

HOUSE No. 2249

The Commonwealth of Massachusetts

PRESENTED BY:

Ruth B. Balsler

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 establishing a segregation oversight committee.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>1/19/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	
<i>David M. Rogers</i>	<i>24th Middlesex</i>	
<i>Jack Lewis</i>	<i>7th Middlesex</i>	
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	
<i>Mike Connolly</i>	<i>26th Middlesex</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>Solomon Goldstein-Rose</i>	<i>3rd Hampshire</i>	

HOUSE No. 2249

By Ms. Balser of Newton, a petition (accompanied by bill, House, No. 2249) of Ruth B. Balser and others for legislation to establish a segregation oversight committee on the use of disciplinary segregation and non-disciplinary segregation in correctional institutions. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act establishing a segregation oversight committee.

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

1 SECTION 1. Section 1 of chapter 127 of the General Laws, as appearing in the most
2 recent official edition, is hereby amended by inserting the following definitions:

3 “Disciplinary segregation,” the segregation of a prisoner in a segregation unit or other
4 housing unit, for the purpose of disciplining the prisoner.

5 “Non-disciplinary segregation,” the segregation of a prisoner who poses a substantial
6 threat to the safety of others or to the safe and secure operation of the facility. Non-disciplinary
7 segregation includes all forms of segregation except disciplinary segregation.

8 “Non-disciplinary Segregation Board,” a board appointed by the commissioner for a
9 definite or indefinite term and consisting of three members, one of whom the commissioner shall
10 designate as chairperson. Once appointed, the board is empowered to recommend a prisoner for

11 placement in non-disciplinary segregation. The board may be the same as the DSU Board, as
12 defined by 103 CMR 421.06, or a separate body.

13 “Segregation,” a housing placement where a prisoner is confined to a cell for at least 22
14 hours per day.

15 “Serious mental illness,” constitutes:

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

20 “Recent significant history” shall be defined as a diagnosis specified above in section (1)
21 upon discharge within the past three years from an inpatient psychiatric hospital or other
22 correctional facility.

23 (2) A diagnosis of one or more of the following disorders, as described in the most recent
24 edition of the Diagnostic and Statistical Manual of Mental Disorders: (i) a
25 neurodevelopmental disorder, dementia or other cognitive disorder; (ii) any disorder
26 commonly characterized by breaks with reality, or perceptions of reality; (iii) a
27 severe personality disorder that is manifested by episodes of psychosis or depression;

28 (3) A diagnosis of one or more of the following disorders, as described in the most recent
29 edition of the Diagnostic and Statistical Mental Disorders that manifests with episodes of
30 psychosis or depression: (i) anxiety disorders, all types, (ii) trauma and stressor related
31 disorders; or (iii) severe personality disorders; or

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

36 SECTION 2. Said chapter 127, as so appearing, is hereby amended by inserting after
37 section 39A the following section:

38

39 Section 39D. Segregation oversight.

40 A segregation oversight committee shall be convened to gather information regarding the
41 use of disciplinary segregation and non-disciplinary segregation in Massachusetts correctional
42 institutions, jails and houses of correction, to determine the impact of such confinement on
43 prisoners, rates of violence and self-harm within correctional institutions, recidivism, and
44 incarceration costs.

45 (1) The oversight committee shall consist of seven members: Commissioner of the
46 Department of Corrections or his designee, Commissioner of the Department of Mental Health or
47 her designee, President of Massachusetts Sheriffs Association or his designee, 1 former judge
48 appointed by the Chief Justice of the Supreme Judicial Court, Executive Director of Disability
49 Law Center or her designee, Executive Director of Prisoners' Legal Services or her designee,
50 Executive Director of the Massachusetts Association for Mental Health or her designee.

51 (2) The members of the oversight committee shall be provided full and unfettered
52 access to all Massachusetts state prisons and houses of corrections, and shall be allowed to
53 interview prisoners and staff.

54 (3) The oversight committee shall gather information regarding:

55 (i) Criteria for placing a prisoner in non-disciplinary segregation;

56 (ii) Specialized training provided to staff working with prisoners in disciplinary and
57 non-disciplinary segregation;

58 (iii) The effectiveness of step-down units to transition prisoners from disciplinary and
59 non-disciplinary segregation to general population units or to the community;

60 (iv) The effect that reducing the use of segregation has on the rate of prison violence
61 and self-harm by prisoners and on the State's recidivism rates; and

62 (v) Other relevant information as identified by the oversight committee.

63 (5) The oversight committee shall receive quarterly data and statistics from the
64 department and each sheriff concerning but not limited to the following for each correctional
65 institution, jail, and house of correction, and covering the entire quarterly period:

66 (i) The number of prisoners in disciplinary segregation;

67 (ii) The disciplinary sentence length of those prisoners in disciplinary segregation;

68 (iii) The number of prisoners in non-disciplinary segregation;

- 69 (iv) The length of time those prisoners have been held in non-disciplinary
70 segregation;
- 71 (v) The number of times a particular prisoner has been placed in segregation for that
72 quarterly reporting period;
- 73 (vi) The number of prisoners in disciplinary and non-disciplinary segregation,
74 respectively, designated as having serious mental illness (SMI);
- 75 (vii) The number of prisoners in disciplinary and non-disciplinary segregation,
76 respectively, with a diagnosed mental illness;
- 77 (vii) The number of prisoners in disciplinary and non-disciplinary segregation,
78 respectively, with a significant cognitive impairment or identified learning disability;
- 79 (viii) The number of prisoners in disciplinary and non-disciplinary segregation,
80 respectively, who have requested reasonable accommodations for a disability while in
81 segregation;
- 82 (ix) The number of prisoners in disciplinary and non-disciplinary segregation,
83 respectively, who have received reasonable accommodations for a disability while in
84 segregation;
- 85 (x) The number of prisoners in disciplinary and non-disciplinary segregation,
86 respectively, who have a disability;
- 87 (xi) The number of mental health professionals who work directly with prisoners in
88 disciplinary and non-disciplinary segregation, respectively;

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

91 (xii) The number of planned uses of force on prisoners held in disciplinary and non-
92 disciplinary segregation, respectively;

93 (xiii) The number of times prisoners held in disciplinary and non-disciplinary
94 segregation were placed on mental health watch and for how long they were on mental health
95 watch status;

96 (xiv) The number of transfers to outside hospitals and psychiatric hospitals directly
97 from disciplinary and non-disciplinary segregation, respectively;

98 (xv) The racial composition of prisoners in disciplinary and non-disciplinary
99 segregation, respectively;

100 (xvi) The number of prisoners in disciplinary and non-disciplinary segregation,
101 respectively, who did not complete high school;

102 (xvii) The number of prisoners released directly from disciplinary and non-disciplinary
103 segregation, respectively, to the community;

104 (xvii) The number of prisoners released from disciplinary and non-disciplinary
105 segregation, respectively, within six months of release to the community;

106 (xviii) The number of prisoners removed from disciplinary and non-disciplinary
107 segregation, respectively, due to mental decompensation;

108 (xix) The number of prisoners in non-disciplinary segregation who are in segregation
109 for protective custody reasons;

110 (xx) The number of prisoners in disciplinary and non-disciplinary segregation,
111 respectively, who are lesbian, gay, bisexual, transgender, or intersex;

112 (xxi) The number of prisoners in disciplinary and non-disciplinary segregation,
113 respectively, who are twenty-one years old or younger;

114 (xxii) The number of prisoners in disciplinary and non-disciplinary segregation,
115 respectively, who are fifty-five years old or older;

116 (xxiii) The number of prisoners in disciplinary and non-disciplinary segregation,
117 respectively, who are sixty-five years old or older; and

118 (xxiv) Other relevant data and statistics as identified by the oversight committee.

119 (6) The oversight committee shall publish a report compiling this information and
120 data annually, with the first report being published within one year of the passage of this Act.
121 The oversight committee shall make said report publicly available and shall deliver copies of
122 said report to all relevant legislative committees.

123 (7) The report of the segregation oversight committee shall offer recommendations
124 geared towards limiting the number of prisoners in disciplinary and non-disciplinary segregation
125 in Massachusetts and ensuring segregation is used as a tool of last resort in narrow, well-defined
126 circumstances. The recommendations shall include, but are not limited to:

127 (i) Recommendations as to how the department and each sheriff can adopt a step-
128 down program so that all prisoners in segregation can be returned to general population within
129 fifteen days;

130 (ii) Recommendations as to steps the department and each sheriff can take to restrict
131 the use of segregation;

132 (iii) Recommendations as to how the department and each sheriff can ensure that
133 prisoners experience continuity in programming during segregation;

134 (iv) Recommendations as to how the department and each sheriff can ensure that no
135 prisoners with serious mental illness or who are otherwise considered vulnerable populations
136 excludable from segregation under current law are placed in segregation;

137 (v) Recommendations as to how the department and each sheriff can deliver
138 meaningful mental health treatment to prisoners in segregation;

139 (vi) Recommendations as to how the department and each sheriff can limit the
140 infractions resulting in segregation placement; and

141 (vii) Recommendations as to how the department and each sheriff can ensure that no
142 prisoner is released directly from segregation to the community.