

HOUSE No. 3092**The Commonwealth of Massachusetts**

PRESENTED BY:

Christopher M. Markey*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>Christopher M. Markey</i>	<i>9th Bristol</i>	<i>1/20/2017</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	
<i>Denise Provost</i>	<i>27th Middlesex</i>	
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>	
<i>Jack Lewis</i>	<i>7th Middlesex</i>	
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	
<i>Chynah Tyler</i>	<i>7th Suffolk</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	
<i>Mike Connolly</i>	<i>26th Middlesex</i>	
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	
<i>Paul Tucker</i>	<i>7th Essex</i>	
<i>Edward F. Copping</i>	<i>10th Suffolk</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>David M. Rogers</i>	<i>24th Middlesex</i>	

HOUSE No. 3092

By Mr. Markey of Dartmouth, a petition (accompanied by bill, House, No. 3092) of Christopher M. Markey and others for legislation to authorize the collection of data regarding the use of solitary confinement in prisons, jails and houses of correction. The Judiciary.

The Commonwealth of Massachusetts

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

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

“Serious mental illness,” constitutes:

(1) A current diagnosis or recent significant history of one or more of the following disorders described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders: (i) schizophrenia and other psychotic disorders; (ii) major depressive disorders; or (iii) bipolar disorders, all types; “Recent significant history” shall be defined as a diagnosis specified above in section (1) upon discharge within the past three years from an inpatient psychiatric hospital or other correctional facility. (2) A diagnosis of one or more of the following disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders: (i) a neurodevelopmental disorder, dementia or other cognitive disorder; (ii) any disorder commonly characterized by breaks with reality, or perceptions of reality; (iii) a severe personality disorder that is manifested by episodes of psychosis or depression; (3) A diagnosis of one or more of the following disorders, as described in the most recent edition of the Diagnostic and Statistical Mental Disorders that manifests with episodes of psychosis or depression: (i) anxiety disorders, all types, (ii) trauma and stressor related disorders; or (iii) severe personality disorders; or (4) A finding that the prisoner is at serious risk of substantially deteriorating mentally or emotionally while confined in segregation, or already has so deteriorated while confined in segregation, such that diversion or removal is deemed to be clinically appropriate by a qualified mental health professional.

SECTION 2: Chapter 127 of the General Laws, as appearing in the current official edition, is hereby amended by inserting after section 39 the following section 39E:

(a) The department of correction and each sheriff shall collect and make public the following data for each correctional institution, jail, and house of correction. The data shall be

collected and assembled into a quarterly report (four times a year), with the reported data covering the entire quarterly period.

The data shall include:

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

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

(3) The number of times a particular prisoner has been placed in segregation for that quarterly reporting period;

(4) The number of prisoners in disciplinary and non-disciplinary segregation, respectively, with serious mental illness (SMI); including the prisoners diagnoses;

(5) The number of prisoners in disciplinary and non-disciplinary segregation, respectively, with other diagnosed mental illness; including the prisoners' diagnoses;

(6) The number of prisoners in disciplinary and non-disciplinary segregation, respectively, with a significant cognitive impairment or identified learning disability, including the impairment or disability;

(7) The number of prisoners in disciplinary and non-disciplinary segregation, respectively, who have requested reasonable accommodations for a disability while in segregation; and their disability/disabilities;

(8) The number of prisoners in disciplinary and non-disciplinary segregation, respectively, who have received reasonable accommodations for a disability while in segregation, and their respective disabilities;

(9) The number of prisoners in disciplinary and non-disciplinary segregation, respectively, who have a disability;

(10) The number of mental health professionals who work directly with prisoners in disciplinary and non-disciplinary segregation, respectively;

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

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

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

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

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

(16) The gender of each prisoner in disciplinary and non-disciplinary segregation;

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

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

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

(20) The number of prisoners released from disciplinary and non-disciplinary segregation, respectively, due to evidence of mental decompensation;

(21) The number of prisoners in non-disciplinary segregation who are in segregation because they need protective custody;

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

(23) The number of prisoners in disciplinary and non-disciplinary segregation, respectively, who are twenty-one years old or younger and their respective ages;

(24) The number of prisoners in disciplinary and non-disciplinary segregation, respectively, who are fifty-five years old or older and their respective ages;

(25) Any hearings, procedures, assessments and determinations made that any prisoner in disciplinary and non-disciplinary segregation, respectively, be removed from or continue in solitary confinement;

(26) For each prisoner in disciplinary and non-disciplinary segregation, respectively, the amount of out-of-cell time, exercise, programs, services, care and treatment provided to the prisoner; and

(27) Whether any steps were taken during the reporting period by the Department of Correction or Superintendent of any correctional facility to reduce the use of disciplinary and non-disciplinary segregation, including efforts:

a. To reduce the number of prisoners held in disciplinary and non-disciplinary segregation.

b. To reduce the length of stay in disciplinary and non-disciplinary segregation.

c. To reduce the level of social isolation of a prisoner who is held in disciplinary and non-disciplinary segregation.

(b) The department of correction and each sheriff shall make the data collected per subsection (b) publicly available and, each quarter, shall deliver said data to the following committees of the Massachusetts legislature: the Joint Committee on the Judiciary; the Joint Committee on Mental Health and Substance Abuse; the Joint Committee on Public Safety and Homeland Security; the Joint Committee on Ways and Means; and any other body identified in M.G.L. c.127 §39 et seq.