

APPENDIX

AN ACT TO PROVIDE FOR MINIMUM STANDARDS FOR THE PROTECTION OF RIGHTS OF PRISONERS*

§ 1. Declaration of Purpose and Intent

The provisions of this Act shall be liberally construed to promote the intent of the Legislature as follows:

(a) The central principle underlying all rules, regulations, procedures, and practices relating to persons imprisoned in accordance with law shall be that such persons shall retain all rights of an ordinary citizen, except those expressly or by necessary implication taken by law.

(b) Such rights include but are not necessarily limited to nutritious food in adequate quantities; medical care; provision for an acceptable level of sanitation, ventilation, light, and a generally healthful environment; housing, providing for not less than fifty square feet of floor space in any confined sleeping area; reasonable opportunities for physical exercise and recreational activities; and protection against any physical or psychological abuse or unnecessary indignity.

(c) Persons in control of custodial facilities for prisoners shall be held responsible for maintaining minimum standards and shall make use of every resource available to them to prevent inhumane treatment of prisoners by employees, other prisoners, or any other persons.

(d) Measures shall be instituted and maintained within such facilities to protect against suicide or other self-destructive acts.

(e) All reasonable methods shall be used to protect against the theft or destruction of such personal property of prisoners as may be permitted in the institution.

§ 2. Inhumane Treatment Prohibited

Inhumane treatment includes but is not limited to the following acts or activities and is hereby prohibited:

(a) Striking, whipping, or otherwise imposing physical pain upon a prisoner as a measure of punishment.

(b) Any use of physical force by an employee except that which may be

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necessary for self-defense, to prevent or stop assault by one prisoner upon another person, and for prevention of riot or escape.

(c) Sexual or other assaults, by personnel or inmates.

(d) Any punitive or restrictive measure taken by the management or personnel in retaliation for assertion of rights.

(e) Any measure intended to degrade the prisoner, including insults and verbal abuse.

(f) Any discriminatory treatment based upon the prisoner's race, religion, nationality, or political beliefs.

§ 3. Isolation in Solitary Confinement

A prisoner may be placed in solitary confinement—segregation in a special cell or room—only under the following conditions:

(a) During such confinement, the prisoner shall receive daily at least 2,500 calories of food in the normal diet of prisoners not in isolation.

(b) The cell in which the prisoner is confined in solitary shall be at least as large as other cells in the institution and shall be adequately lighted during daylight hours. All of the necessities of civilized existence, such as a toilet, bedding, and water for drinking and washing, shall be provided. Normal room temperatures for comfortable living shall be maintained. If any of these necessities are removed temporarily, such removal shall be only to prevent suicide or self-destructive acts, or damage to the cell and its equipment.

(c) Under no circumstances shall a prisoner confined in solitary be deprived of normal prison clothing except for his own protection. If any such deprivation is temporarily necessary, he shall be provided with body clothing and bedding adequate to protect his health.

(d) A prisoner may not be confined in a solitary cell for punishment, and may be so confined only under conditions of emergency for his own protection or that of personnel or other prisoners. Confinement under such circumstances shall not be continued for longer than is necessary for the emergency. A prisoner's right to communicate with his attorney or the person or agency provided for in Section 5 to receive complaints shall not be interfered with.

(e) No prisoner shall be kept in a solitary cell for longer than one hour without the approval of the highest ranking officer on duty in the institution at the time.

(f) No prisoner may be kept in a solitary cell for any reason for longer than forty-eight hours without being examined by a medical doctor or other medical personnel under the doctor's direction.

(g) A log in a bound book shall be maintained at or near any solitary cell or cells, and employees in charge of such cell or cells shall be responsible for recording all admissions, releases, visits to the cell, and other events except those of the most routine nature.

§ 4. Disciplinary Procedure

It is the responsibility of any person or persons in charge of the management of an institution for the confinement of prisoners to develop and describe in writing a fair and orderly procedure for processing disciplinary complaints against prisoners and to establish rules, regulations, and procedures to insure the maintenance of a high standard of fairness and equity. The rules shall prescribe offenses and the punishments for them that may be imposed. Any punishment that may affect the sentence or parole eligibility (such as the loss of good-time allowance) shall not be imposed without a hearing at which the prisoner shall have a right to be present and a right to be represented by counsel or some other person of his choice. A permanent record shall be maintained of all disciplinary complaints, the hearings, and the dispositions thereof.

§ 5. Grievance Procedure

The director of the State Department of Correction (or the equivalent official) shall establish a grievance procedure to which all prisoners confined within the system shall have access. Prisoners shall be entitled to report any grievance, whether or not it charges a violation of this Act, and to mail such communication to the head of the department. The grievance procedure established shall provide for an investigation (aside from any investigation made by the institution or department) of all alleged grievances by a person or agency outside of the department, and for a written report of findings to be submitted to the department and the prisoner.

§ 6. Judicial Relief

A prisoner or group of prisoners alleging abuses in violation of this Act may petition [appropriate court] for relief. The court may afford any of the following remedies:

- (a) It may make a finding that the allegations are without merit.
- (b) It may issue an injunction, prohibitive or mandatory, or utilize any other appropriate remedy in law or equity.
- (c) It may prohibit further commitments to the institution.
- (d) If the abuses are found to be extensive and persistent, it may order the institution closed subject to a stay of a reasonable period, not to exceed six months, to permit the responsible authorities to correct the abuses. If

the abuses are not corrected to the satisfaction of the court, it may order those prisoners who have a history of serious assaultive behavior to be transferred to another facility, and it may order the discharge of other prisoners.

§ 7. Visits to Prisoners and Institutions

The director of a department responsible for the operation of an institution or a system of institutions for the confinement of prisoners shall establish rules and regulations permitting attorneys of record, relatives, and friends to visit and talk in private with any prisoner in an institution at reasonable times and under reasonable limitations. The institution may be visited at any time by members of the state legislature, judges of the criminal or appellate courts, the attorney general, and the governor.

Any other citizen may make application to visit an institution and talk in private with prisoners if the applicant establishes a legitimate reason for such visit and if the visit is not inconsistent with the public welfare and the safety and security of the institution. The director may reject any such application if the visit or any aspect thereof would be disruptive to the program of the institution.

If application for a visit is denied, the person may apply to [court of general jurisdiction] for an order directing the head of the institution to permit the visit. Such order shall be granted after notice and hearing if it is found that (a) the person is a representative of a public concern regarding the conditions of the prison, (b) he is not a mere curiosity seeker, and (c) it is not established by the head of the institution that the visit, or any aspect of it, would disrupt the program of the institution.

