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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- RESTRICTIVE CONFINEMENT
OVERSIGHT ACT

Introduced By: Senators Acosta, Mack, and Bell

Date Introduced: February 26, 2025

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 56.4

4 RESTRICTIVE CONFINEMENT OVERSIGHT ACT

5 **42-56.4-1. Definitions.**

6 As used in this chapter, unless the context indicates a different meaning or intent:

7 (1) "Basic necessities" means and includes weather-appropriate clothing and footwear;
8 adequate food in compliance with medical and religious accommodations, with no more than
9 twelve (12) hours between meals; access to drinking water and functioning sanitary fixtures; access
10 to a shower and hygienic items; bedding; and ventilation.

11 (2) "Cell" means any room, area or space that is primarily used for the confinement of
12 prisoners; or any room, area or space that is less than four hundred square feet (400 sq. ft),
13 regardless of use or purpose; or any indoor room that is solely accessible to one prisoner at a time.
14 Shared spaces whose primary purpose is congregate social interaction, education, programming,
15 rehabilitation, or physical and psychological wellness, including recreation areas, classrooms,
16 libraries, and spaces used for medical evaluation and treatment, shall not constitute "cells."

17 (3) "Department" means the department of corrections.

18 (4) "Director" means the director of the department of corrections.

1 (5) "Disciplinary confinement" means confinement of a prisoner based on violation of
2 departmental rules, whether in the general population, a specialized housing unit, or elsewhere.

3 (6) "General population" means classification to maximum, medium, or minimum security
4 with no restrictions placed on activities or privileges.

5 (7) "Member of a vulnerable population" means someone who:

6 (i) Has a serious and persistent mental illness, as defined by the department of corrections,
7 or a psychiatric disability, as defined in § 40.1-5-2;

8 (ii) Has a developmental disability, as defined in § 40.1-1-8.1;

9 (iii) Is pregnant, in the postpartum period, or has recently suffered a miscarriage or
10 terminated a pregnancy; or

11 (iv) Has a significant auditory or visual impairment, or a serious medical condition that
12 cannot be adequately treated in restrictive housing or which is medically contraindicated to
13 placement in restrictive housing.

14 (8) "Lock down" means a temporary, emergency period within the prison caused by present
15 danger or lack of staffing.

16 **42-56.4-2. Discipline -- Disciplinary confinement.**

17 (a) All prisoners shall receive a minimum of two (2) hours out of a cell each day, except
18 that in the case of a facility lockdown, out of cell time can be restricted for no longer than a twenty-
19 four (24)-hour consecutive period of time.

20 (b) Any prisoner that is not in disciplinary confinement must be provided with three (3) or
21 more hours of time outside a cell per day with opportunities for meaningful social interaction with
22 other prisoners.

23 (c) For every thirty (30) consecutive days, all prisoners must receive at least three (3) hours
24 of time outside a cell per day with opportunities for meaningful social interaction for at least fifteen
25 (15) of those thirty (30) days. In no event, shall any prisoner receive fewer than three (3) hours of
26 time outside of cell for more than fifteen (15) days in any thirty (30) day period.

27 (d) No prisoners shall be denied access to any basic necessities except if necessary for a
28 period of no more than twenty-four (24) hours immediately after physically moving to a new
29 housing module or facility.

30 **42-56.4-3. Reporting.**

31 (a) The department of corrections shall issue a report ("annual restrictive housing report")
32 to be made publicly available on the department's website one year after the effective date of this
33 chapter and by January 31 of each year thereafter, containing the following information, broken
34 down by housing location and inmate status and classification:

- 1 (1) The number of prisoners in each status;
2 (2) The nature of the infractions and behaviors leading to the removal from general
3 population;
4 (3) The lengths of terms served outside of general population, including terms served
5 consecutively and cumulatively;
6 (4) The races, ethnicities, genders, and religions of all prisoners outside of general
7 population;
8 (5) The number of members of a vulnerable population outside of general population, by
9 category promulgated in the definition thereof listed in § 42-56.4-2; and
10 (6) The average weekly out-of-cell time provided to prisoners in each category
11 confinement outside of general population.

12 (b) The restrictive housing oversight committee, as created in § 42-26-20, may require the
13 department to publish additional information, in addition to the fields delineated by statute, in the
14 annual restrictive housing report.

15 **42-56.4-4. Declaratory judgment.**

16 (a) Any prisoner may bring an action for declaratory judgment in the superior court of
17 Providence county, when it is alleged that:

- 18 (1) The department of corrections or an officer thereof failed to perform a duty enjoined
19 upon it by this chapter, or acted in violation of lawful procedure as required by this chapter; or
20 (2) A department rule, or its threatened application, interferes with or impairs, or threatens
21 to interfere with or impair, the legal rights or privileges of the plaintiff under this chapter or the
22 state or federal Constitution.

23 (b) A declaratory judgment may be rendered whether or not the plaintiff has requested the
24 agency to pass upon the validity or applicability of the rule in question.

25 SECTION 2. Chapter 42-26 of the General Laws entitled "Public Safety Grant
26 Administration Office" is hereby amended by adding thereto the following section:

27 **42-26-20. Restrictive housing oversight committee.**

28 (a) There is hereby created within the public safety grant administration office, pursuant to
29 the provisions of § 42-26-7, the restrictive housing oversight committee (the "committee") for the
30 purpose of monitoring the use of restrictive housing at the department of corrections.

31 (b) The committee shall consist of the following five (5) members who shall assemble
32 annually or more often at the call of the chairperson or upon petition of a majority of its members:

- 33 (1) One who has been previously sentenced to spend time in restrictive housing, appointed
34 by the Black, Latino, Indigenous, Asian-American, and Pacific Islander Caucus of the general

1 assembly;

2 (2) A designee from a nonprofit organization that has a mission to advance the welfare and
3 rights of incarcerated people and who has expertise in law and a demonstrated interest in advancing
4 the rights and welfare of incarcerated persons, appointed by the speaker of the house of
5 representatives;

6 (3) A designee of the Rhode Island Chapter of the National Association of Social Workers
7 who has expertise in the provision of mental health care to incarcerated persons or formerly
8 incarcerated persons, appointed by the president of the senate;

9 (4) The Rhode Island public defender, or designee; and

10 (5) The director of the department of corrections, or designee.

11 (c) The chair of the committee shall be selected by the members of the committee.

12 (d) Of the members first appointed to the committee, two (2) members shall serve a term
13 of two (2) years, two (2) members shall serve a term of one year, and thereafter, members shall
14 serve a term of two (2) years. Members shall continue to serve until their successor is duly
15 appointed and qualified. Any vacancy on the oversight committee shall be filled in the same manner
16 as the original appointment.

17 (e) The committee shall perform the following functions:

18 (1) Appoint a restrictive housing ombudsperson (the "ombudsperson") based on whatever
19 procedure is determined by the committee;

20 (2) Review and supervise the actions of the ombudsperson;

21 (3) Meet not less than quarterly to bring matters to the ombudsperson's attention and to
22 consult on their services, findings and recommendations; and

23 (4) Convene semiannual public hearings to discuss the ombudsperson's services, findings
24 and recommendations.

25 (f) The ombudsperson shall be empowered to:

26 (1) Receive and investigate complaints related to incarcerated persons' health, safety,
27 welfare, and rights;

28 (2) Identify issues within the department of corrections related to restrictive housing;

29 (3) Ensure compliance with relevant statutes, rules, and policies pertaining to restrictive
30 housing;

31 (4) Provide information to inmates, probationers, and parolees, and their families related
32 to restrictive housing; and

33 (5) Promote public awareness and understanding of the rights and responsibilities of
34 individuals in prison and conditions related to restrictive housing.

1 (g) The ombudsperson shall conduct random biannual inspections of restrictive housing
2 areas in each facility, including cells, recreation areas, and programming spaces, and shall visit
3 different facilities on each inspection. Neither the committee nor the ombudsperson shall announce
4 an inspection to any individual or entity outside of the committee before the inspection occurs. The
5 department shall ensure full access to the facility, inmates, and staff as part of these inspections
6 consistent with this section.

7 (h) All oral and written communications, and records relating to such communications
8 between a person in the custody of the department of corrections and the ombudsperson or
9 committee including, but not limited to, the identity of a complainant, the details of the
10 communications, and the ombudsperson's findings shall be confidential and shall not be disclosed
11 without the consent of such person, except that the committee or ombudsperson may disclose
12 without the consent of such person general findings or policy recommendations based on such
13 communications; provided no individually identifiable information is disclosed.

14 (i) Notwithstanding any provision of the general laws concerning the confidentiality of
15 records and information, the ombudsperson shall have access to, including the right to inspect and
16 copy, any non-privileged records necessary to carry out their responsibilities.

17 (j) In the performance of the responsibilities provided for in this section, the ombudsperson
18 may communicate privately with any person in the custody of the department of corrections. Such
19 communications shall be confidential except as provided in this section.

20 (k) Members of the committee and ombudsperson shall meet with the governor and the
21 director of the department of corrections at least two (2) times each year to report on the work and
22 findings of the committee.

23 (l) A majority of the members appointed to the committee shall constitute a quorum, which
24 shall be necessary for the committee to conduct business. A majority vote of the members present
25 shall be required for action of the committee.

26 (m) The general assembly shall annually appropriate such sums as it may deem necessary
27 for the payment of any ombudsperson's salary and for the payment of office expenses and other
28 actual expenses incurred by the committee or any ombudsperson's in the performance of their
29 duties; and the state controller is hereby authorized and directed to draw their orders upon the
30 general treasurer for the payment of such sum or sums, or so much thereof, as may from time to
31 time be required, upon receipt by them of properly authenticated vouchers approved by any
32 ombudsperson's or committee.

33 SECTION 3. Section 42-35-1 of the General Laws in Chapter 42-35 entitled
34 "Administrative Procedures" is hereby amended to read as follows:

1 **42-35-1. Definitions.**

2 As used in this chapter:

3 (1) Except as otherwise provided herein, “agency” means a state agency, authority, board,
4 bureau, commission, department, district, division, institution, office, officer, quasi-public agency,
5 or other political subdivisions created by the general assembly or the governor, other than the
6 legislature or the judiciary, that is authorized by law of this state to make rules or to determine
7 contested cases.

8 (2) “Agency action” means:

9 (i) The whole or part of an order or rule;

10 (ii) The failure to issue an order or rule; or

11 (iii) An agency’s performing, or failing to perform, a duty, function, or activity or to make
12 a determination required by law.

13 (3) “Agency head” means the individual in whom, or one or more members of the body of
14 individuals in which, the ultimate legal authority of an agency is vested.

15 (4) “Agency record” means the agency rulemaking record required by § 42-35-2.3.

16 (5) “Contested case” means a proceeding, including but not restricted to, ratemaking, price
17 fixing, and licensing, in which the legal rights, duties, or privileges of a specific party are required
18 by law to be determined by an agency after an opportunity for hearing.

19 (6) “Electronic” means relating to technology having electrical, digital, magnetic, wireless,
20 optical, electromagnetic, or similar capabilities.

21 (7) “Electronic record” means a record created, generated, sent, communicated, received,
22 or stored by electronic means.

23 (8) “Final rule” means a rule promulgated under §§ 42-35-2.6 through 42-35-2.9, an
24 emergency rule promulgated under § 42-35-2.10, or a direct, final rule promulgated under § 42-35-
25 2.11.

26 (9) “Guidance document” means a record of general applicability developed by an agency
27 which lacks the force of law but states the agency’s current approach to, or interpretation of, law
28 or describes how and when the agency will exercise discretionary functions. The term does not
29 include records described in subdivisions (19)(i), (ii), (iii), or (iv).

30 (10) “Index” means a searchable list in a record of subjects and titles with page numbers,
31 hyperlinks, or other connectors that link each index entry to the text to which it refers.

32 (11) “License” includes the whole or part of any agency permit, certificate, approval,
33 registration, charter, or similar form of permission required by law, but it does not include a license
34 required solely for revenue purposes.

1 (12) "Licensing" includes the agency process respecting the grant, denial, renewal,
2 revocation, suspension, annulment, withdrawal, or amendment of a license.

3 (13) "Order" means the whole or a part of a final disposition, whether affirmative, negative,
4 injunctive, or declaratory in form, of a contested case.

5 (14) "Party" means each person or agency named or admitted as a party, or properly
6 seeking and entitled as of right to be admitted as a party.

7 (15) "Person" means any individual, partnership, corporation, association, the department
8 of environmental management, governmental subdivision, or public or private organization of any
9 character other than an agency.

10 (16) "Promulgate," with respect to a rule, means the process of writing a new rule, or
11 amending or repealing an existing rule. "Promulgation" has a corresponding meaning. The process
12 of "promulgation" begins with the filing of the notice of proposed rulemaking under § 42-35-2.7
13 and ends upon the effective date of the rule. "Promulgate" also includes the completion of the
14 rulemaking process for emergency rules (§ 42-35-2.10) or direct final rules (§ 42-35-2.11), if
15 applicable.

16 (17) "Reasonable charge" means the lowest, customary charge for a service.

17 (18) "Record" means information that is inscribed on a tangible medium or that is stored
18 in an electronic or other medium and is retrievable in perceivable form.

19 (19) "Rule" means the whole or a part of an agency statement of general applicability that
20 implements, interprets, or prescribes law or policy or the organization, procedure, or practice
21 requirements of an agency and has the force of law. The term includes the amendment or repeal of
22 an existing rule. The term is used interchangeably in this chapter with the term "regulation." The
23 term does not include:

24 (i) A statement that concerns only the internal management of an agency and which does
25 not affect private rights or procedures available to the public;

26 (ii) An intergovernmental or interagency memorandum, directive, or communication that
27 does not affect private rights or procedures available to the public. [Individuals under the custody](#)
28 [or supervision of the department of corrections shall be considered members of the public for the](#)
29 [purposes of this chapter, except where disclosure of any rule or portion of a rule would endanger](#)
30 [the public welfare and security, pursuant to § 38-2-2\(4\)\(F\);](#)

31 (iii) An opinion of the attorney general, or an opinion of the ethics commission pursuant to
32 § 36-14-11;

33 (iv) A statement that establishes criteria or guidelines to be used by the staff of an agency
34 in performing audits, investigations, or inspections, settling commercial disputes, negotiating

1 commercial arrangements, or defending, prosecuting, or settling cases, if disclosure of the criteria
2 or guidelines would enable persons violating the law to avoid detection, facilitate disregard of
3 requirements imposed by law, or give an improper advantage to persons that are in an adverse
4 position to the state;

5 (v) A form developed by an agency to implement or interpret agency law or policy; or

6 (vi) A guidance document.

7 (20) “Sign” means, with present intent, to authenticate a record:

8 (i) To execute a tangible symbol; or

9 (ii) To attach to or logically associate with the record an electronic symbol, sound, or
10 process.

11 (21) “Small business” shall have the same meanings that are provided for under 13 C.F.R.,
12 Pt. 121, as may be amended from time to time.

13 (22) “Small business advocate” means the person appointed by the chief executive officer
14 of the commerce corporation as provided in § 42-64-34.

15 (23) “State register” means the publication required under chapter 8.2 of title 42.

16 (24) “Website” means a website on the internet or other similar technology or successor
17 technology that permits the public to search a database that archives materials required to be
18 published or exhibited by the secretary of state or an agency under this chapter.

19 (25) “Writing” means a record inscribed on a tangible medium. “Written” has a
20 corresponding meaning.

21 SECTION 4. This act shall take effect on July 25, 2025.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- RESTRICTIVE CONFINEMENT
OVERSIGHT ACT

1 This act would establish the restrictive housing oversight committee ("committee") for the
2 purpose of monitoring the use of restrictive housing ("solitary confinement"), as well as disciplinary
3 and administrative confinement at the department of corrections. This act would also authorize the
4 committee to hire an ombudsperson to assist it in its oversight duties.

5 This act would take effect on July 25, 2025.

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