



MEMORANDUM IN SUPPORT

The Humane Alternatives to Long-Term (HALT) Solitary Confinement Act

(S. 2836 - Salazar /A. 2277A - Aubry)

March 16, 2021

The Chief Defenders Association of New York (“CDANY”) is a membership organization of the appointed Public Defenders, Conflict Defenders, Executive Directors of non-profit public defense offices and Administrators of Assigned Counsel Panels throughout New York State. Our organizations collectively represent the vast majority of people prosecuted in every county of New York State—hundreds of thousands of people each year. Collectively, public defense offices represent close to 400,000 people in the criminal, family, and appellate courts of New York State every year.

CDANY strongly supports the Humane Alternatives to Long-Term (HALT) Solitary Confinement Act, (S. 2836/A. 2277A), which would restrict the use of solitary confinement in line with international human rights standards and replace it with more humane and effective alternatives.

EXISTING LAW

Under existing law, New Yorkers are regularly locked in solitary confinement in state prisons and local jails, including while in pre-trial detention, with little or no effective protections. They may be isolated indefinitely – for weeks, months, years, and even decades – and prison and jail staff regularly place them there for minor rule infractions with no meaningful due process. Young people, people with mental illness, older adults, people with physical or developmental disabilities, and pregnant women alike may be subjected to this mistreatment. Legal settlements have resulted in modest reforms to the use of solitary confinement in state prisons and a few local jails, but nonetheless, long-term solitary confinement remains common in New York. Likewise, legislation enacted approximately a decade ago prohibited the placement of people with Serious Mental Illness (SMI) in solitary, but prison monitors with The Correctional Association of New York subsequently observed a substantial downgrading of diagnoses among people in the custody of the New York State Department of Correction and Community Supervision, such that people would continue to be locked in isolation.

New York’s use of solitary confinement increased after Governor Cuomo claimed to have implemented reforms in 2015, with more than 38,000 solitary sentences in prisons in 2018. Likewise, after Governor Cuomo promised yet another overhaul in 2019 with administrative

regulations, his actual proposal amounted to a distraction, allowing people to continue to suffer in solitary for years at a time.

PROPOSED CHANGE

The HALT Solitary Confinement Act (S. 2836/A. 2277A) would end the torture of solitary confinement, as defined in the United Nations Standard Minimum Rules for the Treatment of Prisoners (“the Mandela Rules”) and replace it with more targeted rehabilitative programming to address the underlying causes of any problematic behavior. Specifically, HALT limits solitary confinement to 15 days for all people, or 20 days in any 60 day period; creates therapeutic alternatives with greater out-of-cell time and access to congregate programming; restricts criteria for placement in solitary confinement to only those infractions that present substantial and imminent threats; bans the placement of people who may be particularly vulnerable to the harms of solitary confinement, namely young people, older adults, people with mental, physical, or medical disabilities, pregnant women, and new mothers; enhances due process protections; provide for new training for relevant staff; and covers all forms of isolation, including Keeplock and administrative segregation. It also prohibits the use of solitary confinement as protective custody, which disproportionately impacts LGBTQ and gender non-conforming people.

JUSTIFICATION

Decades of social science research have affirmed the accounts of directly impacted people that solitary confinement causes immense harm to individuals, families, communities, correctional staff and others, with adverse impacts on public safety. The sensory deprivation, lack of normal interaction, and extreme idleness of solitary can lead to intense suffering and severe psychological and physical damage. Indeed, more than 40% of all suicides in New York State prisons in 2014 and 2015 occurred in solitary confinement, though approximately 9% of the prison population was confined there. Nonetheless, New York State law continues to permit indefinite solitary confinement for nearly everyone, and thousands across the state – disproportionately Black and Latinx people, young people, gender non-conforming people, and people with mental illness – are subjected to this torture on any given day.

Our country has known that solitary confinement is inhumane and ineffective at least since 1890, when the US Supreme Court found in *In Re Medley* that placement in solitary confinement caused extreme and long-term harm, writing that a “considerable number of the [people in solitary] fell, after even a short confinement, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others still, committed suicide; while those who stood the ordeal better were not generally reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community.”

Ending this abuse is of particular importance to public defenders, first and foremost because we believe in protecting the rights and dignity of the people we represent, but also because our detained clients who are locked in isolation decompensate in successive meetings and court appearances, losing the ability to participate in their own defense. The extreme anguish experienced by our clients in pre-trial solitary confinement only increases the pressure to plead guilty, regardless of guilt or innocence.

The HALT Solitary Confinement Act is an urgent and necessary bill to protect New Yorkers against the harms of solitary confinement. The Chief Defenders Association of New York respectfully urges enactment of this legislation into law.

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