

VIRGINIA COALITION ON SOLITARY CONFINEMENT

March 5, 2019

The Hon. Ralph Northam
Governor of Virginia
Office of the Governor
Patrick Henry Building, Third Floor
1111 E. Broad Street
Richmond, Va. 23219

Governor Northam:

The Virginia Coalition on Solitary Confinement writes to you today regarding House Bill 1642 and Senate Bill 1777 which would require the Virginia Department of Corrections (VDOC) to begin collecting and reporting data about the practice of solitary confinement, referred to as “restrictive housing” in the bills.

Hundreds of people are being held every day in physically and mentally destructive conditions in our state prisons, often for years and not as a result of their criminal sentences. Rehabilitation and re-entry should be the VDOC’s primary goal for every incarcerated person, while solitary confinement only serves to debilitate and dehumanize.

The Virginia Coalition on Solitary Confinement is grateful to the General Assembly of Virginia for unanimously passing this legislation requiring the Virginia Department of Corrections (VDOC) to start collecting and reporting data on its practice of solitary confinement. We thank the patrons and co-patrons of bills introduced in both the Senate and the House of Delegates, as well as every member of the legislature who voted for these measures.

The movement to reform solitary confinement in Virginia has come a long way over the past year in raising awareness and moving toward restrictions on the practice. It was unthinkable a year ago that the legislature unanimously would approve legislation requiring the VDOC to do anything related to solitary confinement. For our coalition, this is a small, early victory on the ultimate path to eliminating solitary confinement in all but the most extreme circumstances, prohibiting its use on vulnerable people, and restricting it to no more than 15 consecutive days in any situation in keeping with international human rights standards.

Still, the coalition believes that this legislation, as passed by the legislature, remains flawed and will be, potentially, ineffective in accomplishing the goal of real transparency. It does indirectly define “restrictive housing” as the practice of confining

human beings to a small space alone for 22 hours a day or more, by reference to standards of the American Correctional Association (ACA). However, the rest of the definition is confusing, vague, and potentially allows VDOC to conceal the true extent of its practice of solitary confinement. Among other problems, this legislation does not:

- Require the department to keep count of incidents of self-harm or suicide that occur in “restrictive housing”;
- Include a comprehensive definition of vulnerable populations or require the VDOC to keep track of those people when held in "restrictive housing"; or
- Require the department to report the use of "restrictive housing" by each prison facility, only in the aggregate for the entire system. It also may allow the department to decide, based on its own interpretation of the law, which types of bed assignments and facilities would or would not be included in data collection without disclosing that information.

As such, we urge you to make the following amendments to HB 1642 and SB 1777 and send them to the legislature for consideration during the veto session:

- Change the definition of “Member of a Vulnerable Population” to read, *“Member of a vulnerable population” means any inmate who (i) is 21 years of age or younger or is 55 years of age or older; (ii) has a diagnosed mental illness as defined in § 37.2-100; (iii) has a history of psychiatric hospitalization; (iv) has recently exhibited conduct, including self-mutilation, indicating the need for further observation or evaluation to determine whether he has a mental illness; (v) has a diagnosed developmental or intellectual disability as defined in § 37.2-100; (vi) has a serious medical condition that cannot be treated effectively in solitary confinement; (vii) is pregnant, is in the postpartum period, or has recently suffered a miscarriage or terminated a pregnancy; (viii) has a significant auditory or visual impairment; or (ix) identifies as or is perceived to be lesbian, gay, bisexual, transgender, or intersex.”*
- Change the definition of “Restrictive Housing” to read, *“Restrictive Housing” means isolation of an inmate from the general population through confinement to a cell or other place for 22 or more hours within a 24-hour period and includes administrative segregation, disciplinary segregation or housing, restrictive housing, special housing, and protective custody.”*
- Change Section B to read, *“B. The Department shall report to the General Assembly and the Governor on or before October 1 of each year the following information for the Department in the aggregate and for each state correctional facility, for the previous fiscal year:”*
- Include the following in the data points to be collected and reported under Section B, *“The number of incidents of self-harm by each inmate during solitary confinement;”*

Even as we write these words, the irreparable suffering and breach of humanity being inflicted on an unknown number of people in unspeakable conditions, in many cases because they have undiagnosed mental illness that is only being exacerbated in solitary confinement, is horrific and unforgivable. Solitary confinement is inhumane and unregulated, and we must begin to understand what the VDOC is doing. There are many other changes we might urge you to make to this legislation, but without the above amendments as minimum standards this bill only will yield highly questionable if not deliberately misleading data.

Sincerely,

The Virginia Coalition on Solitary Confinement

Following is a list of organizational members of the Virginia Coalition on Solitary Confinement, which also includes many concerned individual residents of the Commonwealth:

- American Civil Liberties Union of Virginia (ACLU-VA)
- Amnesty International of Northern Virginia
- Citizens United for the Rehabilitation of Errants (CURE) – VA
- Criminal Injustice Reform Network of Virginia
- First Alliance Consulting LLC
- Interfaith Action for Human Rights (IAHR)
- Jewish Community Relations Council of Greater Washington
- NAACP of Fairfax County
- National Alliance on Mental Illness (NAMI) – VA
- National Association of Social Workers – VA
- Resource, Information, Help for the Disadvantaged (RIHD)
- Social Action Linking Together (SALT)
- Social Workers Against Solitary Confinement
- Virginia Prison Justice Network
- Virginia Prisons Accountability Committee
- Virginia Social Action Task Force of Delta Sigma Theta Sorority, Inc.