

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. Balsler</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.

11 “Serious mental illness,” constitutes:

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

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

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

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

35 The data shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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