was ultimately deemed necessary.

Proposed law provides that a juvenile placed in solitary confinement pursuant to proposed law shall be released from solitary confinement as soon as the serious and immediate risk of physical harm to self or others is resolved.

Proposed law provides that a juvenile shall only be held in solitary confinement for a period that does not compromise or harm his mental or physical health.

Proposed law provides that under no circumstances shall any period of solitary confinement last longer than eight hours. Provides that after eight hours, the juvenile shall be returned to the general population.

Proposed law provides that if a juvenile is still in crisis after being returned to the general population, the juvenile may be transported to a mental health facility upon the recommendation of a mental health professional, or the facility staff shall implement a mental health crisis plan that allows for the juvenile to return to the general population safely.

Proposed law provides that under no circumstances shall this plan allow for the juvenile to remain in solitary confinement longer than eight hours.

Proposed law provides that the use of consecutive periods of room confinement to avoid the intent and purpose of proposed law is prohibited.

Proposed law provides that all instances of solitary confinement must be approved immediately by the facility director or deputy director, and only after consultation with a qualified mental health practitioner who has spoken with the juvenile. Provides that approval must be re-affirmed every hour thereafter.

Proposed law provides that the facility director or deputy director shall immediately notify the deputy secretary and their senior administrative team any time a juvenile is placed in solitary confinement.

Proposed law provides that within two hours of placing a juvenile in solitary confinement, the facility shall contact the juvenile's parent or guardian and the juvenile's attorney of record to provide notice that the juvenile was placed in solitary confinement and the reason for the confinement.

Proposed law provides that juveniles in solitary confinement shall be continuously monitored. Provides that facility staff shall engage in continued crisis intervention and de-escalation techniques and make visual and verbal contact with each youth in solitary confinement at least every 10 minutes.

Proposed law provides that the intent and purpose of crisis intervention is to help de-escalate the juvenile's behavior so he can rejoin the general population as soon as possible. Provides that staff shall document the time and nature of the observation and interventions.

Proposed law provides that within the first hour of solitary confinement and every hour thereafter, a qualified mental health practitioner will speak to the juvenile to help the juvenile de-escalate and exit solitary confinement as soon as possible.

Proposed law provides that staff shall return the juvenile to programming as soon as the juvenile has regained self control and is no longer engaging in behavior that threatens serious and immediate harm to himself or others. Provides that staff can return the juvenile to a separate area other than a cell or other isolated space, if necessary, where staff can help the juvenile self-regulate and become ready to return to the general population.

Proposed law provides that all rooms used for solitary confinement shall have adequate and operating lighting, heating and cooling, and ventilation for the comfort of the juvenile. Provides that rooms shall be clean and resistant to suicide and self-harm.

Proposed law provides that juveniles in solitary confinement shall have access to sunlight, drinking water, toilet facilities, working showers, hygiene supplies, mattresses, reading materials, meals, contact with parents or legal guardians, legal assistance, educational programming, and appropriate medical and mental health services, which shall be provided by mental health staff as needed.

Proposed law provides that every instance of solitary confinement shall be documented electronically and in the aggregate. Provides that unidentified data on the frequency and



length of time that the juvenile spends in solitary confinement shall be available upon request as a public record.

Proposed law provides that documentation of the solitary confinement shall include all of the following:

- (1) The date of the occurrence.
- (2) The race, ethnicity, age, gender, and disability status of the juvenile.
- (3) The reason for the juvenile's placement in solitary confinement.
- (4) An explanation of why less restrictive means for placement were unsuccessful.
- (5) The ultimate duration of the juvenile's placement in solitary confinement.
- (6) Facility staffing levels at the time of the juvenile's confinement.
- (7) Any incidents of self-harm, suicide attempts, or suicide committed by the juvenile while he was confined and where the juvenile was placed after leaving solitary confinement.

Proposed law provides that the office of juvenile justice shall submit a report on the use of solitary confinement quarterly to the Juvenile Justice Reform Act Commission. Provides that the report shall include the following:

- (1) The length of time each juvenile was in solitary confinement.
- (2) The race, ethnicity, age, gender, and disability status of each juvenile placed in solitary confinement.
- (3) The facility staffing levels at the time of the juvenile's confinement.
- (4) The reason each juvenile was placed in confinement, and where the juvenile was placed after leaving solitary confinement.

Proposed law provides that all of the following shall be included in the report:

- (1) Each instance of solitary confinement exceeding eight hours, including all reasons why attempts to return the juvenile to the general population of the facility were unsuccessful.
- (2) All corrective measures taken in response to noncompliance with proposed law.
- (3) Redacted personal identifying information that provides individual, not aggregate, data.

Proposed law provides that the initial quarterly report shall be submitted within two weeks after the quarter ending on Sep. 30, 2022. Provides that subsequent reports shall be submitted for the ensuing quarters within two weeks after the end of each quarter.

Proposed law provides that the office of juvenile justice shall post a report on the use of solitary confinement on its website quarterly with deidentified aggregate data including, but not limited to all of the following:

- (1) Total number of juveniles placed in solitary confinement that quarter.
- (2) Race and ethnicity, age, and gender of juveniles placed in solitary confinement.

- (3) Disability status of juveniles placed in solitary confinement.
- (4) Number of instances of solitary confinement exceeding eight hours.
- (5) Number of instances, if any, of self-harm while in solitary confinement.
- (6) Number of instances, if any, of suicide attempts while in solitary confinement.
- (7) Number of instances, if any, of completed suicides while in solitary confinement.

Proposed law provides that data shall be disaggregated by facility.

Proposed law provides that all agency staff shall be trained on the appropriate use of solitary confinement during their initial training to work at the office of juvenile justice, and subsequently at regular intervals. Provides that staff shall be required to demonstrate proficiency with decisions regarding when and how to use solitary confinement before completing their initial training to work in office of juvenile justice facilities and ongoing during their employment.

Proposed law provides that every juvenile placed in the custody of the office of juvenile justice shall receive an explanation on the solitary confinement policy by staff promptly upon arrival to a facility, and information on this policy shall be communicated to the juvenile's parents or guardians through the most direct means possible, with in-person communication being most preferable.

(Adds R.S. 15:905(F))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Make technical changes.
2. Change the maximum number of hours a juvenile can remain in solitary confinement from four to eight.
3. Delete language that refers to purposes and reasons for detention, detention standards, licensing, and fees for local juvenile detention facilities.