Ned Lamont
GOVERNOR
STATE OF CONNECTICUT

June 30, 2021

The Honorable Denise W. Merrill
Secretary of the State
30 Trinity Street
Hartford, CT 06106

Dear Madam Secretary:

I hereby return, without my signature, Senate Bill 1059, *An Act Concerning the Office of the Correction Ombuds, the Use of Isolated Confinement, Seclusion and Restraints, Social Contacts for Incarcerated Persons and Training and Workers' Compensation Benefits for Correction.*

I fully support the purpose of this legislation, to make certain that isolated confinement is not used in any correctional facility in Connecticut. Under my directive today, the Commissioner of Correction will increase out of cell time for all incarcerated individuals, including those individuals in restrictive statuses, and he will do so well before the effective dates of this bill. But he will also do so in a manner that prioritizes the safety of people in the Department of Correction's custody and Department employees who are not only correction officers but also teachers, chaplains, medical staff, mental health counselors, and addiction counselors.

Specifically, I am today issuing an executive order to the Department of Correction to institute policies that limit how long an incarcerated person may be held with severely restricted out of cell time (i.e., isolated confinement) in Connecticut correctional facilities. Currently, incarcerated persons in restrictive status programs and disciplinary status may be held in isolated confinement. Under my order, the use of isolated confinement in restrictive status programs must end. Outside of disciplinary status or extraordinary circumstances, the Department must allow incarcerated people at least four hours of out-of-cell time each day, and the use of isolated confinement in disciplinary status must be limited to fifteen days and allow at least two hours of out-of-cell time each day. These rules, which are stronger than both the United Nations' Mandela Rules and progressive policies and laws instituted in other states, will be implemented across all Department of Correction facilities within 150 days. The executive order also directs the Commissioner to file a report within 90 days that outlines the steps taken and to be taken to increase contact visits and decrease the use of in-cell restraints.

I am not signing this legislation because, as written, it puts the safety of incarcerated persons and correction employees at substantial risk.

This legislation places unreasonable and dangerous limits on the use of restraints. The bill as written only permits correctional officers with the rank of captain or higher to order the use of handcuffs and only permits therapists to order restraints during a psychiatric emergency.

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These restrictions apply regardless of the circumstances, including whether the incident is inside or outside a cell. As a practical matter, captains are not always supervising wings of correction facilities and may not be on duty over weekends. To require that a correctional officer wait for the authorization of a captain to restrain an incarcerated person involved in a serious physical altercation risks the lives of incarcerated persons and correction employees.

The bill sets a limit of 72 hours during any 14-day period that an incarcerated person may be limited to less than 6.5 hours out of cell each day. That out-of-cell time and discipline limitation is far out of line with what has been successfully implemented in any other state. For example, if an individual is placed in isolated confinement for 72 hours, returns to the general population, and slashes the throat of a cell mate, under this legislation, the Department of Correction could not immediately place the incarcerated person back into isolated confinement, even as a temporary, emergency measure. Although I do support the "Stop Solitary" movement, I do not support these arbitrary limits on the Department's ability to protect the incarcerated population.

The legislation also creates a safety risk by failing to provide the Department with flexibility to limit visitors who are allowed in the facilities for contact visits with an incarcerated person. Under this legislation, the Department cannot deny a contact visit solely based on the visitor's criminal history. Thus, an individual convicted of multiple violent crimes or of smuggling drugs into a correctional facility would be allowed into a facility for a 60-minute contact visit with an incarcerated person. Contact visits present heightened risk for transfer of contraband, including drugs or weapons, into the facility. The Department must have the ability to set reasonable visitation policies that promote family and community connections, while limiting safety and security risks.

Finally, the bill makes certain changes to the Ombuds program that create security and litigation risks. The bill gives the ombuds person access to Department records, "notwithstanding any provision of the general statutes concerning the confidentiality of records and information." Current statutes protect the safety of incarcerated persons and correctional employees by making the Department responsible for limiting the disclosure of sensitive records that could lead to security breaches. There is nothing in this bill requiring the ombuds person to assume the same duty. The bill as written also puts into question whether the ombuds person could access and then disclose records protected by the attorney-client and work product privileges.

For these reasons, I disapprove of Senate Bill 1059, *An Act Concerning the Office of the Correction Ombuds, the Use of Isolated Confinement, Seclusion and Restraints, Social Contacts for Incarcerated Persons and Training and Workers' Compensation Benefits for Correction.* Pursuant to Section 15 of Article Fourth of the Constitution of the State of Connecticut, I am returning Senate Bill 1059 without my signature.

Sincerely,

Ned Lamont
Governor