



Legislation Text

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Int. No. 2173

By Council Member Dromm, the Public Advocate (Mr. Williams), Council Members Lander, Reynoso, Rivera, Levin, Rosenthal, Kallos, Cornegy, Ayala, Powers, Chin, Riley, Koslowitz, Adams, Perkins, Van Bramer, Brannan, Ampry-Samuel, Rodriguez, Levine, Cumbo, Rose, Menchaca, Moya, Barron, D. Diaz, Dinowitz, Grodenchik, Brooks-Powers, Louis, Cabán, Treyger, Koo and Feliz

A Local Law to amend the administrative code of the city of New York, in relation to banning solitary confinement in city jails

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 9 of the administrative code is amended by adding a new section 9-161 to read as follows:

§ 9-161 Solitary confinement. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Emergency lock-in. The term “emergency lock-in” means a department-wide emergency lock-in, a facility emergency lock-in, a housing area emergency lock-in or a partial facility emergency lock-in as defined in section 9-155.

Restrictive housing. The term “restrictive housing” means any housing area that separates incarcerated persons from the general jail population due to a heightened threat to the safety and security of staff and other incarcerated persons.

Solitary confinement. The term “solitary confinement” means any instance in which a person is locked in a cell in isolation as punishment for a violent offense.

b. Ban on solitary confinement. No incarcerated individual shall be placed in solitary confinement unless such confinement is necessary to de-escalate immediate conflict, in which case an incarcerated

individual may be placed in such confinement for no longer than four hours immediately following such conflict.

c. Reporting on solitary confinement. For each instance an incarcerated person is placed in solitary confinement, the department shall prepare an incident report that includes a detailed description of why isolation was necessary to de-escalate immediate conflict and the length of time the incarcerated individual was placed in solitary confinement. Within 15 days of the end of each quarter of the fiscal year, the department shall provide the council and the board of correction all such reports and post all such reports on the department's website with any identifying information redacted.

d. Restrictive housing.

1. No incarcerated individual shall be placed in restrictive housing until a hearing on such placement is held pursuant to the rules of the board of correction. Incarcerated individuals shall have the right to be represented by legal counsel for such hearings, which shall be provided by the department if such individual does not have their own counsel. Such legal counsel shall be provided adequate time to prepare for such hearings.

2. No incarcerated individual shall be placed in restrictive housing for longer than four months in any 12 month period.

3. The placement of an incarcerated individual in restrictive housing shall be reviewed every 15 days to determine whether the incarcerated person continues to present a significant threat to the safety and security of the facility if housed outside restrictive housing.

4. Individuals placed in restrictive housing shall have comparable interaction with other individuals and comparable amenities to those housed outside restrictive housing.

5. The department shall utilize programming that addresses the unique needs of those in restrictive housing, and staff in restrictive housing units shall be trained in de-escalation techniques, conflict resolution, the use of force, and related topics to address the unique needs of those in restrictive housing units.

6. Positive incentives shall be used to encourage good behavior in restrictive housing units, and disciplinary sanctions shall be used as little as is feasible.

e. Out-of-cell time.

1. All incarcerated individuals shall have access to at least 14 hours of time outside of their cells every day, except for incarcerated individuals placed in solitary confinement pursuant to subdivision b of this section, and except that individuals placed in restrictive housing pursuant to subdivision d of this section shall have access to at least 10 hours of time outside of their cells.

2. No incarcerated individual shall be placed in restraints during out-of-cell time unless an individualized determination is made that restraints are necessary to prevent an immediate risk of self-injury or injury to other incarcerated persons or staff, and in such instances the least restrictive form of restraints shall be used for no longer than necessary to abate such imminent harm.

3. Incarcerated individuals may congregate with others and move about their housing area freely during out-of-cell time and shall have access to education and programming pursuant to section 9-110.

f. Emergency lock-ins. Emergency lock-ins shall only be used when necessary to investigate or de-escalate an emergency. Emergency lock-ins shall be confined to as narrow an area as possible. Emergency lock-ins shall be lifted as quickly as possible.

§ 2. This local law takes effect 180 days after it becomes law. The board of correction shall take any actions necessary for the implementation of this local law, including the promulgation of rules relating to procedures and penalties necessary to effectuate this section, before such date.

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