

HOUSE No. 1381

The Commonwealth of Massachusetts

PRESENTED BY:

Russell E. Holmes

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to collect data regarding the use of solitary confinement in Massachusetts prisons and jails.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|--------------------------------|-------------------------------------|------------------|
| <i>Russell E. Holmes</i> | <i>6th Suffolk</i> | <i>1/15/2015</i> |
| <i>Claire D. Cronin</i> | <i>11th Plymouth</i> | <i>9/19/2019</i> |
| <i>Kenneth I. Gordon</i> | <i>21st Middlesex</i> | <i>9/19/2019</i> |
| <i>William N. Brownsberger</i> | <i>Second Suffolk and Middlesex</i> | <i>9/19/2019</i> |
| <i>Denise Provost</i> | <i>27th Middlesex</i> | <i>9/19/2019</i> |
| <i>Marjorie C. Decker</i> | <i>25th Middlesex</i> | <i>9/19/2019</i> |
| <i>Ruth B. Balsler</i> | <i>12th Middlesex</i> | <i>9/19/2019</i> |
| <i>Patricia D. Jehlen</i> | <i>Second Middlesex</i> | <i>9/19/2019</i> |
| <i>Sean Garballey</i> | <i>23rd Middlesex</i> | <i>9/19/2019</i> |
| <i>John J. Mahoney</i> | <i>13th Worcester</i> | <i>9/19/2019</i> |
| <i>Michelle M. DuBois</i> | <i>10th Plymouth</i> | <i>9/19/2019</i> |
| <i>Elizabeth A. Malia</i> | <i>11th Suffolk</i> | <i>9/19/2019</i> |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> | <i>9/19/2019</i> |
| <i>Kay Khan</i> | <i>11th Middlesex</i> | <i>9/19/2019</i> |
| <i>Carlos Gonzalez</i> | <i>10th Hampden</i> | <i>9/19/2019</i> |
| <i>Jonathan Hecht</i> | <i>29th Middlesex</i> | <i>9/19/2019</i> |
| <i>Benjamin Swan</i> | <i>11th Hampden</i> | <i>9/19/2019</i> |

Paul R. Heroux
Tom Sannicandro

2nd Bristol
7th Middlesex

9/19/2019
9/19/2019

HOUSE No. 1381

By Mr. Holmes of Boston, a petition (accompanied by bill, House, No. 1381) of Russell E. Holmes and others for legislation to collect data regarding the use of solitary confinement. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act to collect data regarding the use of solitary confinement in Massachusetts prisons and jails.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 127 of the General Laws, as appearing in the 2012 official edition, is hereby
2 amended by inserting after section 39 the following section 39A:

3 (a) For purposes of this section, the following definitions shall apply:

4 “Disciplinary segregation,” the segregation of a prisoner from the general population, in a
5 segregated unit or other housing unit, for the purpose of disciplining the prisoner.

6 “Non-disciplinary segregation,” the segregation of a prisoner from the general
7 population, in a segregated unit or other housing unit, for administrative purposes and not for the
8 purpose of enforcing discipline or providing medical care.

9 “Serious mental illness,” constitutes:

10 (1) A current diagnosis or recent significant history of one or more of the following
11 disorders described in the most recent edition of the Diagnostic and Statistical Manual of Mental
12 Disorders: (i) schizophrenia and other psychotic disorders; (ii) major depressive disorders; or (iii)
13 bipolar disorders, all types;

14 (2) A diagnosis of one or more of the following disorders, as described in the most
15 recent edition of the Diagnostic and Statistical Manual of Mental Disorders, that results in a
16 significant functional impairment: (i) a neurodevelopmental disorder, dementia or other
17 cognitive disorder; (ii) any disorder commonly characterized by breaks with reality, or
18 perceptions of reality; (iii) a severe personality disorder that is manifested by episodes of
19 psychosis or depression; or

20 (3) A finding that the prisoner is at serious risk of substantially deteriorating mentally
21 or emotionally while confined in segregation, or already has so deteriorated while confined in
22 segregation, such that diversion or removal is deemed to be clinically appropriate by a qualified
23 mental health professional.

24 (b) The department of correction and each sheriff shall collect and make public the
25 following data for each correctional institution, jail, and house of correction. The data shall be
26 collected and assembled into a quarterly report (four times a year), with the reported data
27 covering the entire quarterly period.

28 The data shall include:

29 (1) The number of prisoners in disciplinary segregation and the disciplinary sentence
30 of those in disciplinary segregation;

31 (2) The number of prisoners in non-disciplinary, or administrative, segregation and
32 the length of time those prisoners have been held in non-disciplinary segregation;

33 (3) The number of prisoners in disciplinary and non-disciplinary segregation,
34 respectively, with serious mental illness, including each prisoners' diagnoses;

35 (4) The number of prisoners in disciplinary and non-disciplinary segregation,
36 respectively, with other diagnosed mental illness, including each prisoners' diagnoses;

37 (5) The number of prisoners in disciplinary and non-disciplinary segregation,
38 respectively, with a significant cognitive impairment or identified learning disability, including
39 each prisoners' impairment or disability;

40 (6) The number of prisoners in disciplinary and non-disciplinary segregation,
41 respectively, who have requested reasonable accommodations for a disability while in
42 segregation, including each prisoners' disability/disabilities;

43 (7) The number of prisoners in disciplinary and non-disciplinary segregation,
44 respectively, who have received reasonable accommodations for a disability while in segregation
45 including each prisoners' disability/disabilities;

46 (8) The number of suicides and, separately, acts of non-lethal self-harm, committed
47 by prisoners held in disciplinary and non-disciplinary segregation, respectively;

48 (9) The number of planned uses of force on prisoners held in disciplinary and non-
49 disciplinary segregation, respectively;

50 (10) The number of transfers to outside hospitals and psychiatric hospitals directly
51 from disciplinary and non-disciplinary segregation, respectively;

- 52 (11) The racial composition of prisoners in disciplinary and non-disciplinary
53 segregation, respectively;
- 54 (12) The number of prisoners in disciplinary and non-disciplinary segregation,
55 respectively, who did not complete high school;
- 56 (13) The number of prisoners released directly from disciplinary and non-disciplinary
57 segregation, respectively, to the community;
- 58 (14) The number of prisoners released from disciplinary and non-disciplinary
59 segregation, respectively, due to evidence of mental decompensation; and
- 60 (15) The number of prisoners in non-disciplinary segregation who are in segregation
61 because they need protective custody.
- 62 (c) The department of correction and each sheriff shall make the data collected per
63 subsection (b) publicly available and, each quarter, shall deliver said data to the following
64 committees of the Massachusetts legislature: the Joint Committee on the Judiciary; the Joint
65 Committee on Mental Health and Substance Abuse; the Joint Committee on Public Safety and
66 Homeland Security; and the Joint Committee on Ways and Means.