

Assembly Bill 2632 - California Mandela Act on Solitary Confinement

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SUMMARY

AB 2632 provides a clear definition of what constitutes solitary confinement across all facilities, and sets limits on how it can be used. Additionally, this bill ends the use of solitary confinement for specific populations, including those with disabilities, pregnant people, and others.

BACKGROUND

Solitary confinement is one of the most severe and destructive practices found in detention facilities today. The World Health Organization, United Nations, and other international bodies have recognized solitary confinement as greatly harmful and potentially fatal. In 2016, the National Commission on Correctional Health Care issued guidance to correctional health officials explaining that a period of confinement beyond 15 consecutive days is "inhumane, degrading treatment, and harmful to an individual's health."¹ In 2015, the United Nations General Assembly ratified the Nelson Mandela Rules, prohibiting any period of segregation beyond 15 days and defining it as torture.²

Despite international solidarity to end the use of solitary confinement, the practice remains common in jails, prisons, and detention facilities in California. The misuse of solitary confinement in California prisons led to a legal action filed in 2012, when California prisons held nearly 10,000 incarcerated individuals in solitary confinement, including 1,557 who had been there for 10 years or more.³

The destructive impact of solitary confinement can have disastrous effects on those who experience it,^{4,5,6}

particularly those who belong to specific populations, including the elderly, disabled, and even pregnant persons. For example, in 2018 a pregnant woman in the Santa Rita County Jail in Dublin gave birth alone in a solitary confinement cell. Instead of treating medical or mental health needs, solitary confinement is often used as an alternative to treatment, which only exacerbates existing medical and mental conditions.

In addition, solitary confinement has a disproportionate impact on communities of color. A 2015 report found that in California state prisons, Hispanic men make up 42 percent of the male population, but 86 percent of the male population in restricted housing.⁷

This problem is not limited to jails and prisons alone, but also affects immigrants in private, for-profit detention facilities. In May of 2020, a 74 year old Korean man took his own life after being placed in solitary confinement during the COVID-19 pandemic, in violation of the facility's own protocols related to mental health and welfare. In 2021, an individual sued the private for-profit operator of an immigration detention facility after being held in solitary confinement for 15 months, despite repeated requests to be rehoused.

As noted in the Assembly Public Safety analysis, "CDCR's repeated violation of the Ashker agreement demonstrates the need for statutory standards to govern the use of solitary confinement throughout the State." California must join the international community, and set clear standards and limits on the use of solitary confinement. This begins by recognizing that solitary confinement is torture, and setting uniform and

¹ National Commission on Correctional Health Care. (2016). Solitary Confinement (Isolation). Solitary confinement (isolation). Retrieved March 2, 2022, from <https://www.ncchc.org/solitary-confinement>.

² United Nations. (2016). United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). A/RES/70/175 - e - A/RES/70/175 -desktop. Retrieved March 2, 2022, from <https://undocs.org/A/RES/70/175>.

³ Landmark Agreement Ends Indeterminate Long-Term Solitary Confinement in California. (2015). Center for Constitutional Rights - Press Center. Retrieved March 2, 2022, from <https://ccrjustice.org/home/press-center/press-releases/landmark-agreement-ends-indeterminate-long-term-solitary>.

⁴ Childress, S. (2014). Craig Haney: Solitary confinement is a "tried-and-true" torture device. PBS. Retrieved March 2, 2022, from

<https://www.pbs.org/wgbh/frontline/article/craig-haney-solitary-confinement-is-a-tried-and-true-torture-device/>

⁵ Jahangir, T. (2020, January 20). Solitary confinement is bad for the heart too. Massive Science. Retrieved March 2, 2022, from <https://massivesci.com/notes/cardiovascular-health-comparison-solitary-confinement-prison-health/>

⁶ Smith, D. G. (2018, November 9). Neuroscientists make a case against solitary confinement. Scientific American. Retrieved March 2, 2022, from <https://www.scientificamerican.com/article/neuroscientists-make-a-case-against-solitary-confinement/>

⁷ Association of State Correctional Administrators & Yale Law School. (2016). (rep.). Aiming to Reduce Time-In-Cell: Reports from Correctional Systems on the Numbers of Prisoners in Restricted Housing and on the Potential of Policy Changes to Bring About Reforms (p. 38).

consistent limits on how solitary confinement is used in all detention facilities.

Through this legislation, California can protect specific populations from torture, and provide a clear roadmap to end the use of solitary confinement.

EXISTING LAW

Existing law does not regulate the use of solitary confinement in detention facilities in California.

Penal Code Sec. 2697: Would set clear terms of use of solitary confinement within all detention facilities in California.

THE SOLUTION

AB 2632 will:

- Ban solitary confinement for specific populations including;
 - o Individuals with certain mental, physical and developmental disabilities
 - o Pregnant people
 - o People under 25 or over 60 years old
- Prohibit long-term solitary/segregated confinement by limiting the time spent in confinement to not more than 15 consecutive days, or 45 days total in any 180-day period;
- Require facilities to keep clear records on the use of solitary confinement in order to provide public transparency.

This bill will allow California to join other states including New York and Colorado in ending solitary confinement for specific populations, and join the international community in recognizing that solitary confinement constitutes torture.

SUPPORT

Immigrant Defense Advocates (Sponsor)
NextGen California (Sponsor)
Disability Rights California (Sponsor)
Initiate Justice (Sponsor)

California Collaborative for Immigrant Justice (Sponsor)
Prison Law Office (Sponsor)
8th Amendment Project
A New Way of Life Re-entry Project
Acce Action (alliance of Californians for Community Empowerment)
ACLU California Action
Advancement Project
Alliance for Boys & Men of Color
Alliance San Diego
Asian Americans Advancing Justice - California
Asian Pacific Environmental Network (APEN)
Bend the Arc: Jewish Action
Black Women for Wellness
Bread for The World
Breast Cancer Prevention Partners
CA Now
Cal Voices (formerly Norcal Mha)
California Attorneys for Criminal Justice
California Calls
California Catholic Conference
California Domestic Workers Coalition
California Donor Table
California Employment Lawyers Association
California Environmental Justice Alliance
California Environmental Voters
California Food and Farming Network
California Immigrant Policy Center
California Innocence Coalition
California Labor Federation
California League of United Latin American Citizens
California Low-income Consumer Coalition
California Pan - Ethnic Health Network
California Public Defenders Association
California Reinvestment Coalition
Californians for Safety and Justice
Center for Responsible Lending
Center on Juvenile and Criminal Justice
Center on Race, Poverty & the Environment
Child Care Law Center
Coalition for Humane Immigrant Rights (CHIRLA)
Community Legal Services in East Palo Alto
Consumer Attorneys of California
Council on American-Islamic Relations, California
Courage California
Defy Ventures
Drug Policy Alliance
Earth Justice
Ella Baker Center for Human Rights
Environment California

Equal Rights Advocates
Equality California
Essie Justice Group
Freedom 4 Youth
Fresno Barrios Unidos
Friends Committee on Legislation of California
Grace
Health Access California
Housing Now! CA
Immigrant Legal Resource Center
Indivisible CA Statestrong
Indivisible Marin
Indivisible Sacramento
Jesse's Place Organization
Latino Coalition for A Healthy California
Law Foundation of Silicon Valley
Leadership Council for Justice and Accountability
League of Women Voters of California
Legal Aid At Work
Legal Services for Prisoners With Children
Lutheran Office of Public Policy - California
Mental Health Advocacy Services
Mexican-american Legal Defense and Ed Fund [maldef]
Mujeres Unidas Y Activas
Naral Pro-choice California
National Alliance on Mental Illness (NAMI-CA)
National Association of Social Workers California Chapter
Oakland Privacy
People's Collective for Environmental Justice
Pico California
Planned Parenthood Affiliates of California
Policy Link
Power California
Public Advocates
Root & Rebound
Santa Cruz Barrios Unidos INC.
Seiu California
Sierra Club California
Smart Justice California
The Transformative In-prison Workgroup
The Young Women's Freedom Center
Tides Advocacy
Ufcw - Western States Council
Uncommon Law
Underground Scholars Initiative (USI) At UC San Diego
Underground Scholars Initiative At UC Berkeley
Underground Scholars Initiative, UCLA
Voices for Progress
Western Center on Law & Poverty
White People 4 Black Lives

Worker-owned Recovery California (WORC) Coalition
Young
Invincibles

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