

## Department of Planning and Budget 2018 Fiscal Impact Statement

**1. Bill Number: HB 795**

House of Origin     Introduced     Substitute     Engrossed  
Second House     In Committee     Substitute     Enrolled

**2. Patron: Hope**

**3. Committee: Militia, Police and Public Safety**

**4. Title: Isolated confinement in prisons**

**5. Summary:**

The proposed legislation would place restrictions on the use by the Department of Corrections (DOC) of isolated confinement, defined as confinement of an inmate to his/her cell for more than 20 hours per day. Generally, DOC would be prohibited from housing inmates falling in the following categories in isolated confinement:

- 21 years old or younger;
- 55 years old or older;
- Mentally ill;
- Having history of psychiatric hospitalization;
- Recently exhibiting conduct indicating the need for further observation or evaluation to determine whether he/she has a mental illness;
- Developmentally disabled;
- Having a serious medical condition that cannot be treated effectively in isolated confinement;
- Pregnant, in postpartum period, or recently suffered miscarriage or terminated a pregnancy;
- Having a significant auditory or visual impairment; or
- Perceived to be lesbian, gay, bisexual, transgender, or intersex.

Inmates not falling into any of these categories could not be placed in isolated confinement for longer than 15 consecutive days or in excess of 20 days in any 60-day period. For any inmate placed in isolated confinement, DOC would be required to conduct comprehensive medical and mental health evaluations within 12 hours of confinement and at the end of every 10-day period that the inmate remains in isolated confinement.

Any inmate could be placed in isolated confinement if:

- A facility-wide lockdown is required;
- There is reasonable cause to believe that isolated confinement is necessary for reducing a substantial risk of immediate serious harm to the inmate or others. However, the inmate

shall be subject to the least restrictive conditions as practicable and only for as long as necessary; or

- A medical professional has determined that such inmate should be placed in medical isolation.
- The inmate voluntarily consents in writing to being placed in protective custody.

The legislation also would require DOC to adopt an administrative process whereby an inmate could contest his/her isolated confinement, including a hearing before an independent hearing officer. Also, it would require the agency to develop training procedures for staff related to the use of isolated confinement and to report annually to the Governor and the General Assembly on the use of isolated confinement. Finally, the legislation directs the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the Twenty-First Century to study the prevalence of mental illness in prisons.

**6. Budget Amendment Necessary:** Indeterminate.

**7. Fiscal Impact Estimates:** Preliminary. See Item 8.

**8. Fiscal Implications:**

The budget bill introduced by the Governor includes approximately \$3.0 million and 36 FTEs for DOC to begin moving seriously mentally ill inmates from isolated confinement into a less restricted setting. Under the proposal, these inmates would be allowed out of their cells at least 20 hours per week.

The proposed legislation could result in additional costs for DOC resulting from (i) the additional security personnel needed to supervise inmates who are management problems, but who could not be placed in isolated confinement due to the provisions of the legislation, (ii) the costs of additional comprehensive medical and mental health evaluations, and (iii) the expected cost of administrative hearings before an independent hearing officer, as well as some unforeseen costs that might result from the legislation's requirements. However, there is insufficient information to make an estimate of these potential additional costs.

**9. Specific Agency or Political Subdivisions Affected:** Department of Corrections.

**10. Technical Amendment Necessary:** None.

**11. Other Comments:** None.