

TUESDAY, MARCH 16, 2021

2:11 P.M.

ACTING SPEAKER AUBRY: The House will come to order.

In the absence of clergy, let us pause for a moment of silence.

(Whereupon, a moment of silence was observed.)

Visitors are invited to join the members in the Pledge of Allegiance.

(Whereupon, Acting Speaker Aubry led visitors and members in the Pledge of Allegiance.)

A quorum being present, the Clerk will read the Journal of Monday, March 15th.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I move to dispense with the further reading of the Journal of Monday, March

15th and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr.

Speaker. I want to welcome colleagues both in the Chambers and those who are participating remotely. Happy Tuesday. I want to share a quote that is very old, it actually comes from Abigail Adams. She was the wife and closest advisor to John Adams, as well as the mother of John Quincy Adams. She is sometimes considered to have been the founder of the United States and is now designated as the First Second Lady and the Second First Lady in the United States of America. Her quote -- her words for us today, Mr. Speaker, are: *We have too many high-sounding words and too few that correspond -- actions that correspond with them.* So in other words, Mr. Speaker, our former First Lady is telling us sometimes we do a lot of talking and don't put a lot of action behind it. That is not this House. We are a House of action. So I want to applaud all of my colleagues for the actions that we have taken of late in 2021, and I know that we are going to continue that great work.

With that, Mr. Speaker, I will advise members that we do -- you do have on your desk an A-Calendar and after there are any introductions and/or housekeeping, our principal work for the day will be taking up Rules Report No. 40 by Mr. Aubry and Rules Report No. 41 by Mrs. Galef. We definitely will have a need for a Majority

Conference immediately following this Session, and there is a possibility that there could be additional consent or debate, but I will advise at the appropriate time.

Mr. Speaker, that is an -- a general outline. If there's housekeeping, now would be the appropriate time.

ACTING SPEAKER AUBRY: No housekeeping, no resolutions. And, Majority Leader, I need to have a new seat.

(Pause)

ACTING SPEAKER MCDONALD: Rules Report No. 40, the Clerk will read.

THE CLERK: Assembly No. A02277-A, Rules Report No. 140, Aubry, Stirpe, Epstein, Reyes, Zebrowski, Fernandez, Sayegh, Taylor, Quart, D. Rosenthal, Fall, Eichenstein, Cruz, Darling, Niou, Frontus, Hevesi, De La Rosa, Weprin, Jacobson, Dickens, Burgos, Anderson, Kelles, González-Rojas, Gallagher, Burdick, Mitaynes, Meeks, Jackson, Forrest, Mamdani, Rajkumar, Clark, Septimo. An act to amend the Correction Law, in relation to restricting the use of segregated confinement and creating alternative therapeutic and rehabilitative confinement options.

ACTING SPEAKER MCDONALD: An explanation, please.

MR. AUBRY: It's been a long time since I've been down here, so I have to work new buttons. Thank you, Mr. Speaker.

We are here to once again pass the HALT Bill, Humane Alternatives to Long-Term incarceration and in solitary

confinement. This bill restricts the use of segregated confinement and creates alternative therapeutic and rehabilitative confinement options. It will limit the amount of time that the individual will spend in solitary confinement, provide for alternative programming and ensure that the staff are trained to appropriate and do services for these individuals that are part of the rehabilitative purpose of the Department of Corrections.

You will note that the first time - and I did a little Wikipedia research - that this issue came up in the courts was 1890 in a case in Texas where a judge found that the use of solitary confinement was both physically debilitating as well as mentally debilitating. And over the course of this country's history, we have watched the science, if you call it, corrections -- of corrections, to modify and change as our understanding of human beings have been modified and changed. We are certainly not conducting ourselves in the way our forefathers did. We no longer do some of the things in early corrections history that were done then. And so, it is a continuing journey that we're on, a journey that this Legislature has been a part of. We passed the Exclusion Law, a bill that I carried a number of years ago, that restricted the way in which mentally-ill inmates were treated and managed relative to solitary confinement. And there have been a number of court cases that have spurred on this legislation. It does appear that when it comes to the field of corrections, that the Judiciary takes a large part in ensuring that we follow the correct pattern. And it appears, unfortunately, that that is

almost always the way in which we move this issue of corrections forward. It is our right as citizens to demand that people who we employ, our employees, conduct themselves in a certain and specific way relative to the job that they do. And so, we can exert that right as representatives of our various districts to ensure that the humane treatment of those who are incarcerated, who we have taken away their rights of citizenship, but we have full responsibility for who they are and how they're treated in the institutions that we manage. And by doing that, we work towards ensuring that they can return to society better than when they went in, and that is the "correction" part of the Department of Corrections that is required in its name.

One might ask, well, why doesn't the Executive choose to implement these things? And sometimes they do. But what we know is that regulations change by administrations and can change in a minute based on the decisions of whoever might sit at the highest seat. But once you enshrine something in law, you have said and spoken as the people of New York that a certain level of treatment of individuals, regardless of who they are and why they may have been incarcerated, is something that doesn't meet the standards. And in this case, we know that the international standard relative to solitary confinement has been established by the United Nations to consider it torture. And so while we don't eliminate this practice, we regulate it in a way which we think is going to be conducive to the long-time betterment of both those who are incarcerated as well as the communities that they return to.

And I won't get into the long horror stories that we can recite about what was done to individuals who have been in this practice, but we know them to be true because some of them come out and are advocates today.

Thank you, Mr. Speaker.

ACTING SPEAKER MCDONALD: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, would you please lay this bill aside temporarily and we will go immediately into a Majority Conference, immediately into a Majority Conference. We will return at the call of the Speaker.

ACTING SPEAKER MCDONALD: Democratic Conference immediately.

The House now stands in recess.

(Whereupon, at 2:21 p.m., the House stood in recess.)

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AFTER THE RECESS

2:46 P.M.

ACTING SPEAKER MCDONALD: The House will come back to order.

MRS. PEOPLES-STOKES: Thank you. And if we can now return to the debate on Rules Report No. 40.

ACTING SPEAKER MCDONALD: Mr. Giglio.

MR. GIGLIO: Thank you, Mr. Speaker. Will the sponsor yield for some questions?

MR. AUBRY: I would be delighted to yield, Mr.

Giglio.

ACTING SPEAKER MCDONALD: The sponsor yields.

MR. GIGLIO: Thank you, Mr. Aubry. We have discussed this bill before, and I guess we'll do it again today. You had talked about that this is a new version of the bill. So if you don't mind, I'd like to go back to the fact that there is an agreement between the State of New York and the Civil Liberties Union to do most of these things in this bill, and has been there for awhile. It's been recently implemented. I was wondering, how much information did we get from them on how it's working presently?

MR. AUBRY: So we've had it for a couple of years, there was the settlement and, of course, the settlement does not make it permanent. That's also law -- law makes it permanent. And we believe, and we have letters of support from the NCLSU on this piece of legislation as they are working through that settlement. And that often happens, Mr. Giglio. You and I go back on corrections, I believe, a very long time and you know that the lawsuits are sometimes limited to a facility or a -- and are usually limited for a period of time. And if it is in the public's interest and our interest as the representatives, then we have the right and the responsibility to enshrine it with law.

MR. GIGLIO: Not arguing that at all, Mr. Aubry, but my next question would be, judicial precedent usually -- usually takes over in cases like this, regardless of if it was one facility or many.

And that's what happened when we got to this point. So that's -- that's why I'm wondering how much this bill is still needed?

MR. AUBRY: Well in our opinion, the bill is still needed and that the conditions are still warranted. We would certainly commend the Department if it is moving in the direction that this bill identifies; however, I want certainty. I don't want there to be a change in administration, a change in regulation and off we go back into the bad old days of 24-hour lockdown for whatever the reason an administration might believe it's possible or needed.

MR. GIGLIO: Okay. Did you alter, in your bill, the days that people can serve in segregated confinement?

MR. AUBRY: A shorter period of time is what we are proposing, right. It's a 15-day and then you can go up to 20 and then there's a placement in the RRUs which are more rehabilitative and service providing. So we don't take it away as a tool for the Department to use, but we take it away as a -- the maximum use of it that we have seen in this. And we understand there are concerns about that, as there always are concerns about when you enter a new world, when you try and change an existing pattern, particularly in paramilitary organizations, which the Department of Corrections is.

MR. GIGLIO: Well, you are quite accurate on that, too. The other question that I have is in this bill you added the local facilities, as well.

MR. AUBRY: We have two local facilities I believe that are over 500, and I believe it was Monroe and Nassau. The other

local facilities are excluded.

MR. GIGLIO: Okay. When you -- when you added those facilities because of their size, did we get any input from those two facilities that they were having problems?

MR. AUBRY: Well, we understand that the use of S-H-U is a problem no matter where they are located, or who is using them. The psychological studies, the work of advocates - which we have so many who support this bill - tells us that that is, in fact, true. So I don't know any place where you would employ the use of S-H-U's in the way we used to that it wouldn't be a problem. Ultimately those people who are in S-H-U's and who suffer both the physical and the psychological deprivation that is inherent in it end up coming home, and maybe even more so in a local facility because they may come home sooner than one might from a State. So we are taking this step as a way with our good common sense to suggest and understand that the limitation of this practice is in both the community's best interest.

MR. GIGLIO: Well as you know, the local facilities have sentences up to one year and every once in awhile, they get two consecutive one-year sentences. Most of the people in local facilities are not -- not high-level criminals because after their -- after their adjudication they end up with the State of New York for whatever amount of time they're sentenced. So I'm just wondering again how much is it necessary in -- in local jails and how much cost will we help them pay for for modifying their jails to make this all work?

MR. AUBRY: The -- well, two things: One, of

course, if it were simply a matter of you spend your year in jail and you're out, that would be one thing. But we know that in many cases, individuals may stay in local lock-ups a very long time as the case is being prepared. And so they are, therefore, subject to that particular -- this particular practice longer than the one year they might be incarcerated. And again, they could be subject to S-H-U treatment even if they're not convicted and merely accused, as you well know.

So again, we disapprove of the practice no matter what the circumstance might be. It is not in, what we believe, to be the way in which human beings should be treated no matter what their crimes were, no matter how onerous we might think of them. We have a standard as human beings that we must uphold.

MR. GIGLIO: Thank you, Mr. Aubry. One more question. On a little lighter note, this 55 and being elder thing, I take that very personal. I'm over 55 and I don't feel elderly.

(Laughter)

In fact -- in fact, according to Social Security, you're not even available to get it until you're 66, so --

(Laughter)

-- so if you can take that out of the bill, just for me, I would appreciate it. Thank you.

(Laughter)

MR. AUBRY: I certainly understand the sensitivity, and so I am well beyond 55 and I certainly understand that and I probably would object if it were my number, too; however, the sense

of this is that we are looking at the average individual, what they may have gone through and what their age brings to them, the sense that they may have even more adverse impacts in that incarcerated setting like that, so that's why we chose that number.

MR. GIGLIO: Thank you so much, Mr. Aubry. As usual, I appreciate it.

Mr. Speaker, on the bill, please.

ACTING SPEAKER MCDONALD: On the bill.

MR. GIGLIO: This is a bill that we've seen before. This, again, has precedent and they decided it among the Executive Branch and that so court -- so court precedent would stand up there. I understand the sponsor's worrying about that somehow that would not happen, but I think it would. Secondly, the most important thing when it comes to Corrections, and I've said this before on the floor, is safe and secure. And safe and secure is for everybody in the facilities. So you do need a tool to segregate people that are dangerous from those that aren't, including COs, inmates, teachers, counselors and those kind of things. They are not stuck in their cell for 24 -- 23 hours and out an hour anymore. That has all changed. And I think if you give this bill -- or the agreement between the Civil Liberties Union and the State of New York a chance to work, it'll work just fine. But I do respect the sponsor's continuing, continuing concern for those who are incarcerated. Thank you.

ACTING SPEAKER MCDONALD: Mr. Mamdani.

MR. MAMDANI: On the bill.

ACTING SPEAKER MCDONALD: On the bill.

MR. MAMDANI: Safety. It is the word on so many of our minds throughout the course of this pandemic. It is the word I think of every day when I walk into my office and sanitize my hands from a New York State Clean dispenser, a dispenser and a sanitizer made by incarcerated New Yorkers paid an average of 65 cents an hour, but one cost of our safety. It is that very word that we have used for decades and, frankly, centuries to justify prisons, jails, detention centers, solitary confinement and our entire carceral system. We are told that solitary confinement is necessary because of safety, that a policy that killed Ben Van Zandt, Laylene Polanco, Dante Taylor, Kalief Browder and so many more is necessary because of safety. In effect, we are told that State-sanctioned violence is necessary because of safety. To quote Omar El Akkad, *I ask what is safety but the sound of a bomb falling on someone else's home.*

As we debate this bill today, there is no real limit to solitary confinement in our State despite what the Governor's regulations may have you believe; this despite the United Nations considering more than 15 consecutive days of the practice to be a form of torture; despite the average stay in SHU, or Special Housing Unit designated for solitary confinement being 70 days; despite Nathaniel Jackson having served 16 of his 36 years in solitary; despite a system that released him in August 2019 from Shawangunk Correctional Facility, but continues to have a stranglehold over his life. "I catch panic attacks, I catch tremors," he told reporters as he sat on a park

bench in Brooklyn with crowds walking by. "Even sitting here, this feels funny." Despite the fact that an incarcerated New Yorker attempts suicide nearly every other day in our prison system, with roughly one-third of all suicides taking place in solitary confinement; despite there being 1,073 people in SHU across New York State at the start of this year; despite this being a racialized brutality with people of color making up more than eight of every ten people in solitary in this State; and finally, despite the disparity faced by our Black brothers, sisters, and family beyond the binary as they make up just 18 percent of the population of our State, but 48 percent of our State prison populations and 57 percent of our solitary confinement populations.

I vote for this bill to change that, to bring back a glimpse of humanity to incarcerated New Yorkers, to redefine safety so that we understand it not simply as a justification for each and every act of punishment, but for it to truly mean freedom from harm. And, yes, I vote for this bill in the full knowledge that it is in itself a compromise that still allows for solitary confinement for up to 15 days for some; a compromise that we will soon, Inshallah, perfect by banning this practice entirely.

To close, I must say that today is a day that I will look back on with pride. To my colleague who is the sponsor of this bill, I want to thank you from the bottom of my heart for your many years of advocacy and championing of this piece of legislation; to the #HALTsolitary Campaign led by formerly and currently incarcerated

New Yorkers, I say the same. And to all those who played a part in ensuring that this bill came before us today and that we will pass this into law, I say thank you.

ACTING SPEAKER MCDONALD: Mr. Barron.

MR. BARRON: Thank you very much. To the sponsor of this bill, we are truly indebted to you for your longevity in fighting these causes for the incarcerated, particularly around solitary confinement, and I want to congratulate you on this day. And yes, we want all bills to go further, but this bill I'm going to support 1,000 percent.

The 13th Amendment says slavery shall be abolished except, except as a punishment for crime, which allowed slavery in the state penitentiaries; as a matter of fact, when they first were debating this many, many years ago, a Republican Senator Henderson was a debating a radical Republican Senator, Charles Sumner, and the wording of it was accepted by the racist Henderson who said it should be abolished except as a punishment for crime. Except. And Charles Sumner was saying it should be abolished everywhere in the jurisdictions of the United States, and enslaved Africans should be given their rights. That was not accepted.

So what we have today is a 13th Amendment that was supported by slaveholders because they knew that we would go from the plantation to the penitentiary, that slavery could still happen in the penitentiary. When they were first debating this bill is when they were building the first state penitentiaries. Prior to that, it was prison camps

and the profit-making prison industrial complex included enslavement. So when we look at this bill and we look at our communities and we look at the parasitic exploitative Capitalist system that produces poverty, that produces unemployment and then subjects you to a prison industrial complex when you commit a crime. And then after you get in there, they have this inhumane, cruel, cruelest kind of punishment the human mind could conjure up is solitary confinement.

So as we go forth and we get to the root of this problem is exploitative Capitalism that allows for our Black communities to look like domestic colonies. You know, a colony is when you are the majority in your neighborhood but yet, you don't control the means of production, you don't control the economy, you don't control the land, you don't control the police, you don't control the hospitals, you don't control the education system, everything in your community is controlled by people outside of it. That is a colony. That is a domestic colony of Colonial Capitalism and its racist ideology that permeates every institution in America, and certainly in this State.

So this bill, while it doesn't correct all of that - nothing short of a revolution will correct that - at least in the meantime pending this social revolution, we have a bill that will bring some relief, some segment of relief to those who are victimized by solitary confinement. So when you hear the term "abolish prisons," and some of you need to really look at that, they're talking about abolishing the prison system as it exists, abolishing it as it is with solitary

confinement, abolishing it as it is with Upstate economies totally dependent on the prison industrial complex for jobs, for contracts, for things that sustain their economy. So when you hear people talk about abolishing prisons, it's abolishing the profit model, the punishment model and looking at approaching safety and crime in a whole new revolutionary direction. It doesn't mean that you're not going to do anything about people who commit crimes, but it certainly ain't this prison industrial complex.

So the abolishment movement is a good movement, it's something that should be studied and understood and not reduced to, *Oh, you want to get rid of all the prisons so the criminals won't be punished.* No, dismantling the racist police system. No, that doesn't mean there'll be no policy and policing and no safety, it means it will be reorganized, reimagined. It means it will be radically altered. It means it'll have more humane approaches. And sometimes community sentencing, community service, alternatives to incarceration, such a cruel thing. And it'll mean also that those of us who rise up in protest and resist this racist Capitalist system and want change, they will not be able to use the prison system to make us political prisoners, or political prisons of war as many of my Black Panther brothers and sisters are languishing in these prisons for 40, 30, 50 years, even though they went up for parole after 25 years and were hit with two more years no matter how impeccable their time that they were serving because of their politics. All of that needs to be addressed. This bill doesn't address all of that, but it does get into

when political prisoners should not be put into the cruel solitary confinement like Momir Abul Jamar was, and like Hughey P. Newton was, and so many other political leaders were.

So I think this gets to the average person and it gets to those who want to resist and it supports those who are in economic situations where sometimes out of desperation it leads to crime. So I want to commend, once again, the sponsor of this bill. It certainly is a step in the right direction. And we say at some point that we will have our freedom, we will have a new system where solitary confinement will not be a part of it, there will be more humane ways of addressing social problems. I thank you and I vote in the affirmative for this bill.

ACTING SPEAKER MCDONALD: Mr. Palmesano.

MR. PALMESANO: Thank you, Mr. Speaker. Will the sponsor yield for a few questions?

ACTING SPEAKER MCDONALD: Will the sponsor yield?

MR. AUBRY: Absolutely, Mr. Palmesano.

ACTING SPEAKER MCDONALD: The sponsor yields.

MR. PALMESANO: Thank you, Mr. Aubry. I hope you know, I have great respect for you and your passion on this issue. It just so happens that I like you much better than I like your bill.

(Laughter)

So in that context, I just have a couple of questions I want to ask you. Right now, it's my understanding that there's 933 of

our inmates right now are in segregated confinement out of the 31,000 or so, about 2.9 percent; does that seem accurate, or viable at this point in time from your perspective?

MR. AUBRY: The number of people who are in solitary at this moment? Solitary. Yes, I believe that's about the number. We had over 2,000 as a number. I don't know where you got yours. Ours was taken from a DOCS report for this year. I think also gleaned from the report of the Commissioner as he testified.

MR. PALMESANO: Yeah, I think we had some from March 1st. Anyway, do we have any cost estimate what this is going to cost to convert and do these revisions in our correction facilities all across the State? Certainly there is going to be substantial construction costs that are going to have to be made with this bill.

MR. AUBRY: So one of the problems with these masks is my ears don't work. I don't know how that is or what it does to you --

(Laughter)

-- but for some reason, maybe because it bends them forward, but I'm not hearing clearly what you're saying.

MR. PALMESANO: I was trying to say --

MR. AUBRY: I don't mind if you scream at me, and I like you, too. So...

MR. PALMESANO: Yes, I mean, wouldn't there -- isn't there a cost -- do you have any cost estimate what it's going to cost for those -- to rehabilitate and create these facilities in our

corrections facilities?

MR. AUBRY: So there -- we know that the Department's budget this coming year is over \$3 billion. We know that, I believe at least two years ago, a certain amount of money was put in by the Executive to accommodate changes to the SHU process. That money was overestimated and so I think the Department has reestimated and we now know that there is a sufficient amount of money to accomplish what is proposed in this bill.

MR. PALMESANO: Because what -- I guess what I was getting at was do we have any residential mental health treatment units in their facilities right now, wouldn't it be better to utilize those for these programming areas that you're talking about versus create and construct new wings and making --

MR. AUBRY: Well, if only people who had mental health problems were designed to go to SHU, they wouldn't be in it because some ten, 12 years ago, I passed the SHU Exclusion Law with the help of this -- this Body, which mandated that people who were classified under mental health classifications by the Department of Health who worked in the facilities were not going to be put in SHU. So those people who are now in SHU may not meet the classic definition of that. We do believe that the Department has fudged on some of the designation of what is -- what is someone having a mental health problem, they have numbers of one and two and three, I believe. And so they've been able to use the SHU for folks at the lower end of the mental health spectrum, but the high end already goes

into that, based on the law that this Legislature and the Senate and the Governor signed, also pursuant to a lawsuit.

MR. PALMESANO: All right.

MR. AUBRY: As I said in the beginning, lawsuits lead to change in this field for some reason. We don't do it on our own --

MR. PALMESANO: Thank you.

MR. AUBRY: -- we do it because the lawsuit shows us. I know, I talk too much. Go ahead.

MR. PALMESANO: One change you made in the bill obviously is you now don't allow 18, 19, and 20 year olds and those who are 55 to go in the SHU, and a lot of times people are put into a Special Housing Unit because of their violence and their act -- are we saying that those individuals aren't -- shouldn't be subject to the SHU because of their actions? What do we do with them?

MR. AUBRY: They would go into the RRUs, which are a more treatment-oriented process for, you know, obvious reasons. So the -- I take you back to yesterday, one of our colleagues described for you what it was that happens to individuals who are -- particularly young people who experience trauma. And I would suggest to you that the younger people, 18 and under who might end up, and not many end up in the facilities, are subject to that trauma. And one might trace that back to the criminal behavior that they engaged in because we wouldn't say it's normal --

MR. PALMESANO: Right.

MR. AUBRY: -- for young people at that age to conduct themselves that way, even though we see it in our society. So I only refer you back to the impassioned plea of my colleague yesterday.

MR. PALMESANO: Right. And then also right now, individuals who are in the SHU, they have access to the same -- some of the same -- the same services as the general population, access to medical and mental health, unlimited legal, clergy, daily visits, interactions with staff, books, tablets, they have that access right now, don't they, under SHU when they're in there, right?

MR. AUBRY: Not -- our understanding is that is a very limited and often delivered through the slit -- you know if you've been in facilities, I presume they have facilities in your -- your district, right, so if you go into the big SHUs and particularly some of the Upstate, they have a very small slit, and everything that's done for you is done through that slit which, quite frankly, is -- we wouldn't call that human contact. And the exercise area that they provide to you is just an extension of the cell in the back and graded so that you can hardly see out of it. I've been in them, I've toured them, they -- I was shown them by the Department at a time they were very proud, look how good we're doing, I guess because they weren't in the basement underground they felt it was a change for the better, and maybe it was from that, but still, something that we think the use of which has to be modified.

MR. PALMESANO: Okay. Well, Mr. Aubry, thank

you for your time and your questions and, again, great respect for you; not a fan of the bill, but I appreciate your commitment on this issue.

Mr. Speaker, on the bill.

ACTING SPEAKER MCDONALD: On the bill.

MR. PALMESANO: Mr. Speaker, my colleagues, again, I have great respect for the sponsor of this legislation and his intentions and passion, but I'm very concerned about the consequences that this bill will have. It's taking away and limiting a very important tool for our Corrections Officers to keep the health and safety inside our correctional facilities, not just for our Corrections Officers, but for the inmates, as well. I know there's a lot of talk and especially on the other side, we want to protect our inmates, this bill doesn't protect our inmates; in fact, it's going to make it more dangerous for them. And when we talk about our Special Housing Units, a lot of times we talk about -- I hear the word solitary confinement. This is not solitary confinement. This is segregating a violent, disruptive, and dangerous individuals from the rest of the population, and that's the important thing to do because we've seen some of the violence that's going on.

Again, just to talk about solitary confinement and torture, let me just read some of the things that have access -- individuals in the SHU have access to: They receive outdoor recreation, personal visits, unlimited legal visits, telephones and personal radios, commissary privileges, the exact same meals as inmates in general population, literature, playing cards, books, photographs, access to tablets for phone calls and for various forms of

media, literature and educational materials, writing materials, religious materials, frequent mental health assessments, packages, mail -- and legal mail access privileges, access to daily medical sick call and emergency sick call, access to general library services and law library services, weekly laundry, weekly access to a notary public service, weekly religious counseling services, access to inmate grievance program, access to cell study, educational services, daily visits from the Office of Rehabilitation Coordinator, in addition to counseling services and also seeing staff every 30 minutes, seven -- seven days a week, 24 hours a day. This does not sound like solitary confinement or torture to me.

So let's be clear, there is no solitary confinement.

This is -- this is a program that's used to divert dangerous and violent inmates away from the rest of the population, again, keeping other inmates safer and especially our Corrections Officers.

Mr. Speaker and my colleagues, I'm really concerned about the policies I continue to see come out of this Executive and this Majority that's creating a dangerous powder keg environment in our correctional facilities today. Violence numbers are up, assaults, drug numbers are up, gang activity is up. With the prison closures, we're eliminating and restricting the use of Special Housing Units so we're taking tools away and we're not providing them the tools they need to be safer. Even with the decreased prison population, we continue to see the rise in assaults and drugs in our facilities. We know that drugs getting into our prisons leads to violence, but this Majority and the

Governor refuses to provide helpful tools. For example, we had a secure vendor package program that was supposed to go -- be going that would screen packages coming into our facilities. It was rejected and taken away and not in place anymore. We constantly ask for why not K-9s in every correctional facility, because they get in through the mail or through visitation. Why not provide technology like TSA-type service infrastructure so we can screen people as they come in. It seems like the -- this Body and the Governor who want to provide resources for the inmates, but nothing to keep providing resources and tools to keep our staff and other inmates, again, who are there just to do their time and rehabilitate, safe. Even on the drug numbers with our drug tests, you can see that for several years, 86,000 tests averaging 7 percent positive. That's not an acceptable number. They shouldn't be having drugs in their system at a 7 percent rate in our facilities. We're not doing enough to keep them out. In fact, the five year average of the drug contraband over the past five years, 4,000 per year. We're not doing enough to keep the drugs out. What does the drugs lead to? More violence. Look at the statistics. It's -- this is creating a dangerous powder keg environment.

Inmate on staff assaults are up over 38 percent from five years ago. Inmate on inmate assaults are up over 31.6 percent over six years ago. Inmate on inmate assaults, five-year average is 1,200 assaults per year. Inmate on staff assaults with a five-year average is 924 assaults per year. It's a dangerous environment for those individuals working a very dangerous job to keep us safe. I

think we're sending a -- unfortunately, this bill is sending a very clear message that dangerous, violent individuals in our facilities who are creating havoc, who are trying to be disruptive are more important than the brave men and women who are working a very dangerous job to keep us safe. But also, again, for the inmates who are in our correctional facilities that really want to bide their time, rehabilitate and be safe and be serious, because we know there's a number of people in our correctional facilities that aren't interested in rehabilitation, they're just there -- if they can hurt someone, they're going to hurt someone. The safety and the well-being of our staff and our inmates who are there to rehabilitate must be paramount and a priority. Unfortunately, this bill takes that focus away and exacerbates the already dangerous powder keg environment that we continue to see in our correctional facilities.

Passage of this bill will lead to more stories that we see on the news every week. I see them at home in my newspaper and TV: *Inmate attacks officer, officer hospitalized*. We're going to continue to see more and more of that as this violence continues to grow with no action by this Governor and this Legislature. And unfortunately, I'm really afraid now by limiting this to where this is going to go to, it's going to lead to worse, loss of life for our Corrections Officers or loss of life for inmates.

I don't agree with fact that here we are reducing it from not allowing 18 and 19 and 20 year olds to go into a Special Housing Unit? I mean, they're just as dangerous as anyone else. They

could be from gangs, it doesn't matter. Why not allow them that tool to be there? Someone over 55 years old, just this week, a 16-year-old put two Corrections Officers in the hospital with an attack. That makes no sense to me. Limiting -- you say just 15 days and then only 20 days, and 20 to 60 day periods, so what about common repeat offenders who have no ability and want to rehabilitate, they just want to continue to cause problems. What do you do with them? Where do they go? Back to the general population? I mean, it's just one more thing, one more dangerous environment after another.

Listen, we know there are inmates that are not interested in rehabilitation. There are people in our prison facilities we have to acknowledge that all they want to do is be disruptive. If they can -- if they get the opportunity to stab or hurt or maim a Corrections Officer, they're going to do it. If they have the opportunity to take out another inmate who they feel has wronged them, they're going to do that without any repercussion from a disciplinary perspective. That's the type of environment that our COs are working in every day and this doesn't help, this just makes it worse.

ACTING SPEAKER MCDONALD: Mr. Aubry, why do you rise?

MR. PALMESANO: And this just makes a very sad situation.

MR. AUBRY: I wonder -- I know Mr. Palmesano is on a roll, but I wonder if he would sit for a brief interruption?

MR. PALMESANO: I'm just about done, Mr. Aubry, and then I'll be happy to.

MR. AUBRY: Okay. I'll wait at your pleasure.

MR. PALMESANO: I appreciate that. But, no, I appreciate your sentiment and normally I would but I know I'm running out of time.

But I just wanted to say I'm just concerned. And to the brave men and women at home who are working in our Correctional Facilities who are doing a very dangerous job to keep us safe, thank you -- I just want to say thank you and I'm sorry. Thank you, again, for your service and sacrifice and what you're doing each and every day in these facilities to keep us safe, working in a very dangerous environment, and an ungrateful environment. And I'm sorry because this Executive and, unfortunately, this Majority has failed you through their actions and lack of actions they're sending a very clear message. I just want you to know, not everyone feels that way here. I want you know much we care about you, that we will continue to have your -- many of us will continue to fight and advocate on your behalf, just like you have had our back. Unfortunately, I think this legislation is more stabbing in the back of those who are working a very dangerous job to keep us safe, and it's going to jeopardize their safety in the workplace, and it's going to jeopardize more inmates who are there just to be safe and to try and get rehabilitated and get back, but that's just not happening. So on that reason, I'll be voting in the negative and I urge my colleagues to do the

same. And I'm sorry, Mr. Aubry, I didn't have a chance to -- I'd love to talk to you separately. Thank you.

ACTING SPEAKER MCDONALD: Mr. Walczyk.

MR. WALCZYK: Thank you, Mr. Speaker, if the sponsor would yield?

ACTING SPEAKER MCDONALD: Would the sponsor yield?

MR. AUBRY: Certainly, Mr. Walczyk.

ACTING SPEAKER MCDONALD: The sponsor yields.

MR. WALCZYK: And out of respect for you and my time, I'm happy if you wanted to respond to something, I know you were looking forward to standing --

MR. AUBRY: I only would ask that you -- there is a Corrections and Community Supervision DOCS Fact Sheet dated January 1, 2020, and in it it identifies the number of assaults that are both inmate on inmate as well as inmate on staff, but I ask you to pay particular attention to a note at the end of page 1, it says, *Unlike the Penal Law where physical injury is a required element, any attack by an inmate is classified by DOCS as an assault. This includes events where no physical injury occurs, and events where any object, including a small object, is thrown at or hits another person. By contrast in the Penal Law, an assault requires physical injury which means impairment of physical condition or substantial pain.* And then I refer you to page 2 where they detail the number of injuries and

where they fail on the category of injuries as they define it.

So the highest number of injuries that require either no treatment, minimal treatment, scratch, bruise, aches or pain, or precautionary treatment and, by and large, of all the number of assault -- assaults that are -- are recorded, that's the category that has the most. And the severe assaults where there might be serious physical injury, for the periods that they qualify, there were none. And so I just, I know we like facts, and since we are arguing this issue, I thought we might want to take a look at that report and pay attention to what it says.

MR. WALCZYK: Well, thank you, and if you wouldn't mind continuing to yield.

MR. AUBRY: Absolutely, Mr. Walczyk.

MR. WALCZYK: So my -- my first question, actually, that segues very nicely into. You've got a couple different categories in this legislation for, you call it the severity of the assault; am I right in reading that? So for a very severe assault, 20 days would be the maximum over a 60-day period, and then for some of the lesser assaults that you just outlined, for other acts, three consecutive days or six days over a 30-year [sic] period; am I reading that right?

MR. AUBRY: As a -- as you begin, yes, that's right.

MR. WALCZYK: So of those --

MR. AUBRY: But -- followed by placement in RRUs if necessary, or continuing of the use of that if the behavior of the inmate is warranted. So it doesn't set it in stone so that you can't

do that. We give the Department the ability to use it, but not to abuse it.

MR. WALCZYK: Okay. What would the -- what would the least egregious or least severe assault be? Can you give a practical example for what that would look like on the inside that would qualify an inmate for 20 days within the Special Housing Unit?

MR. AUBRY: So if we look at the definition, which I read, so for instance if you talk back, can get you in SHU is the current possible. You may find that -- so I presume that if you talk back to a --

MR. WALCZYK: Well -- understand this legislation.

MR. AUBRY: Hold up. I'm answering, you can let me answer. So if that were the offense, and you might be subjected to the two-day process, you might be if that were the offense. The more severe the offense, obviously the longer periods would be used, as well as the alternatives if the determination was that the behavior was going to be repeated -- or was repeated.

MR. WALCZYK: Just because I represent a number of correctional facilities and Corrections Officers, just so that I understand it in plain terms, if you throw fecal matter at a Corrections Officer, would that qualify you for the 20 days under this piece of legislation?

MR. AUBRY: Obviously.

MR. WALCZYK: If you punch a Corrections

Officer, would that --

MR. AUBRY: Obviously.

MR. WALCZYK: Okay, great. Thank you.

Mr. Speaker, on the bill.

ACTING SPEAKER MCDONALD: On the bill.

MR. WALCZYK: So myth number one: Solitary confinement looks like it did in *The Count of Monte Cristo*, an excellent movie and excellent book; I highly suggest it, but we're not addressing a situation like that. Or if you favor *V for Vendetta* and remember Natalie Portman's shaved head in that cell, that's not what it looks like in a New York State correction facility. It is not a dark hole in the ground. I've toured these facilities, as have many of my colleagues. There is literature and library services, playing cards, books, tablets, headphones available, mental health assessments, a dedicated guard that is keeping watch over that facility, religious services, legal visits, phone calls, mail, medical services, the list goes on.

Myth number two: Strict minute by minute operating within our corrections facilities is what keeps chaos from order. That's not true. If you talk to a Corrections Officer, you realize that mutual respect that is earned between Corrections Officers and the inmates that they keep safe from each other every single day is what keeps riots from not happening, what keeps order behind the bars. It is those professionals that do that job. And it's not by processes that we set here, it's not by processes that the Department of Corrections sets, it's

from the professionals on the ground earning that mutual respect. There are a lot of great COs in New York State. There's some bad ones. The bad ones quickly learn that lesson that if they don't earn the respect of the inmates that they are keeping safe every single day, it's going to be an even more difficult job for them to do. So that's myth number two.

This piece of legislation is shifting that power dynamic. And when we look at the data, we can see -- we know that inmate populations are drawing down, and we know the reasons why they've drawn down over time, but when you look at the data, 2020 was the most violent year on record that the Department of Corrections has seen: 1,050 assaults on staff within our corrections facility; 1,200 assaults for inmate on inmate. That's pretty significant. And when you look over time, year after year that's continued to go up. And there's a couple different ways to look at that number, right? You've got a higher concentration of more bad guys, because we've continually pushed out anybody that we can release in this system. We've refused through legislation to put a lot of folks that we would've been sending to corrections in the past into that system in the first place. So these are the bad guys. The general population, the dynamic there has shifted.

Now here's what we're doing with this piece of legislation. So an egregious act, assaulting a Corrections Officer, right, out for blood, maybe to kill a Corrections Officer, the maximum you get right now is 20 days for somebody who's already doing time.

With the laundry list of services that you already get, that's not that hard time to do. And if you really want to assault that Corrections Officer again, guess what? You're going to have a great opportunity to do so in 21 days because they have to let you out of the SHU. And when you're out, this legislation says for the next 40 days they can't even put you back in there.

That's the shift in the power dynamic. Corrections Officers need this as a tool to keep law and order, and not just for their own protection. Obviously, I'm very concerned about the Corrections Officers, but their job is not just to protect themselves and make sure that they can come home to their wives and family, but to make sure that the inmates are safe every single day. Read those numbers again. Twelve hundred assaults were inmate on inmate. The people you're looking to protect and care for, the Corrections Officers need these tools to keep them safe, too. You keep trying harder, but the data shows us that the policies that are put forward here keep making the situation worse. So you have to, before you cast your vote on this, really think about what the impact is going to be and understand that power dynamic within our system.

My colleague, the esteemed, distinguished, and well-respected Phil Palmesano outlined some excellent ideas, drug dogs in every facility so that inmates aren't getting high and a danger to each other and the COs. Drug dogs in each facility cannot only monitor the mail, they can also monitor the visitors as they come in. And I mean, that's something that is easy. But that's not presented in

this bill and hasn't been brought forward in this Chamber and I don't understand why. Training, how about a pay raise for COs? You have a problem with the job that they do? They've been waiting on a pay raise. I would love to see you get on board for that. Give the Corrections Officers the latitude to earn the respect, give them the tools to do their job and you're going to see the results change. You're going to see those inmate on inmate and those inmate on Corrections Officers assaults come down, but you have to listen to the COs. They're the ones that are on the ground doing that tough job everyday.

These Special Housing Units, they're reserved specifically for bad guys, the worst of the worst, the ones that really need to be separated from the population on the inside. Passing this legislation and if it's signed by the Governor is going to guarantee that those numbers continues to go up. More assaults will continue to happen. That blood is on our hands in this Legislature if we're passing this legislation, and I think we really need to think long and hard before we cast our votes today.

So Mr. Speaker, I will be voting in the negative and encourage my colleagues to do the same.

ACTING SPEAKER MCDONALD: Mr. Burdick.

MR. BURDICK: Thank you, Mr. Speaker.

On the bill, Mr. Speaker.

ACTING SPEAKER MCDONALD: On the bill.

MR. BURDICK: Thank you, Mr. Speaker. Solitary confinement without limits is inhumane, pure and simple. It's

inhumane. And it's well-documented that extreme isolation absent reasonable time limits in fact has led to heart disease, self-mutilation and suicide, we've heard those accounts. And as the sponsor has well explained, the regulations that resulted from the Civil Liberties Union litigation against the Department of Corrections are just that, regulations. They need to be permanent and they also need to be modified.

So what this bill does is it simply replaces it with a balanced statute, a compromised statute, which this legislation provides. And it does not banish the use of solitary confinement, as was noted, but rather, it places time and other reasonable limits on its use. It also limits the practice of "keeplock" in a regular cell, not covered in the settlement. Importantly, this legislation brings the State in alignment with international standards against torture. The bill provides ample provision for humane but safe confinement of those who may pose a danger to others or themselves, and I respectfully disagree with the Minority and argue that while eliminating inhumane treatment, at the same time this bill will reduce violence in our prisons and reduce recidivism and, long-term, this law can save our taxpayers \$132 million annually.

You know, what's more is there's nothing groundbreaking here. This approach is working, it's working safely and successfully in other states as different as Colorado, Mississippi, and North Dakota. And here in New York, the support for this legislation runs wide and deep, ranging from the Mental Health

Association of New York State to the New York State Catholic Conference, which in a support letter quoted Pope Francis who, in 2014 said, quote, "One form of torture is confinement in high security prisons. The lack of sensory stimuli, the total impossibility of communication, and the lack of contact with other human beings, which induces mental and physical suffering such as paranoia, anxiety, depression, weight loss and a significant increase in the suicidal tendency."

So I wish to commend the sponsor for his long and significant work and persistence on this important bill which I am proud to cosponsor, and I wish to thank the Speaker for bringing it to floor. I will be voting in the affirmative. Thank you, Mr. Speaker, for the opportunity to speak to the bill.

ACTING SPEAKER MCDONALD: Ms. Bichotte Hermelyn.

MS. BICHOTTE HERMELYN: Thank you, Mr. Speaker, for allowing me to speak on the bill.

ACTING SPEAKER MCDONALD: On the bill.

MS. BICHOTTE HERMELYN: I want to thank the sponsor of this bill. I am in great support of this bill and I want to thank him for his hard-fought years of getting this bill on both sides of -- of -- of our Legislature, the Senate and the Assembly, and I'm really proud of him.

This is a bill to restrict the use of solitary confinement in New York State prisons. Despite recommendations by the Human

Rights Watch, solitary confinement has been widespread in correctional facilities in New York and across the country. The use of solitary confinement is a human rights violation. It's cruel, inhumane, unethical and counterproductive.

On any given day, around 2,400 people, disproportionately Black and Latino are housed in solitary confinement units known as Special Housing Units, or S-H-Us, in New York State prisons. In these isolated conditions, they are confined to small sometimes windowless cells, usually the size of an elevator for 22 to 24 hours a day without any meaningful human contact or programs for months, years and sometimes for decades. When I think about that, I think of the many trips that I took to Africa and when I visited the slave trade castles in Gorée Island that was in Senegal, in Ghana, and literally I had the opportunity to go in there and imagine how it would feel to be confined, with so many other people, but confined for days and days and weeks and months without any food and without light. And to me, it is a form of slavery. I agree with my colleagues when they talk about enslavement, that penitentiary is another form of slavery. And I had that first experience when I went to the Motherland.

People of color are overrepresented in solitary confinement compared to the general prison population. One study showed that Black male prisoners make up 40 percent of the total prison population, but constituted 45 percent of the restricted housing population. Not only is this a racially disparate issue, again, it is cruel

and inhumane. We cannot treat human beings like animals. As we all know, incarceration has long been termed the new Jim Crow.

Families are torn apart by mass incarceration. When incarcerated individuals are freed, they get a second chance to reintegrate into society. We must aid them in this endeavor.

The harm solitary confinement does to one's mental health is irreparable. This bill, known as the HALT Solitary Confinement Act, will limit the time an inmate can spend in the segregated confinement, end the segregated confinement of vulnerable people, restrict the criteria that can result in such confinement, improve conditions of confinement and create more human -- humane and effective alternatives to such confinement. This will make our State a more humane and safe place to live.

I want to thank all the advocates who fought for this. It's a long list of advocates, and I also want to thank my neighbor, Mr. Higgins, who lives in my district who introduced me to the HALT bill when I first was elected and started as an Assemblymember in 2015. So I thank you, Mr. Higgins, for being an advocate for this bill.

I support this bill and affirm my vote. Thank you, Mr. Speaker, and thank you to the sponsor of this bill. I will vote in the affirmative. Thank you.

ACTING SPEAKER MCDONALD: Ms. Jackson.

MS. JACKSON: Mr. Speaker, on the bill.

ACTING SPEAKER MCDONALD: On the bill.

MS. JACKSON: So this bill makes me extremely

emotional because it's very personal to me. I want to thank the Speaker for this bill. I want to thank the sponsor of this bill for the long, hard journey it took for us to get here, and we are finally doing right by a vulnerable population here in New York.

As I was thinking about my remarks for today, I contacted my ex-husband who spent a lot of time in our prison facility. And I let him know that I am going to speak on solitary and I said, I wanted -- I want your words to be on the floor. And he took us back to when we -- I would visit him in solitary and reminded me of a lot of things that I chose to forget because of the trauma. And he mentioned that what solitary does is it messes up your communication with your family. It messes up your ability to just know how to speak and deal with people. He reminded me that I could not bring my daughter to see him, so that was time that she did not get to spend with her dad. It reminded me of the search you have to go through as a family member. It reminded me of the cage you have sit in as a family member and watch your loved one being shackled at the hands, shackled at the feet just to have that hour conversation. And the part that I did not get to see but he reminded me of is that when you have to be transported to court and you're in solitary, you are shackled at your hands, you are shackled at your feet and you're put in mittens and you are in that state for at least 12 hours, if not longer.

We don't do this to our dogs. If you did not take your dog out for 15, 20, 30 days, your neighbors would be calling the police on you, but we found it to be okay to do this to human beings. There

are times when you may not even get to eat if there is a lockdown or something happening in the prison, you don't get that one hour to be outside. That has been forfeited for the day. And we -- we're saying that this is okay? And then we would -- you would think, oh, well they must've done something wrong to put themselves there, but what about the women who are pregnant, who they tell you that they are sticking in solitary for their safety, a woman carrying a child having no contact with other human beings, and the only contact she's going to get is when she leaves that cage or the box or the SHU or whatever they're choosing to call it, when she leaves that cage in shackles to go to her appointment. Or my transgender brothers and sisters who for their safety, supposedly, not because they did something wrong, but because we don't know what to do with people who look different, who may seem different than who you are today. We stick them in solitary for their safety because they are trans. And we're saying that's okay?

I reached out to Kalief Browder's brother, Akeem Browder, to let him know that we are going to speak on HALT Solitary today, and for those of you who do not know, we lost Kalief Browder. He committed suicide because he was in prison and spent a lot of his time in solitary confinement on allegations of stealing a backpack which was proven that he did not steal, so three years of his life and the majority of it was spent in solitary. And when he came home, he was seen as different. His mom said he was zombie-like from the treatment that he received in our prison system. And so I said to

Akeem, I'll be sure to share your words on the floor because your brother's not here and neither is your mother, but you are here to speak to what solitary does to people and families.

So in the words of Akeem Browder that I say that after so many years of fighting to end solitary confinement, we are closer than ever to our goal with today's discussion of the bill. He wants thank the sponsor in support of people like my brother, Kalief Browder, and my mother, Venida Browder. After years of solitary confinement, Kalief understood that ending solitary is urgently needed and that support would be needed to repair the damages already done. A report he wrote in college, "A Closer Look at Solitary Confinement in the United States," Kalief wrote, Maybe another form of correction should be done when considering the mental health risk imposed, which are too often and too great to recover from, his words written after two years of his own torture in solitary for a wrongful arrest underscored his intense focus on righting the wrong that had been done to him and so many others. My mother, Venida, only wanted accountability for the wrongful allegation which caused three years of incarceration that took her youngest child away and returned him home as a different person. She often referred to her son as someone she didn't recognize, someone who was almost zombie-like. After Kalief passed, my mother did advocate. She relentlessly pushed through the heartache to end solitary confinement before she, too, passed away. They both passed while fighting to end this barbaric practice which has so deeply scarred not just our family, but thousands

of families all across our State, but mostly families in Black and Brown communities, families in poor communities. Akeem says, *No more waiting, no more delays, it is time to end this torturous, torturous and barbaric thing that we are doing here in our State.*

And so, I just want you all to be reminded that you may know them as the Central Park Five, or the Exonerated Five, but I know Antron McCray as Trony because I grew up on the same block that he grew up in. And those guys we know went to jail on a wrongful conviction, and we know that Korey Wise spent some time in solitary, and we know that he was not there for anyone's mental health. So today I say thank you to our sponsor, I say thank you to our advocates, our allies, our activists, and I stand here for my ex-husband, and I stand here for Kalief Browder and the Browder family, and I stand here for the Exonerated Five to let you all know that I will be voting in the affirmative on this bill, and I thank you, Mr. Speaker, for allowing me to speak.

(Applause)

ACTING SPEAKER MCDONALD: Mr. Gottfried.

MR. GOTTFRIED: Thank you, Mr. Speaker. First off, I want to commend Jeff Aubry for his long and superb fight for this legislation, a fight that I assume will -- will continue on for -- for further improvements in this legislation. And I want to commend Speaker Heastie for getting this bill to the floor and to all of our colleagues who have helped to bring it to the floor and will be voting for it today. I especially want to commend and thank the large number

of advocates, including victims of solitary confinement who have made this legislation possible.

You know, we call it -- instead of calling it solitary confinement, the Corrections people like to call it the Special Housing Unit. It makes it sound like almost like something you'd want to move into. But it's really just an example of what George Orwell wrote years ago about how euphemism, as he said, is needed if one wants to name things without calling up mental pictures of them. Because some things, if you call up a mental picture of them, would be too revolting for most people to tolerate. And that is certainly true of solitary confinement, which is almost universally recognized as torture, and we should call it what it is. And it is -- it does long-term damage to physical and mental health, damage that can last a lifetime long after someone is out of prison, serious damage physically and mentally. No health care professional would tolerate that, and neither should New York State. You know, some things are just beyond weighing the pluses and minuses and the pros and cons. There are some things that we just don't do. Thank you.

ACTING SPEAKER MCDONALD: Mr. Burke.

MR. BURKE: Thank you, Mr. Speaker. Will the sponsor yield for a few questions?

ACTING SPEAKER MCDONALD: Will the sponsor yield?

MR. AUBRY: Certainly, Mr. Burke.

ACTING SPEAKER MCDONALD: The sponsor

yields.

MR. BURKE: Thank you very much. I'm just looking for a little bit of clarity. So one of the previous speakers had mentioned that currently it's -- there's a 21-day limit on solitary confinement. Is that the case, because, you know, another previous speaker talked -- spoke of Kalief Browder and I'm trying to understand how he ended up in solitary for almost two years if there's a 21-day limit currently.

MR. AUBRY: There is a 90-day limit coming with the new regulations. The limits that are in this bill are 15 days or 20 depending on the process, and then the RRU, and then if -- if things are not changed, you could go back in for another 15 days, but there's a period of time. But the current regulations that the Governor took two years to develop, by the way, I meant to mention that, that when the promise of regulations, it took two years through the regulatory process for them to be implemented, and hardly anyone commented on it other than, quite frankly, someone in my office who was an expert on regulations did, to try and change it, and none of the changes that were recommended ever were included in the regulations that the Department promulgated. Again, my reason for taking this to the place where we need law in order to make things happen as opposed to the whims of an administration.

MR. BURKE: Okay. So -- but currently, though, you know, someone can't be held in solitary confinement indefinitely, like we're -- presumed in the past people spent years being held, that

currently can't happen by the Governor's orders.

MR. AUBRY: Even in the regulations, they can be repeated based on the decisions made by the Department, and can be held in their cell in keeplock or another.

So the other thing just to mention, and I know I'm on your time, the -- one might wonder why it is that we have such little review of what goes on inside of a prison. We have a Commission on Corrections which has been funded the same amount of money I believe since I was Chair of Corrections, which doesn't provide real rigorous review of what goes on. We have the Correction Society of the State of New York, which is empowered by our Constitution to review and look at what goes on in the prisons, and they have been limited on their ability to do that. And so, we trust the Department to tell us what's going on, because no one goes in and looks. Some of my colleagues went to the prisons not so long ago to do reviews, but that is not the norm; you're not going to do that. And some of them are places where you may not be able to get to. So we have to speak in law. We can't wait and just decide that we'll let them decide what they want to do in our name with our tax dollars, and we always talk about, *They're spending our tax dollar*, they do it in our name. So if somebody is abused in prison, or we have a system that is unfair, we bear the responsibility as citizens, because that's where we spend \$3 billion-plus year after year.

MR. BURKE: So I'm sure you're familiar with the United Nations report that cites the United States as being outside, you

know, standard human rights behavior, correct?

MR. AUBRY: Yes. The special rapporteur on torture declared that this process as being -- in fact, as being torture.

MR. BURKE: So you're familiar with the Mandela rules that this -- so -- so is this an effort to get in line, get at least our State in line with the Mandela rules?

MR. AUBRY: Yes.

MR. BURKE: Okay. So currently if someone is held in solitary confinement to -- for the max amount of time they can under the current regulations, once they leave solitary confinement, how quickly can they be returned to solitary confinement?

MR. AUBRY: To return to solitary confinement?

MR. BURKE: Yes.

MR. AUBRY: Almost immediately under the current regulations. Worse than that, Mr. Burke, they could come home to your community directly out of solitary confinement. So if we believe that solitary confinement, nobody argues that it doesn't alter people's personalities and cause physical and mental disturbance, they can, in fact, come home directly to your block. Some of you may not have people who will come to your block, and some communities, some particular communities get them all the time. And so, we worry about what that implies when they're not cared for and taken care of and treated in the way that we think they should be.

MR. BURKE: So a lot of -- if there's any opposition, I presume it will be this idea that Correction Officer safety will be at

risk by these changes -- by these policy changes, but when I keep reading reports, it's saying things are, you know, spending -- spending time in solitary confinement increases rage, anger, anxiety, loss of contact with reality. In your research and analysis in putting this legislation forward, did you come across any data that showed -- that would show you that reducing solitary confinement or putting it -- putting it in your structure would make Correction -- Corrections Officers more or less safe?

MR. AUBRY: It is -- it is our premise that that is in fact true and supported by the many mental health advocates who have supported this legislation that those things go hand in hand, and other states' evidence, too. And so I think, you know, we -- we -- we are moved by that evidence as opposed to the opposition. Let me say I am as concerned about Correction Officer's safety as anyone else. I want them safe. I want them to be protected. But I do think it's time to show a new way, and I think change is scary to everyone. We don't like it. I didn't like having to stand around with the mask, I didn't like not having my colleagues here in Albany with me. I miss them in the halls, miss them at the cafeteria, miss them as we debate. But it is our reality, and so we are saying, too, that this change is time, this is the time for it. We are far due, far past the time when it should be allowed. So hopefully that will happen.

I also -- one other thought, and we talked about some of the things that can happen in prisons, tough places, somebody can get hurt. I looked at that report that indicated no serious injuries for

the periods that were studied, and then I said to myself the allegation that people got hurt or injured would mean that they should have been prosecuted. If you attack a Correction Officer and cause injury, you should be taken to the local DA and prosecuted for that and, ultimately, then you would be, again, have more time. But I see no instances where the severest of the penalties have been applied or -- or even classified by the Department.

So while we understand that the numerical instance of certain violations have increased, I see no evidence that there have become violent instances necessarily as reported in this period. But again, if they are, we still do have a criminal justice system. We do have a local District Attorney. We do have the ability to have someone arrested and taken to be tried by his peers and not judged by a system that has no outside monitor.

MR. BURKE: Thank you. Two more questions. So -- and it kind of leads into what you were saying. So if a -- say someone who's already in for life -- you know, they're serving a life -- life sentence and they commit a violent act, a severe violent act against a guard or a fellow inmate, you know, the penalty for that -- so you go through the criminal justice system again and you end up in the same place. I would say some people would probably argue that there should be a real punishment. I would argue that the real punishment shouldn't be torture in indefinite solitary confinement. But what's the -- so what happens to the person -- say -- say the hypothetical worst-case scenario, a -- a guard is viciously attacked by somebody

who's already serving life in prison. Is the process that that person gets 15 days in solitary confinement and then goes to rehabilitation and then gets put back in the general population?

MR. AUBRY: So, that would be an alternate. But there -- there are more restrictive facilities in the system (inaudible) that is designed to handle that kind of a circumstance where we know there are alternatives for the Department to use for those who we would term, whether that's real or not, incorrigible, or as people love to call them, the worst of the worst and who may present that kind of circumstance. One would argue possibly, too, that there's more than just normal rage that happens there, that somebody who under that circumstance may have mental problems that would lead them to a forensic facility in the -- in the system. So, the -- the Department has many tools that it can use in this effort to manage the system, but what we don't want is a blanket use that is unnecessary when there are alternatives that can produce better results.

MR. BURKE: Okay. And my -- my last question, so -- and I -- I may have asked it but this may be a little bit of a different vein. In -- in the states or even countries where they have ended solitary confinement or reformed it, because I would say you could argue this is more of a reform than completely ending it.

MR. AUBRY: Yes.

MR. BURKE: But we'll stick with states. Is there any data that you're aware of of an increase in violence as a result of -- of ending or reforming solitary confinement specifically against prison

guards?

MR. AUBRY: Not that I'm aware of, where we've seen those changes. There has not been any report that I'm aware of that shows that the increase of incidents of assaults by inmates upon -- upon officers has escalated because they made these changes. We believe them, the reports seem to indicate that circumstances got better than not worse.

MR. BURKE: Okay. All right. Thank you, Mr. Aubry. Thank you, Mr. Speaker.

MR. AUBRY: Thank you, Mr. Burke.

ACTING SPEAKER ROZIC: Ms. Cruz.

MS. CRUZ: Thank you, Madam Speaker. Good afternoon, and on the bill.

ACTING SPEAKER ROZIC: On the bill.

MS. CRUZ: Thank you. Today we're here to finally and truly deal with the use of State-sanctioned torture, otherwise known as solitary confinement. I want to thank the sponsor for his tireless work to bring us here today. I have to say that on a personal note, the level of commitment and integrity that I've seen firsthand from our sponsor looking after the families and their pain is not only admirable but, frankly, is what we, as legislators, should aspire to be. And so, thank you for that. Solitary confinement is not only torture, it is a death sentence. It's plain and simple. It should not be a tool for the easement, if you will, of a CO's job, as some of our colleagues have suggested. Something that dehumanizes and can lead to the

death of someone should never be a tool -- should never be part of your job. And let's also make something clear. We have a \$3 billion system that's been sold to us as a rehabilitation process that does anything but really rehabilitate. Prisoners placed in solitary confinement are subjected to sensory deprivation and are deprived of human interaction, leading to intense suffering and severe lasting damage to physical and mental health including psychosis, heart disease, self-mutilation and, worse, death. Roughly a third of all prison suicides occur in solitary confinement. It has taken the lives of Dante Taylor, Layleen Polanco, Kalief Browder and so many more. By now many of us have heard the horrors that Mr. Browder endured. He was accused of stealing a backpack. A backpack. He was 16 years old when he was sent to Rikers Island to await trial. That never happened. He was held at Riker -- Rikers Island for three years, the majority of that time in solitary confinement. Not long after prosecutors dropped those charges against him and he was released, Kalief died by suicide. He couldn't escape the trauma of his time in solitary and everything he had experienced behind bars. It's important to know that Black and Latino members of our community - our brothers, our sisters, our family - are disproportionately subjected to this level of torture. Over eight in ten New Yorkers in solitary confinement are people of color. Black people make up 18 percent of the population in New York State, but 48 percent in State prisons and 57 percent in solitary. It's gut-wrenching to have to imagine the pain of these prisoners and their families. And so today as I get ready to

vote, I want to honor the life of Layleen Polanco by reading a portion of an editorial written by her sister, Melania Brown. *My sister Layleen Xtravaganza Cubilette-Polanco died last year at the notorious Rikers Island prison. While in detention she suffered an epileptic seizure and died alone in solitary confinement. She was 27 years old. Nowhere close to getting to fully live her life, the system killed her like it kills so many Black people and other people of color. To be clear, my sister's death was preventable. The New York City Department of Corrections knew about her medical condition, and yet as a -- as a new report revealed, pushed to place her in solitary confinement over the objections of medical staff members. They pushed her into solitary in part because they did not know how to use -- how to house transgender women in Rikers. Again, arguably, using it as a tool, as some of our colleagues have said. Their correctional officers laughed as she laid unresponsive nearby instead of getting her the care she needed. Rikers and solitary confinement killed my sister. At any given time, tens of thousands of people are locked in solitary confinement in the United States. A practice that when endured for more than a few days has been classified as torture by the United States. America's use of solitary confinement is an international disgrace and a national mark of shame.*

And so today in honor of all the Layleens and all the Kaliefs in solitary, of all the families who had to bury their loved ones and who died because we, as the State, allowed solitary confinement to continue the way that it is now, I vote yes and I urge my colleagues

to imagine that those victims were their family members, your loved ones. Simply humans that deserved to be treated with dignity despite their possible transgressions, and I ask that you join me in voting yes. Thank you, Madam.

ACTING SPEAKER ROZIC: Thank you.

Mr. DeStefano.

MR. DESTEFANO: Thank you, Madam Speaker.

Will the sponsor yield?

MR. AUBRY: Yes, Mr. DeStefano.

ACTING SPEAKER ROZIC: The sponsor yields.

MR. DESTEFANO: It's a pleasure having this debate with you.

MR. AUBRY: Good to see you, as far as I can see.

MR. DESTEFANO: I just have a few questions, and I want to talk about the bill. Do you know what type of crimes that would have had to be committed to actually warrant this type of confinement?

MR. AUBRY: Say that again. We're having a little bit of trouble, I'm sorry.

MR. DESTEFANO: I said do we -- do we know what types of crimes would have to be committed in order to qualify for this type of confinement?

MR. AUBRY: What kind -- what type of crimes --

MR. DESTEFANO: Right. What would -- what would constitute a person to even be considered to be confined in this

type of punishment?

MR. AUBRY: Okay. So -- so -- so, first of all, it may not be a crime, a crime -- you know, a violation of the Penal Law. It could be a violation of the rules of the facility that would get you into solitary. And that can be -- hold on. That can run the gamut from talking back to an officer, not obeying a command, throwing something at an officer, fighting with an officer. That may be the case. Having things in your cell that are not allowed, a violation of that. I -- I saw one where an individual was put in solitary because he had pictures of his kids with the this (indicating) sign, which I don't know what the kids meant, but were perceived to be a gang sign. You know, sometimes gangs use these things. So there are all kinds of reasons that people get put into solitary. Some might be justified, some might not. But there are essentially violations of the rules that the facility prepares. Sometimes throwing your food, not eating your food. Not coming out of the cell when you're -- when you're required to. There -- there are a host of things, as well as the violent things that some people concentrate on, even though none of the data about assaults seems to support real violence as much as they are, you know, the altercations of will. And I -- I think I understand that, having worked in a prison early in my career, very early in my career, that inmates harbor resentment for a lot of different things and have -- and will take it out on a corrections officer. I do understand that. The question is do you make it worse or do you try and deal with it in a way that makes it better? And that's the heart of this, and that's what

we propose. Trying to find ways to make it better for both inmates and for those who are -- for those who are incarcerated as well as those who are working in the facility.

MR. DESTEFANO: So I guess that's why I like you so much, because I worked in a correctional facility for 25 years myself so that's why we have something in common.

But on -- on another note. Would it be -- would it be fair to say that an inmate would portray a behavior in some way that would describe a -- a pattern that would maybe hurt himself, inmates, correction officers? And wouldn't it be fair to say that the people who run the facility would observe that type of behavior that would recognize that the person that's making those actions would actually be harmful to the other people that are around them where they would determine that he would need to be -- he or she should be separated from the rest of the people that they come in contact with?

MR. AUBRY: Absolutely, Mr. DeStefano. I'm sure that occurs in these facilities given the nature of what they are and the work that is entailed in working there. So, yes, absolutely.

MR. DESTEFANO: Earlier you spoke with -- about my colleague about financial cost. In the financial struggle that the State is going through you said that there's enough money to possibly retrofit all correctional facilities with these RRUs to help facilitate this cost that it's going to take to make this happen a reality?

MR. AUBRY: Not all of them, but certainly enough under the circumstances of what we think is -- is required here. I think

the estimate at one point, and again capital -- and you know, if you look at the budget, the Capital allocation for the Department of Corrections is enormous, right? It is -- it's pretty large. And so the estimate that was made originally when this was proposed and the Governor looked at it was reduced significantly down to what would be necessary now given the availability of space because the facilities are less incorporated. You know, when you and I were in the business probably the population was double what we have now, if I'm not mistaken. And so there's space available to make those kinds of changes. As there were when we passed the SHU exclusion. I remember going into a -- a facility and they showed me the classrooms that they had set up so the individuals could actually go to class, but at the same time were restrained in their -- in their seats while they were there to protect each other from touching each other. Only problem happened when they showed it to me and I sat down, because I have a six foot-arm I could reach over and smack the next guy next to me. So I think they have to redesign in order to accommodate that. But yes, I think there is sufficient capital available to do the work that's necessary.

MR. DESTEFANO: So who makes the determination on how much money will be allocated to the correctional facilities? Like, if they don't have enough money to -- like, I have two correctional facilities in my county. One is in my district. Would it be fair to say that it would become an unfunded mandate if the State decides they're not going to be able to retrofit

more of those jails to (inaudible) the RRUs? Would that be fair?

MR. AUBRY: Clearly, if it's a State facility.

MR. DESTEFANO: No, a county.

MR. AUBRY: A county. Does your county facility have over 500?

MR. DESTEFANO: Yes. Two of them.

MR. AUBRY: Two of them with over 500. So in that case it would be a county responsibility.

MR. DESTEFANO: It would be a county responsibility?

MR. AUBRY: Yes.

MR. DESTEFANO: Again, so unfunded mandates where, you know, our county is probably number two or three in the -- in the State where they're ready to -- to put in some kind of --

MR. AUBRY: Is that Monroe County?

MR. DESTEFANO: Huh?

MR. AUBRY: That's Monroe County?

MR. DESTEFANO: Suffolk.

MR. AUBRY: Suffolk County, yes.

MR. DESTEFANO: Suffolk County. They're -- they're about to -- you know, they're this close to having, like, a financial board oversee all their operations. And to me, if we put more unfunded mandates on them it's just going to put the strain on the community and the taxpayers at risk, and -- and it's also going to be a problem to, you know, to facilitate the -- the need for this. And

honestly, you know, do we really need it? We're -- we're letting people out of prisons like crazy and, you know, do we really need to have this bill to -- to make it where we're making the population less, where there's more space within the less crowded jails to maybe not have to do something like this.

MR. AUBRY: Has your county seen a -- seen a reduction in the size of its incarcerated population?

MR. DESTEFANO: Yeah, bail reform took care of that. I mean they cleared them now. There was like a couple of hundred people left out of 1,500 in the two jails. There was -- there was -- it was like a free-for-all getting out. So...

MR. AUBRY: So if it goes under 500, is that -- it's -- it's a year before the requirement comes into play, so there's -- there's time to accommodate that. And, you know, I think that those are issues that a Suffolk County-led delegation would fight for, in the process that we all fight for our individual communities. I have Rikers Island close to mine, so I have -- I have larger than you might.

MR. DESTEFANO: Well, I thank you for your time and -- and the answers to your questions.

Madam, on the bill.

MR. AUBRY: Thank you, Mr. DeStefano.

ACTING SPEAKER ROZIC: On the bill.

MR. DESTEFANO: I'd like to read a couple of passages from the New York State Sheriffs Association regarding this bill. *On the outset it should be noted that the sheriffs only resort to*

using segregated confinement when it's absolutely necessary. But if this bill should become law, it would hamstring the sheriffs and other correctional professionals and compromise the safety and security of the facilities they manage. Each situation an inmate must be handled on a case-by-case basis and the judgment reserved to the sheriff or the jail administrator as to how best to safeguard the health and well-being of the population of the entire correctional facility. Many times it's necessary to separate an inmate from the general population of the facility in order to protect other inmates from harassment or violence, but this legislation would make that impossible. In some situations by prohibiting the use of segregation against inmates who qualify as a special population as defined by the bill, under 21 and over 55, pregnant, someone suffering from a mental or physical disability, a problem inmate falling into one of these categories would be free to continue their misbehavior and victimize fellow inmates with little recourse left to the sheriff. The only remedy would be to assign more corrections officers to closely shadow these inmates in an attempt to deter misbehaving and be more costly and inefficient. But, solitary confinement is not an accurate portrayal of the current disciplinary -- disciplinary housing in most facilities. In the area I represent, Suffolk County, a disciplinary housing area is the same as every other housing area. Same size cells, same amount of windows and lighting, and an officer occupies a post in the housing area 24 hours a day. There are multiple inmates in a housing area, each in -- each in their own cell, but they can speak to each other through the

bars all day. Each inmate has their own period of time out of their cell. During this time they make phone calls, shower, play cards, checkers through the bars with the other inmates who are locked in. They also have one hour per day out in the yard. They have the same meals and access to visiting, law, library, religious services and educational programs. It is the same housing, it's just different rules and about the time the inmate is allowed out of the cell. These housing areas are used when inmates violate facility rules. Many of these inmates have been assaulted towards other inmates and staff. Correctional facilities use the disciplinary housing as a tool in their -- in their quest to maintain safety and security for all in the facility. With little to no consequence, inmates may be more likely to assault, thus far creating a dangerous living environment for their fellow inmates who simply want to do their time and go home. Additionally, this bill calls for residential rehab units to be created at facilities that have a capacity of 500 or more inmates. They affect the two jails, as I said, that I represent. There is no funding attached to this bill which would be -- would pay for this mandate, nor any funding for additional staff and training required to manage units so that they could be effective. The majority focus needs to be more focused on simply removing consequences for negative behavior. We should start focusing on the root of the problem. We need to fund programs that will truly treat the mental health and addiction issues that we currently face for people that are incarcerated.

Thank you.

ACTING SPEAKER ROZIC: Thank you.

Mr. Epstein.

MR. EPSTEIN: Thank you, Ms. Speaker.

On the bill.

ACTING SPEAKER ROZIC: On the bill.

MR. EPSTEIN: So, my aunt spent over 25 years incarcerated. Months on end in solitary confinement. And we know the stories of many other people in the City, country and world. Nelson Mandala said, *The most forbidding aspect of prison life. There was no end and no beginning. There's only one's mind, which begins to play tricks.* People are put into solitary confinement for eyeballing. Eyeballing is considered a violation. Eyeballing. I've been to many facilities. Recently, the last couple of weeks went up to Green Haven. We saw people in the SHU for more than three weeks. They were waiting just for an administrative hearing. People with mental health issues. One inmate was screaming for 15 or 20 minutes while we were there. With over 2,000 people in the SHU, we have to ask ourselves, what is the racial and economic justice issue we're facing here as a society? When we know the Mandela principles say you can't keep people in solitary for more than 15 days. When the reports that come out (inaudible) ending solitary as we know it saves money. When we know that there are consequences for behavior that this bill allows. With over the 200 advocacy organizations across the State, from ACT UP to Legal Aid to Amnesty International to Black Lives Matter, all coming together to say, *Let's pass the HALT bill. Let's not*

underestimate the racial injustice to prison in itself and to solitary confinement. Let's not forget the economic inequality that exists. As the previous speaker said, we need to fund programs. I 100 percent agree. At Green Haven, with 1,600 inmates, only 30 were eligible for the Bard Prison program. Thirty individuals out of 1,600 because we do not fund education even though we know recidivism rates are lower than 5 percent for people who get an education while people -- while people are inside. While you're in the SHU you don't get family visits, or if you do they're extremely limited. You aren't going to school. You can't attend your program. All the things that help you survive while you're incarcerated. So the question we have to answer is who is this safe for? Who does this program as it stands protect?

I stand with the sponsor here to say today is the day. Today is the day we take a step forward. End solitary confinement as we know it in New York State. It is a racial justice issue. It is an economics issue. It is a human rights issue. And I encourage all my colleagues to stand with the sponsor and to pass this legislation today. Thank you, Ms. Speaker.

ACTING SPEAKER ROZIC: Thank you.

Mr. Anderson.

MR. ANDERSON: Madam Speaker, on the bill.

ACTING SPEAKER ROZIC: On the bill.

MR. ANDERSON: I want to thank the sponsor who has worked tirelessly for years, Madam Speaker, to ensure that people who are incarcerated are treated equitably and fairly. Thank you for

your fight and commitment. This is an historic day that we are experiencing today, Madam Speaker. But this time last year the world, our country and our great State had only just begun to realize the fundamental ways in which our lives would irreversibly be changed forever. Businesses shuttered. Schools closed. Economy destabilized. And many families of color were devastated by the impact of COVID-19. But something else happened at the height of the pandemic when our State was on the lockdown. We could not leave our homes. We could not be with our families. We could not even go out for a walk. Our basic freedom and move -- movement was restricted. And according to the CDC and the National Center for Health Sciences, COVID-19 has had a major impact, Madam Speaker, on national rates of depression and anxiety across all races and ethnic backgrounds. According to a national study, Madam Speaker, by the national Mental Health America agency that took place in May of 2020, just last year, the number one contributor, the number one contributor to depression and anxiety for our fellow New Yorkers, fellow Americans, was loneliness and isolation. What this tells me is that in a few short months the restrictions of our freedom, of our movement, directly impacted our mental health and well-being. Madam Speaker, those of us who are not behind bars, much less housed in solitary confinement, we don't even know the half. We don't even know the half of what people who are in the SHU are experiencing. Solitary confinement is also known as the Bing, the Hole, and as I mentioned before, the SHU. It's the most urgent human

rights violation, civil rights violation, used to terrorize our community members who are incarcerated. We must ensure the humanity of all individuals, even those who may be incarcerated at that moment. That there are the five senses that we learned in school growing up; sight, sound, smell, taste and touch. And when we deprive human beings of natural sensory, Madam Speaker, natural sensory and external -- external stimuli such as sight and sound for an extended period, as we're doing here with solitary confinement, it negatively impacts their mental health, their well-being and their ability to fully be human. People in solitary confinement are often there without due process, and this bill, Madam Speaker, seeks to change that. Seeks to reform the laws on which we govern due process for people who are placed in solitary confinement. We all got a sense of isolation during the height of the pandemic, as I mentioned. And so we must ask ourselves, that period of isolation that we've had, that period of restriction that we experienced during the height of the pandemic, is that something that we want to inflict on thousands of New Yorkers 22, 23 and sometimes 24 hours out of an entire day without due process? A couple weeks ago myself and my colleague visited the Green Haven Detention Facility and we visited the SHU, Segregated Housing Unit. I felt the pain, Madam Speaker, the fear, and listened to the stories of injustice. The screams for justice and a lack of process that landed them there. They were crying out to us, Madam Speaker, for us to reform a broken system. A system that allowed them to be without their freedom for 22, 23 and sometimes 24 hours out of the day. I asked my colleagues

across the aisle as I directly look at you, have you ever visited a SHU? Have you ever been in the shoes of individuals who are incarcerated and who spend upwards of 22, 23 and 24 hours of their lives in a box? In a space that's deprived of air, where you can't even do a jumping jack or spread your hands out. I'm grateful that this legislation creates more humane and effective alternatives to isolation -- isolated confinement, ends long-term isolated confinement, restricts criteria for placement in isolated confinement or RRUs, bans special populations from isolated confinement, folks who are living with mental health issues. And I'm also hopeful that this legislation seeks to enhance due process protections before placement in isolation or RRUs. Creates mechanisms for release from RRUs and covers all categories of people who are currently faced with isolated confinement.

As I close, I do intend to vote in the affirmative on this legislation but I do want to thank again the sponsor, thank again the Speaker, but also thank the advocates and the activists who have fought long and hard over -- over a decade to see this day. HALT solitary leaders who have lived through solitary and have had their loved ones suffer and live through solitary have been the leaders of this campaign. I want to thank Jerome Wright. I want to thank Victor Pate. I want to thank Anisha Byrne. I want to thank Jack Davis, Alicia Barraza, Doug Van, Kevin Mays, Roger Clark, Natasha White, and of course, Teyana Taylor, Madam Speaker. Teyana Taylor, I want to give you a special thank you because you've had two family members that have either been on (inaudible) or been in the SHU at

years and years at a time. We are moving to change this inhumane process, and it starts today.

I yield back the rest of my time and I look forward to voting on this bill in the affirmative. Thank you, Madam Speaker.

ACTING SPEAKER ROZIC: Thank you.

Mr. Carroll.

MR. CARROLL: Madam Speaker, on the bill.

ACTING SPEAKER ROZIC: On the bill.

MR. CARROLL: Thank you. First, I would like to commend the sponsor, the advocates who made today possible. Without brave folks telling their personal stories of solitary confinement or those of their family members and loved ones, we would not be here today. Simply put, solitary confinement is dehumanizing. And because it's dehumanizing, we should not do it. All people deserve basic dignity. Prison, the very nature of it, is inhumane. And because it's inhumane we should use it as limited as -- we should make sure it's as limited as possible because it is -- does such great damage to our society. Solitary confinement exacerbates that. Yes, there are individuals who have done terrible, reprehensible things. Yes, there are individuals who while they're incarcerated may do terrible, reprehensible things. But we, as a society, should restrain ourselves from further hurting and dehumanizing fellow people. This bill does not do away with solitary confinement. It allows it to be used in certain limited circumstances. But hopefully this bill will be a first step towards eliminating this practice and to reducing the general

prison population. Prisons are bad. Prisons do not rehabilitate people. Prisons must and should be a last resort because their very nature and existence are rotten and hurt our society. Solitary confinement is even more rotten.

I commend the sponsor for his work. I commend the activists for their work, and I commend the families and individuals who experienced this torturous treatment for coming forward and spreading light and showing us the way. Thank you, Madam Speaker. I hope my colleagues join me in supporting this very important piece of legislation and first step towards again reforming our criminal justice system.

ACTING SPEAKER ROZIC: Thank you.

Mr. Meeks.

MR. MEEKS: Thank you, Madam Speaker. Thank you to the sponsor of this bill, Member Aubry, and to the advocates who have continued to persevere in advocating for so many in the State. Thank you for this commonsense legislation, for solitary confinement is torture. Its sensory deprivation, lack of human interaction and extreme idleness can lead to intense suffering and severe lasting damage to physical and mental health, including psychosis, heart disease, self-mutilization [sic] and death. Solitary confinement is deadly. Solitary has taken countless lives. A person attempts suicide nearly every other day in New York prisons. Roughly a third of all prison suicides take place in solitary confinement in New York State. Solitary makes prisons, jails and

outside communities less safe. People are mostly sent to solitary confinement for non-violent conduct, often for not following orders. But also as cover-ups for staff abuse and retaliation for advocating for basic rights. Solitary confinement fails to address and often exacerbates underlying causes of problematic behavior as people deteriorate physically, psychologically and socially. Evidence shows that reducing solitary and providing meaningful alternatives like pro-social congregate programming and targeted therapy reduces violence. This legislation would end the torture of prolonged solitary confinement, protect especially vulnerable people like pregnant women and young people from spending even one day in solitary confinement and replace this torture with more humane and effective alternatives. HALT will stop torture, save lives and make prisons, jails and outside communities safer. HALT will save lives and save money. A recent think-tank -- think-tank report found that HALT would save the State of New York upwards of \$132 million. That sounds like lottery winnings. I'll repeat that. It will save the State upwards of \$132 million. This legislation makes sense and it will definitely effect needed change.

I am voting in the affirmative and I urge all my colleagues to join me in doing the same. Thank you, Madam Speaker, and again, thank you Member Aubry for this legislation, along with the advocates.

ACTING SPEAKER ROZIC: Thank you, Mr. Meeks.

Ms. González-Rojas.

MS. GONZÁLEZ-ROJAS: Madam Speaker, on the bill.

ACTING SPEAKER ROZIC: On the bill.

MS. GONZÁLEZ-ROJAS: Madam Speaker, I rise in favor of this legislation and truly commend the sponsor for his relentless pursuit of justice and his work of almost two decades on the passage of this bill. As a social justice activist, I live by the words of Audre Lorde. She says, *There's no such thing as a single-issue struggle because we do not live single-issue lives.* So I see my support of this bill as an extension of racial justice and gender justice. The movements are intersectional and are moving us towards decarceration and world where we all can be free. Passing this bill is a move towards freedom from the cave of systematic racism, unfettered capitalism and such patriarchy which robs the lives of our siblings every day. Solitary confinement is torture. It is cruel and inhumane, plain and simple. And yet over 8 in 10 New Yorkers in solitary confinement are people of color. Black people in New York State alone make up more than half of people who are placed in solitary confinement. We have been torturing Black and Brown people in New York State. We have been putting Black and Brown lives at higher risk of engaging in suicidal behavior and potentially dying of overdose upon release. And it must end.

I want to share a story by a very brave and powerful sister who helped me understand more deeply because it is crucial that

we are reminded that the decision that this Body makes every day impacts the lives of people every day. Sammie Werkheiser is an LGBTQ and criminal justice activist, and she is one of the women who I met with to discuss this legislation. Sammie and I spoke yesterday when I shared with her the news that HALT was up for a vote. She gave me consent to share her story of deep injustice at the hands of solitary confinement. Sammie served a 12-year sentence in prison at Bedford Hill [sic] Correctional Facility, a maximum security facility for women. You see, Sammie was pregnant with twins. She was being held in solitary confinement when her water broke. Sammie was only five months pregnant. She was shackled and gave birth to a baby girl and a baby boy; Jacinta Rain and Julius Kingston. Jacinta was 11 inches long and weighed 9.9 ounces. 9.9 ounces. That's half of a bag of chocolate chips. Jacinta only lived 22 minutes. She gasped twice and died on her mother's chest. Sammie's son Julius Kingston survived. He's seven years old today. But the stress of the torture of solitary confinement cost Sammie her dear Jacinta. A few weeks earlier after I first heard that story from Sammie, I visited Bedford Hills Correctional Facility with two of my colleagues. While touring the facility we asked to be locked in a solitary confinement cell where we could barely stretch our arms. And we felt for just a few moments what many in our State experience for hours, for days, for weeks, for months, for years, for decades. We lost Kalief Browder because of solitary confinement. We lost Layleen Polanco because of solitary confinement. We lost Jacinta Rain because of solitary

confinement.

Today's a victory, and it comes at a real human cost. Real human lives. We should sit with those losses so that we can move with more urgency to pass additional reforms that are necessary to ensure the lives of those who are incarcerated matter, because they do. Thank you to all the formerly-incarcerated people and advocates who have worked on this legislation who have dedicated years to this fight. Who even went on a hunger strike, risking their own health, to fight for the humanity of loved ones who experience harm every day in this carceral system. Thank you to Sammie, to VOCAL-NY, to the Women & Justice Project, to the public defender organizations, the mental health advocacy groups and to all the advocates and activists. Your stories, your courage and your tenacity has helped us move towards a more collective humanity because we can be so much better than what we are.

So, Madam Speaker, I'm humbled to cosponsor this bill and I very proudly vote in the affirmative to halt solitary now.

ACTING SPEAKER ROZIC: Thank you.

Ms. Fernandez.

MS. FERNANDEZ: Thank you, Madam Speaker.

Madam Speaker, before I begin I would like to acknowledge my colleague, the sponsor of this bill, who has championed the issue for so many years. Assemblyman, you have been a tireless fighter on this topic and I want to commend you for all the work you have done to get us to where we are at this moment. Today we, in the People's

House, are again taking action to provide equity to New Yorkers the criminal justice system has failed. The use of solitary confinement is inhumane and it is a practice that has no place in moral society.

Currently, under New York State law those -- those with freedoms that have been stripped can additionally be subjected to prolonged periods of solitary confinement, even for minor infractions. People with chronic disabilities and mental health challenges can be placed in traumatic environments where they incur the harms of isolation. What does it say about us as a society that we subject our most vulnerable to the psychological and physical harms of isolation? Picture it. An individual is given 90 days of solitary confinement. That's three months away from human contact, 12 weeks away from any social interactions, 2,160 hours alone in a cramped cage reminiscent of slave quarters without access to any meaningful support or therapy. If we're being honest, what we're really talking about here today is legalized torture. Cruel and unusual punishment that has destroyed the lives of countless New Yorkers, particularly in communities like the Bronx where I call home. Whenever I think about the horrors of solitary confinement, I think about our Bronx constituent who has left us, Kalief Browder. An innocent man locked -- locked in Rikers in a room no bigger than the elevator shaft for over 700 days. That's 24 months away from any human contact. Over 100 weeks away from any social interactions, and over 16,000 hours alone in a cramped cage without any access to support, therapy, for allegedly stealing a book bag. This trauma has caused that 22-year-old man to take his own life,

a true tragedy that should have been prevented. And unfortunately, Kalief is not the only New Yorker who has been tortured by the system. Children under 18, seniors over 55, and even pregnant women are all populations of people who are subjected to solitary confinement. What makes this even worse is that research has found that this heinous practice can cause irreparable damages. This may be why approximately one-third of all suicides in New York take place in solitary. Knowing how harmful this practice is gives context to the enormity of the issue. On any given day, roughly 5,000 people are in isolated confinement in New York State prisons. Hundreds, if not thousands of others are in solitary in local jails. Like all things in the criminal injustice system, people of color are disproportionately harmed by the practice. In particular, while Black people represent about 48 percent of those incarcerated, they represent about 57 percent of the people held in long-term solitary confinement. Furthermore, young people, those with mental health challenges and gender-nonconforming individuals are all populations that are more likely to be placed in isolation. This is true of Layleen Polanco, an Afro-Latina trans woman who was held at Rikers after she was unable to pay the \$500 bail. One month later she was sentenced to 20 days in solitary confinement, and quickly exhibited intense feelings of psychological distress, including suicide -- suicidal ideation, hallucinations and panic attacks. Despite having a seizure disorder, she was kept in isolation where she later died after staff failed to provide her with the life-saving medical care following an epileptic

seizure. Layleen was 27 years old.

We cannot claim to live in a just society and continue to allow the practice of solitary confinement. It does not make correctional facilities or communities safer, and it fails to address any underlying causes of problematic behavior. In fact -- in fact, it exacerbates it. Evidence shows that reducing solitary and providing meaningful alternatives like pro-social congregate programming and targeted therapy reduces violence. We must pass the HALT Solitary Confinement Act to end long-term isolated confinement and protect vulnerable New Yorkers from spending even one day in isolation. We must replace torture with more humane and effective alternatives that actually attempt to address the underlying humane conditions faced by incarcerated New Yorkers in most need.

Today I'm proud to stand in support of HALT and end the most harmful use of isolated confinement currently practiced in this State. As legislators, it is our responsibility to ensure this law is signed and is enacted quickly so that we can begin to help the countless New Yorkers who are currently suffering instead of getting the support they need and deserve. I want to thank again my colleagues and the sponsor and all the activists for not backing down and pushing this issue to the forefront every chance we've gotten. Thank you, Mr. Speaker. I vote in the affirmative.

ACTING SPEAKER MCDONALD: Mr. Otis.

MR. OTIS: Thank you, Mr. Speaker, and thank you, colleagues. The -- the news that solitary confinement leads to mental

illness, that it is torture, is not really new information at all. A neighboring state, the State of Pennsylvania, once based their whole prison system -- all prisoners were held in solitary confinement. And after a few years of that there were serious mental health issues. Prisoners really went crazy and Pennsylvania abandoned that system. This is -- you can read about this. Eastern Penitentiary in Philadelphia was the -- the home of -- of this system of punishment. But in '13 they went in a different course. Not in 2013, 1913. This is not new information. And we in New York need to adopt this bill which certainly allows the Department of Correctional Services to still have ways of keeping everybody safe, but not using what is a torturous method in terms of time period, in terms of a lack of rules. This is a well-thought-out approach, a balanced approach that we are supporting today. This is a step for humanity. Because every person, even people who have done maybe horrible things, maybe not so horrible things, but being in prison you should not lose your humanity, and we take an important step today.

I would like to thank the advocates who have worked tirelessly in -- in the recent years to move this issue. I've been at events with you, and -- and know that your determination is part of the action we're taking today. And I especially want to thank lead sponsor Jeff Aubry, who has been tireless and a leader and an advocate within the Legislature to make sure that we move this legislation and we change the lives of people that are incarcerated in this State and give them the dignity that they deserve and will not damage them in their

future.

So I vote aye. And, you know, we've heard testimony today about the experiences that so many have -- have suffered. We can do something about it with the passage and the signing of this bill. Thank you very much, Mr. Speaker.

ACTING SPEAKER MCDONALD: Ms. Kelles.

MS. KELLES: I want to thank the sponsor for his tireless years of work to bring this bill to the floor. If the proposed solution to a problem exacerbates the very problem being addressed, then it is not a solution. Solitary does not benefit -- benefit incarcerated people or make prisons safe. In reality, it is a convenience measure that exacerbates the problem by increasing mental health issues, hopelessness, fear and physical health issues. These outcomes cost taxpayers both in the short- and long-term, and harm the individuals -- the individual families and communities both socially and fiscally, sometimes for the rest of that person's life. It is, simply put, not a solution to the problem. From a public health perspective and from the science we know what works. Harm reduction and trauma informed care actually lead to reduced violence. Locking someone up -- locking someone up and essentially throwing away the key does not work to address the very problem it professes to solve: Reduce overall violence and rehabilitate the incarcerated population. It's a convenient measure to allow for the management of human bodies in a prescribed budget. This bill went through the committee called Corrections. The definition -- the definition of

correction, "the action or process of correcting something." If our system is a system designed to correct, then how can we justify the use of a tool that by science we know has no intention of correction? I cannot say that the end result of all correction efforts will lead to rehabilitation, but to use a tool that doesn't even attempt to try, that doesn't even try to mask itself as correction is not a tool that should exist in a system that calls itself Corrections. Opponents of the bill have said that a solitary is a necessary tool. But to what purpose? We know that solitary confinement has been used as a tactic inside prisons for decades, and yet the people who say it is necessary also say that violence inside prisons is increasing. If solitary is necessary to prevent violence, then why is violence increasing while solitary is in full effect? On the definition of solitary, opponents to this bill would have us believe that there is a difference between being held in solitary confinement and being housed in a Special Housing Unit, otherwise known as an S-H-U. However, under current law, solitary confinement takes place in a Special Housing Unit. Also, contrary to some of the misinformation that has been shared today, under current law, programming is not required for anyone in an S-H-U outside of one hour of segregated recreation time. And note, by programming this does not mean clean laundry. This does not mean access to medical services. And it certainly doesn't mean access to books. If there are prisons that do provide programming, that is well and good. But that is not the current law. Right now we are working to amend the law. If we know that programming such as mental health counseling, for

example, is correlated with improved rehabilitative outcomes, then it would make sense that it should be required by law as a bare minimum. This bill outlines a strategy based in science to address incidences of misconduct. This bill redefines solitary confinement to mean isolation in a cell for more than 17 hours a day. This bill sets a maximum length of time someone can be placed in solitary, after which they would be transferred to a Residential Rehabilitation Unit. This bill requires at least four hours of programming, including at least one hour of recreation a day. And yet in total opposition to what has been insinuated by the opponents of this bill, it does still allow for extended solitary confinement in exceptional circumstances. What does this bill not do? It does not completely eliminate the ability of a prison to isolate an incarcerated individual from the general population if the prison administrator believes that an individual is a harm to themselves or others. So why do we need to shift away from solitary confinement as a primary tool to address misconduct? The use of solitary confinement is not rare in New York. By one estimate, 40,000 sanctions for solitary confinement were issued in 2018 in a state prison system that holds just over 45,000 people. From a public health perspective, solitary confinement is harmful to individuals, families and communities. It causes long-term mental health struggles, painful physical consequences and increases the risk of self-harm and suicide. On average, someone sanctioned to solitary will spend 105 days alone, though back-to-back confinement allowed under current rules often results in longer terms of isolation, as you've heard today. The less

restrictive forms of solitary still mean that someone can spend up to 23 hours a day for several days without any human contact. Reforms have been promised and delayed while the number of solitary confinement cases continues to rise. Solitary, like most carceral policies and practices bears disproportionately on people of color. Again, as we've heard many times today. One survey of solitary taken in 1999 showed that more than 80 percent of those held in solitary were Black and Black Latinx individuals, and that trend continues to this day. From a human rights perspective it violates the international obligations. United Nations experts have called for a ban on solitary confinement in most circumstances, and in any situation involving juveniles or people with mental disabilities. The severe pain and suffering caused by solitary, even if instituted for just a few days, can amount to torture or cruel and degrading treatment in violation of international human rights laws. Solitary confinement is inhumane and lacks any rational justification. I take great offense to the statement I've heard today from one of my colleagues that this bill is a stab in the back to those many officers who do their job with sincerity and integrity. I believe that this bill is to protect everyone by designing a strategy that has a greater likelihood of actually reducing risk of harm to incarcerated individuals and officers alike.

I want to thank my colleagues and the advocates who fought for this. And especially the brave individuals who spent days, months and even years in solitary, and yet despite the trauma it caused, upon entering back into the community dedicated their lives and

continue to dedicate their lives to change a system that caused them emotional, mental and physical harm.

So, Madam [sic] Speaker, I stand in support of this bill and urge all of my colleagues on both sides of the aisle to usher this bill into law. Thank you so much.

ACTING SPEAKER MCDONALD: Mr. Burgos.

MR. BURGOS: Thank you, Mr. Speaker.

On the bill.

ACTING SPEAKER MCDONALD: On the bill.

MR. BURGOS: I want to thank the sponsor of this bill. Today marks a necessary moment in our continued effort to enshrine in our laws the respect and compassionate treatment of all New Yorkers, regardless of their circumstances. Assembly Bill 2277, better known as the HALT Solitary Confinement Act, finally puts to an end the degrading and inhumane practice of prolonged solitary confinement. A practice that will be cruel and unusual by the most conservative standards, yet serves as the primary means of punishment within our jails and prisons. A practice created to shatter the psychological and physical stability of inmates, mostly Black and Brown. A practice that is unnecessary and tantamount to torture.

So let me paint a picture for you. A man's in a seven-by-ten-foot gray box, roughly 70 square feet or the size of an average bathroom, with a sharp-edged metal framed platform under a thin piece of padding, a dirty steel toilet and a sliver of light from a small gated window if you're lucky. The air thick and unyielding with the

foul stench of urine, feces, body odor and pepper spray. Imagine spending 23 to 24 hours in that small gray box with no human contact, no TV, no radio, no Twitter, no Instagram. Nothing. Just you and your thoughts and the inhumane isolation of so-called punitive segregation. Now imagine that loneliness and social deprivation for six months, like Layleen Polanco, who later died in solitary confinement. Or Kalief Browder, who spent two years straight in solitary on Rikers for nothing and later took his own life. Or Nathaniel Jackson, who spent close to 16 years in the SHU in what has been described as the decimation of his life skills. In fact, as the 2013 United Nations report put it, and I quote, *Prison regimes of solitary confinement often cause mental and physical suffering or humiliation that amounts to cruel, inhumane or degrading treatment or punishment if used intentionally for purposes such as punishment, intimidation, coercion or for any reason based on discrimination. And if the resulting pain or suffering are severe, solitary confinement amounts to torture.* That's what we're voting on today. Does New York State continue to condone torture or do we move towards a system that holds people accountable while respecting their dignity as human beings? We are voting on the moral right that is the underpinning of our value system as people. And as the member representing Rikers Island, I feel with every ounce of my being that we are voting not only for what's right, not only for what's just, but ultimately to ensure that we live up to our responsibility as a Body to uphold that value system and lift up communities like mine that

continue to bear the brunt and cost of mass incarceration.

With that, thank you to the bill sponsors, the incredible advocates and activists who fought so tirelessly for us to reach this moment today. I intend to vote yes on this bill, and I yield back the rest of my time.

ACTING SPEAKER MCDONALD: Ms. Forrest.

MS. SOUFFRANT FORREST: I thank the sponsor and the Speaker for bringing forth this bill to the floor. I'm going to talk about what I know best, which is nursing. I'm a nurse by trade. The basis of nursing philosophy is care. I've cared for all types of people; the mentally ill, newborn, whole families, elders on their deathbed, and people -- even people who are or were incarcerated. The care I provide sometimes requires a nasty pill, a simple touch, a kind word, tough love and sometimes a little push out of the bed. But no matter the tool that I use, no matter how bitter the pill or the sharpness of my injection - and I doled out some painful injection, ya'll -- the care I -- I provide is never questioned or refused because no matter the method I use, the intents of my care is unquestionable. It is to make the recipient better. When I visited the people - and I say people in the incarcerated system, New York State's incarcerated system, it was clear to me that the men and women held behind bars were not being cared for, and the intent of the carceral [sic] system in its current state is malicious. One word for it, malicious. The tool used is the cruelest of all. Solitary confinement is torture. The sensory deprivation, lack of human interaction, extreme idleness can

lead to and does lead to intense suffering and severe lasting damage to physical and mental health, including psychosis, heart disease, self-mutil -- mutilation and even death. Think about it this way: It is illegal for me as a health practitioner to allow someone to remain in isolation for more than a couple of hours. Even if that person is harmful to themselves or to my person. I could go to prison for that level of gross neglect and medical -- medical malpractice. My license dictates that I use other tools to subdue that person because my license states that I, above all, must do no harm. So my colleagues and others must understand my deep concern and my abhorrence when we allow humans, humans to be chained, locked up and left in isolation for years.

I also want to bring up the type of people we allow to be in solitary confinement. Despite past legislation, everybody goes to solitary confinement. It doesn't matter if you're mentally ill, a quadriplegic, a young person. Everybody and anybody goes to SHU. Solitary confinement is racist. Black people, who make up 18 percent of the State's population make up 57 percent of those locked up in solitary. But one particular group I want to bring up that is victimized by solitary confinement that boosts my vehement support to end this cruelty are pregnant women. It broke my heart, ya'll. Literally brought me to a standstill in tears to hear that pregnant women are put into solitary. To hear that women who are at their most vulnerable in their life and the life that they are trying to bring forth into the world, an innocent baby, an unborn baby, they are put into solitary

confinement. This is disgusting treatment. I've worked with pregnant women all -- during the time of my nursing and most of my time. It is a very touching and vulnerable time for the families and the women involved. To hear the stories that women who are pregnant are locked up 23 hours in isolation, that means you are unable to communicate your health emergency, your back pain, your apprehensions - because you know pregnancy is a mental thing, too - 23 hours of unvoiced fears for years -- for -- for hours, months, days, weeks. I relate to these women because I am, too, an expecting mother. I am in my third trimester. And I struggle to maintain my health and the health of my unborn child while being able to walk freely, to call 911, to call on my husband when I need him. I cannot fathom the plight of my sisters, my expectant mothers in solitary. Solitary confinement does not keep anyone safe. Solitary confinement is cruel, inhumane, unjust. Straight up wrong. It has to end now. We must bring justice for the lives lost such as Layleen Polanco - say their name - Kalief Browder, Ben Van Zandt, Dante Taylor.

I also want to thank all the advocates and Assembly Aubry -- Assemblyman Aubry for your hard work to end solitary confinement. And most of all, my thanks -- I thank the men and women forced behind docket numbers and bars for sharing your stories. Your stories have brought liberations for -- have brought liberations for thousands. Today, your stories have brought the beginning of the end of solitary confinement. I vote proudly and firmly in the affirmative. Thank you.

ACTING SPEAKER MCDONALD: Mr. Taylor.

MR. TAYLOR: Thank you, Mr. Speaker. On the bill. First, I'd like to -- to commend the sponsor for his unwavering, undying commitment to this bill, A.227 [sic], HALT Solitary Confinement. Over the years he's continued to fight the good fight. To Victor Pate and the hundreds of organizations across the State and around the country that have chimed in and supported. And certainly the thousands of individuals that have reached out and continued to keep the pressure on that we do not negate or forget about all those folks who our responsibility is to provide them relief. The short of the story is this is a blatant disregard, disrespect for life. If I had an animal and kept him or her in such condition, I would be fined and possibly criminalized for doing such things, and we're looking at folks that are incarcerated into -- I'm sorry, into confinement for over 23 hours a day. And we're talking 21 and under, 55 and over.

So I want to commend the sponsor today, Mr. Speaker, and for the Speaker bringing it to -- to -- to the floor for a vote. We're talking about the fundamental human rights not to be treated as victims of torture. It also restricts -- and this bill would restrict confinement that creates alternatives to serving those in that population have problems by treating them therapeutically and rehabilitative options that allow for the continued access to treatment programs and services. And certainly not missing meals and recreation opportunities. And I just want to piggyback on my colleague, what she just said. The idea of -- as a father of five

children, the idea that my wife would have to be confined in such a way, I think there was more humane treatment given - and I don't know, don't quote me on this - for folks that were in slavery. They didn't live in this condition. And if we're going to be one of the leading states in the nation, we must do a better job on how we treat those that are less vulnerable than ourselves. And so, to be incarcerated is the punishment within itself. But to double down and have to live in a cell smaller than who know what the heck and be stuck there for 23 hours a day and not being able to see or talk to anyone, getting your physical needs met and possibly not even being fed, that's inhumane for anyone. And anyone that would do that to an animal or a child would be locked up for it immediately. So I don't see the push-back. And I don't understand how being humane and treating people the way we would want to be treated is an offense to those that are serving. I think this on the opposite. You change the morale of those that are working there, those that are incarcerated there. And I think the numbers support that there is violence on the uptick, but incarcerating and then putting people into solitary confinement has not relieved that. I think we want to do something different, and this is long overdue. More than a decade in coming. The New York Civil Liberties Union has issued reports detailing the unjustified use of solitary confinement and it goes on and on. And on any given day, 57 percent of those that are incarcerated, although only 18 percent of people of color there, 57 percent on a daily basis are people of Black and Brown orientation. So we need to do something

about that. And we want to be mindful of the security and safety of both those that are incarcerated and those that are there to do the job. I think it enhances folks' mindset and safety if we come at it from a different approach. And I am so happy that this is here, and we must annihilate this. And this is only one step. And I would also say that this legislation is the beginning, but there needs to be oversight to make sure that this is actually happening and the resources necessary to make sure that this is taking place needs to be in place as well.

So thank you much, Mr. Speaker. I yield back the rest of my time. I'll be voting in the affirmative.

ACTING SPEAKER MCDONALD: Ms. De La Rosa.

MS. DE LA ROSA: Thank you.

On the bill, Mr. Speaker.

ACTING SPEAKER MCDONALD: On the bill.

MS. DE LA ROSA: I want to thank the sponsor and the Speaker for their leadership in bringing this bill to the floor. And to the sponsor I want to say a special thank you for being a lifelong advocate for the passage of this bill and for seeking justice in your work. The fight for criminal justice reform is predicated on the pursuit of justice. And solitary confinement, as we've heard here today, is State-sanctioned torture. Torture is that not conducive to restoration or transformation. It is purely punitive. We know that solitary confinement has long-term impacts on the mental health and the physical well-being of a person. It causes long-term trauma, and

in many of our communities it has taken lives. We know that the system disproportionately impacts Black and Latino people in this State. Eight in ten people impacted by solitary confinement are Black and Brown -- Black and Latino. It is no coincidence that the people who are disproportionately policed in our communities are detained and incarcerated are the same people who are disproportionately locked up in solitary confinement within our prison system. This system is broken. And Black and Brown people continue to suffer under a system that is the continuation of slavery. Most recently, I visited Fishkill Correctional Facilities with my colleagues. And I cannot take out the image or the words uttered to me by a COVID-positive person sitting in solitary confinement. He said to me, *I am being punished for being sick*. The use of solitary confinement as a means to deal with people who are sick, who are ill, who are pregnant, who are trans, as a means of keeping them safe is absolutely false. Safety and dignity are not interchangeable, and this should not and cannot continue in our State. This bill prohibits prolonged use of solitary confinement and is a step towards ending torture and returning dignity to incarcerated people.

Earlier this week as this bill was going through Committee, a colleague raised the question of whether as a Majority we care more about incarcerated people. I want to say to our colleagues that this is not about caring more for incarcerated people. This is about understanding that incarcerated people are people. They are our people. They are mothers. They are fathers. They're

someone's child right now sitting in solitary confinement in New York.

We support this bill because we recognize that humanity. We value that humanity among people. We recognize that in that humanity there is an opportunity to possibly transform that life. And in respecting that humanity, today I join my colleagues in saying proudly that we will end the practice of solitary confinement in our State. When the time comes, I look forward to voting in the affirmative for this legislation in the names of all of those lives that have been forever impacted by a broken criminal justice system that should not bear its name because there is no justice in that system. Thank you, Mr. Speaker.

ACTING SPEAKER MCDONALD: Ms. Zinerman.

MS. ZINERMAN: Mr. Speaker, on the bill.

ACTING SPEAKER MCDONALD: On the bill.

MS. ZINERMAN: Thank you to the sponsor, the Speaker, all the advocates, former inmates and my colleagues who rise in support of the Humane Alternatives to Long-Term (HALT) Solitary Confinement Act today. The New York State Department of Corrections is responsible for the confinement and rehabilitation of those convicted of crimes for the purpose of ensuring public safety. The Department of Corrections achieves this by operating safe and secure facilities. Many of the statistics we -- that were cited today reveal that our prisons may be secure, but they are not always safe for our inmates or our correction officers. The Department of Corrections

is responsible for preparing individuals for their ultimate release. I ask you all today, does solitary confinement prepare people for release if the goal is public safety? The Department of Corrections is responsible for supervising inmates successfully while they're in prison and when they return home from prison. Solitary is not supervision, it is torture. HALT creates a rehabilitative and therapeutic units and programming. Therapy and supports to address underlying needs and causes of maladjusted behavior. Behaviors that are caused by abuse, by addiction, by mental illness and by racial trauma. I would think this type of setting detailed in this legislation would force the rehabilitation and the goals of correction, rather than leaving inmates alone in a small space to their own thoughts and their lack of coping skills, many of which contributed to their imprisonment in the first place. I believe this legislation seeks to fulfill the mission of DOCS. This legislation bans special populations including pregnant women, minors and transgender people from being isolated under the auspices of keeping them safe. On this fact alone, we should pass this legislation today. We've passed other legislation that prevents pregnant women from being handcuffed, and we all know that solitary is far worse. I submit that solitary confinement is inhumane, and with the passage of this bill we are proving that we are all better than this. We are better than torture.

In addition to -- to joining my colleagues in lifting up the names of Kalief Browder and Layleen Polanco and others, I want to lift up another group because it seems that some believe that

because we support this legislation we do not care about the lives of correction officers. So this message is to the 3,000-plus Black women correction officers, many of which I am fortunate enough to call friends, family members and whom I represent in the 56th District who became correction officers for the expressed purpose of changing the treatment that their fathers, their brothers, their husbands and their children receive in prison. These Black women correction officers believe in the vision and the mission of DOCS, and they go to work every day to fulfill that mission. The culture of prisons must change in order to protect and ensure the safety of the incarcerated and the correction officers. HALT will help to change the culture -- culture of prisons, and I believe that this bill is the next best step to ensuring that rehabilitation is the goal and not torture and punishment. I know the horrors that these women have seen as they share the incomprehensible and terrifying stories of what they have seen. Yet they go to work every day knowing that if they show compassion in an organized structure that is laser-focused on restoring the health and well-being of -- of -- of people and providing some semblance of normal life through training and therapy that these people have a better chance of successfully leaving prison -- prison and going home. Yes, we need to protect our correction officers. But we must also create a system that will keep all who work and live in prisons safe.

In honor of those who have died while in or after experiencing solitary confinement, I proudly vote today in the affirmative and I salute the women who see the humanity, and all

correction officers who see the humanity in inmates and not just their crime.

ACTING SPEAKER MCDONALD: Ms. Simon.

MS. SIMON: Thank you.

On the bill.

ACTING SPEAKER MCDONALD: On the bill.

MS. SIMON: Thank you. I want to commend the sponsor of this legislation for his outstanding advocacy for incarcerated and formally-incarcerated people who've been subjected to solitary confinement. This path was long and arduous, but today New York is finally poised to do the right thing. Every rationale advanced in support of the use of solitary confinement is just that, a rationale to justify man's inhumanity to man. It is, in short, a travesty of justice. Isolated confinement is inhuman, it's ineffective, it's unsafe, it's counterproductive and it's unhealthy. The United Nations considers it torture. Isolated confinement does not address the underlying causes of problematic behavior, but instead, tends to exacerbate those behaviors because isolated confinement causes people to deteriorate physically and mentally. Extreme sensory deprivation, the lack of meaningful human interaction and the prolonged idleness of solitary can lead to lasting and severe psychological, physical and even neurological damage. In fact, recent research at Cornell University found that even a few days of solitary confinement, even only one or two days of solitary, led to significantly heightened risk of death by accident, suicide, violence or other causes.

Historically, minors and those with mental health issues and other disabilities and gender-nonconforming people, the most vulnerable prisoners, are subjected -- are disproportionately subjected to solitary confinement. The S-H-U is also disproportionately used against people of color. Only 18 percent of New Yorkers, as we know, are Black, but they are 48 percent of the people in New York State prisons and 57 percent of the people in solitary confinement. Over 80 percent of the people who have died in prison since the outbreak of COVID-19 are people of color, 59 percent of whom are Black. So, no, solitary confinement is not a protection against COVID. And because nearly all people in prison return eventually to home, this harms communities and families, especially communities of color across the State, exacerbating inequalities. Some colleagues have argued today that the S-H-U is not solitary confinement. But make no mistake about it. Segregated housing is isolated confinement. Colleagues have similarly recited a laundry list of services that a person in S-H-U has access to, except that the experience of those who've been subjected to the S-H-U tell us otherwise. Access on paper, it's just that. It's words on a piece of paper, and they have not been worth the very paper that they've been printed on. For all of this access, more than 30 percent of all prison suicides in New York take -- all prison suicides in New York take place in solitary. Solitary does not rehabilitate people, it destroys them. Eliminating solitary will make New Yorkers safer. It will also save us money. The Partnership for Public Good has estimated in -- in 2020 that by enacting HALT we

could save New York State and its localities \$132 million a year and reduce recidivism as well. And let me say that throughout this pandemic we've been increasingly concerned, all of us, about the lack of social interaction, the isolation that many people have experienced, including our senior citizens who have been confined to their homes or congregate settings without visitors that has caused them to deteriorate physically and mentally. And they have access to caretakers. So please don't insult our intelligence by making believe that the S-H-U is anything other than solitary confinement. It's time for New York to end this barbaric practice.

I want to thank the sponsor again for his tireless and very principled advocacy throughout the years that he has carried this bill. I want to thank Speaker Heastie for bringing this bill to the floor, the families of people who have been subjected to solitary and the advocates, including the Campaign for Alternatives to Isolated Confinement for their continued diligence in this effort. I've been proud to cosponsor this legislation, and I will be very proud to vote yes. Thank you.

ACTING SPEAKER ROZIC: Thank you.

Mr. Brown.

MR. BROWN: Thank you, Madam Speaker. Will the sponsor yield for a few questions?

ACTING SPEAKER ROZIC: Will you yield, Mr. Aubry?

MR. AUBRY: Certainly.

ACTING SPEAKER ROZIC: The sponsor yields.

MR. BROWN: Thank you. Mr. Aubry, first I just want to start by saying I have the utmost respect for you and how hard you've worked on this. Just by the way of context, I -- as a former Assistant Attorney General, I defended many of these cases in Federal court where prisoners brought actions against correction officers for various violations. So with that context, I just wanted to ask you a few questions. Was the Department of Corrections consulted with prior to this legislation being promulgated?

MR. AUBRY: This legislation has been around a very long time. And of course when the Department promulgated its regulations based on the orders of the -- the Governor, we sent them -- when this regulation process which is -- would allow for comment, we sent them a very detailed letter specifying the difference between what they were proposing and what our bill proposed. And so they got where I was coming from. And in their -- there was -- they rejected everything that we proposed. It wasn't -- it's wasn't even a discussion. So -- so there's been ample opportunity for that communication. And of course this would -- the same bill was passed in 2018 and we, again, had conversations. So the Department is probably as well aware of this bill as I am.

MR. BROWN: So I -- I read that these regulations have been in effect for possibly three months, is that correct?

MR. AUBRY: Right. They were issued, but they don't take effect until October. So when -- when the Department goes

through the regulatory process, right, they -- they have it out for comment and then they wait for comments to come in and they review the comments and then they're -- you know, they rule on whether or not to proceed with the regulations. And then the establishment of the process will begin in, as my learned counsel says, October. So we're not even into the limitations that they have proposed yet. They're still operating on the old system which allows them to do all the things they have been doing all along, which were the genesis of why this legislation was proposed.

MR. BROWN: So, correct me if I'm wrong. Are we codifying the regulations that have been instituted by the Department?

MR. AUBRY: No, we are not. We are modifying the regulations, and in some cases, codifying some of those proposals. But we are amending them in the way that the bill proposes for the manner. So we changed some of the specifics, particularly the length of time that you could be in SHU without interruption, the RRU establishment, and the definition and proposing the training that staff needs to undergo in order to change the direction. And -- and this is a -- this is a sea change from where they have been seeking to take them to another place so that incidents such as you have had the -- the task of prosecuting happen less because we'll give them different tools than the ones that they currently operate under.

MR. BROWN: Well, thank you for that answer. You actually anticipated my next question. So, with respect to -- it's been -- my colleagues have stated before a couple of things that I just

want to clarify. With respect to due process for a prison inmate that is -- has violated the rules of the -- the institution that they're in, could you tell the members of the Assembly, the violation comes up and there is an administrative process, right, a review process of that violation, correct?

MR. AUBRY: Yes.

MR. BROWN: And when that administrative determination is made, the prisoner has the opportunity to appeal that to the Department of Corrections Commissioner, Is that correct?

MR. AUBRY: Yes.

MR. BROWN: So in many instances the individual that's sitting in S-H-U or what we used to call administrative segregation, he -- he has had due process, correct? He or she.

MR. AUBRY: Right. He's -- he's -- he's appealing his decision to the boss of the guy who did it to him. If that's what he's appealing. Right. So that it isn't an outside independent, right, like going to court and you have a judge separate and apart from the police, or -- you're -- you're all in the same circus, right? So -- so that -- it's a bit different than the prospect of somebody going to court and seeking blind justice. You're -- you're going into a situation for many where the system that supports the process makes rules on the process.

MR. BROWN: But specifically, this is for people - and I'm broadly speaking now - who have not only have been adjudicated of a crime, but have now misbehaved in the prison facility and who are now receiving a punishment for that misbehavior, is that

correct?

MR. AUBRY: Well, that would be a -- a description I could certainly agree with. If that is the case, they have been adjudicated and tried and sentenced. So the question, then, is the additional punishments that are levied out on people inside the system. And not always because they have violated criminal codes, right? They have done something that was amiss in the -- the codes of the institution that they were held in. And that could be many things. And that's the stories that you hear, that it isn't just the (inaudible). So they threw something at somebody or they eye -- they say eyeballed a -- a -- an officer. Or, you know, they didn't eat the food that they were assigned to eat or they didn't come out of the cell at the time that they were purported to come out. Or they had what they call contraband could be anything that's in the cell that they weren't supposed to have. There -- so there's a long list of those things. And counsel also reminds me, however, that there are lists of things that are essentially crimes that would allow people to be held into the S-H-U's at longer periods of time. And that -- my contention is that they would also be allowed, you know, under those cases where they've committed crimes, to be tried outside of the (inaudible) and adjudicated by a court. You know the system.

MR. BROWN: Sure. And -- and one of those misbehaviors, I would assume, would be inciting riot inside of a prison?

MR. AUBRY: Well, that would be a -- a crime. To

incite a riot, if it were you or me or anyone else, is a crime, right?

MR. BROWN: Yes. But in particular, in the prison facility it takes on a little larger meaning, right?

MR. AUBRY: Well, inciting a riot is a crime no matter where you are and is dangerous to anybody who's in it. And certainly, it can be -- you know, one might contend that inside of a facility that it is even more dangerous. I -- I can only tell you that in the prison that I worked in when I first came out of college was the scene of a riot and burned down, as a matter of fact, and the largest loss of life -- more loss of life than Attica. So I do understand the tender that prisons provide for dangers. And it is that reason that we propose systems that don't exacerbate the anger and frustration that is natural from somebody who's locked up. Could have been innocent, as you well know. And we've seen those instances. You could lock somebody up for 24 years. It happened in my borough not too long ago, and they discovered that the persons, three of them, were innocent. I don't know how you manage to be locked up in the system as an innocent man and then be all right. Right? So -- so we have so many stories when you look at what goes on inside these -- the human caldrons of emotions, and I understand that.

MR. BROWN: So, I'm curious why the regulations and why the -- the bill that we're considering does not contain any provisions, then, for minor offenses maybe to be excepted from administrative segregation or by S-H-U, and why major offenses aren't given some type of -- of daily punishment, let's say.

MR. AUBRY: Well, I mean, the Department has at its -- at its disposal -- they don't have to use S-H-U's. It is their decisions that they make internally. We don't -- you couldn't go that far down in management. Maybe people would like to, but you can't. You're -- you're giving them a framework that tells them, *This is a tool that you have, and these are limits on how you use that tool. You have other tools that you may use, all kinds of tools, in regulating and managing the people that you deal with that, you know, are -- are less than S-H-U's.* Right? And so S-H-U's are hopefully are not the main tool they use. We think they're overused in -- in the form that they were, but there are other ways in which you manage those people's behavior.

MR. BROWN: All right. And in terms of -- you know, if we perceive that there's overuse, it seems to me that the -- the curtailment or maybe the application of certain offenses - let's say the eyeballing - that if we determine that that is not worthy of S-H-U that that would be excepted from application of S-H-U. That something like inciting a prison riot should have some type of punishment assigned to it, no?

MR. AUBRY: Well, in the bill we identify the ones that are most serious that are -- we believe are -- are those that the Department needs to act on, if not. But we don't, quite frankly, identify the least of things because the list would be endless. So if somebody walks on -- if you've been in a prison, if you walk on the wrong side of the hall, you've got a problem, right? Is that -- if I

remember, having walked in the prisons, so there's a side you walk on if you're going this way and it's like walking down -- you know, driving on the wrong side of the road. So they have rules like that that could get you in trouble if you, you know, for whatever reason one morning you decided, *I'm not walking down the hall this way*. So -- and they would manage to -- to deal with that in some kind of way.

MR. BROWN: So just to be clear, these rules are in effect to keep order within the prison facility, no?

MR. AUBRY: Obviously, yes.

MR. BROWN: Right. So, and just going back about the due process, as I mentioned in the beginning, the cases that we handled, the 1983 cases that we talked about -- for those that don't know, under the Federal statute 42 USC 1983, the discrimination statute, so be it, prisoners have an opportunity to bring a case not only in State court but in Federal court if they feel they've been put into S-H-U improperly, correct?

MR. AUBRY: Right. My colleague -- my counsel tells me that it's a major Constitutional violation --

MR. BROWN: That's right. A Constitutional or statutory violation.

MR. AUBRY: So -- so -- so you're saying that they have avenues to redress certain kinds of things.

MR. BROWN: Right. And part of that redress is that they could actually even get attorney's fees if, if a jury finds that the facility improperly put them in S-H-U, is that correct?

MR. AUBRY: Right. There -- I'm sure there -- there are those ways. The problem, of course, is access to law, access to justice while you're in. The ability for, you know, an inmate to be able to adequately represent himself under those cases or find representation. Places -- the -- Prisoners Legal Services are things that we fund and have funded for a long time - which in many cases underfunded, we're just only now bringing them up - have provided that -- that tried to provide that service. But it is not unlimited, and as you know, the access to justice for poor people has been sorely underfunded for years both in the country and the State.

MR. BROWN: But -- and I could appreciate that. But I'm actually looking at the list of amenities that incarcerated individuals are allowed to utilize. And I see under the list there is books, there is literature, education materials, writing materials, mail and legal mail access and privileges. So they also have library services and, most importantly, from my point, is law library services so if they want to draft -- and many times we handled pro se matters from prisoners in Federal court on this exact issue.

MR. AUBRY: They can take away a lot of things as a part of this. But do you know, by the way, offhand the average educational level of somebody in prison?

MR. BROWN: So, my concern is --

MR. AUBRY: My question back to you is, do you know the average educational level of people who are incarcerated?

MR. BROWN: Well, I presume you do, so...

MR. AUBRY: So -- so, it is less than 10th grade. I think the average is somewhere down in the 5th or 6th grade at best. So while, you know, there are those that are quote, unquote, "jailhouse lawyers." I guess they're the mythical jailhouse lawyer who can write briefs on the back of his hands and whip them out and win in court. The reality of the 40,000 or so people who are in facilities, those individuals are more than just rare. And you may not -- you may be in an institution who doesn't have anybody there who has that capacity to help you. So, like, we have things that we say are available, but when you look at a system that's rather broad, that availability is always going to be limited and you could be -- so for instance, you're working with a jailhouse lawyer and somebody decides, *We're not going to keep you in that jail, we're going to take you to another one* - which they do on a regular basis - so you no longer -- I'm the guy who's got the 6th grade education, so I no longer have anybody there that's going to be there to help me. I'm only saying these are the -- we have a theoretical of how they work and then we have a practical of what the life and experiences are of people who are incarcerated.

MR. BROWN: Well, thank you very much for those answers to my questions. I really appreciate it.

ACTING SPEAKER ROZIC: Your time is up, Mr. Brown.

MR. AUBRY: I'm sorry, I talked you right out of it.
(Laughter)

ACTING SPEAKER ROZIC: Ms. Davila.

MS. DAVILA: Thank you, Madam Chair.

On the bill.

ACTING SPEAKER ROZIC: On the bill.

MS. DAVILA: I -- I -- I am extremely elated today, I am extremely happy. I am extremely proud of the work that the sponsor of this bill has done. We've been in the trenches, I've been in the trenches with him. I've seen him in action fighting fearlessly, fearlessly for this bill, all with his heart and soul knowing that he, himself, has, you know, been into these prisons, have seen it and, you know, has been such a staunch and such a -- such a great advocate on the -- on this bill.

You know, when we talk about solitary confinement, no one thinks about sometimes the families and the effects it has. I've heard all of my colleagues. They have been very, you know, very intellectual in the way they express their ways in -- in solitary confinement. But I think that we all know someone or we have a family member or -- or friends, constituents that come to us and say, *I need help. My child is in a prison. My child is in solitary confinement*, and we all try our best to do what we can for those folks. But we are aware what that is, it's called modern slavery. Institutionalized slavery. That's what it is. It's been called out many times. The advocates have been coming up to Albany for over a decade to explain to us what's going on, you know, and so we had a distinct opportunity to get this done today. And I am so very proud to stand by my colleague. So very proud to get it done.

This means HALT and it means rehabilitation. It means that people have an opportunity and by giving people opportunity, you give their families opportunities. You give their children opportunities. So today I commend the sponsor of this bill and I say thank you, thank you for hanging on strong. Thank you for doing this and -- and let's just get it done. I'm voting in the affirmative. Thank you.

ACTING SPEAKER ROZIC: Thank you.

Ms. Giglio.

MS. GIGLIO: Thank you. Thank you, Mr. Aubry, for putting this bill up. I understand the intent. And to answer your questions from before, the two jails that are in Suffolk County, one of them being in my district, in January of 2018, there were 1,255 inmates; in January of 2019, there were 1,133 inmates; and in January of 2020, there were 769 inmates. As my colleague said back here, he shares the district with me or -- or he shares Suffolk County with me, the jails in my district have the same size cells, the same size windows, same lighting, same food and human interaction. This is yet another unfunded mandate New York State legislators -- shortly after the bail reform. Bail reform cost my county millions of dollars to implement, and this will cost my county and taxpayers throughout the State millions of dollars to add onto the jails, more Correction Officers to cover new areas, and specialized training for rehabilitation. So I'm hoping that the money that you have, it will be a fair, proportionate amount to all the jails so that everybody can get some relief in this

unfunded mandate.

I'm a huge proponent of rehabilitation in the jails and -- and in the programs, the re-entry programs. Those programs help prisoners so that they don't end up in segregated housing. We are doing that already in Suffolk County. When incarcerated, Suffolk has many programs to help them so they don't end up in segregated housing. They offer educational opportunities, vocational opportunities, women's programs including yoga, re-entry programs, social services, religious, summer enrichment program, which is starting in September of 2021, a common ground institute and victim services unit. And for the children, there's a proposed reform in the jails in Suffolk County for expansion of services for the children of those incarcerated.

We are doing our job in Suffolk County. We have a total occupancy of 1,816 and we currently have 735 prisoners. They are separated by classification. Jails separate the population by different individual needs: Mental health, drug and alcohol, protective custody, medical and a variety of others. This law paints all jails with the same broad brush. I could support a law that requires inspections to make sure jails are conforming to the ultimate goals that you are proposing and trying to achieve, but not another unfunded mandate when it's not necessary in my jails.

When I was a kid, believe it or not, I did things my parents didn't like and I got grounded. Some prisoners need to be grounded and separated from the general public to keep everyone safe.

We need to protect Correction Officers and all inmates who just want to do their time and go home to their families. I will be voting no and encourage my colleagues to do the same. If this legislation passes today, I would ask for an amendment for jails that are already meeting the goals to be exempt from creating the -- the additions onto the jails. And if they're already doing the therapeutic and rehabilitation confinements then I think they should be exempt from this. I -- I just think it's wrong to paint all of them with the same broad brush.

So I appreciate that consideration and I thank all of our Correction Officers and all the people, including our sheriff in Suffolk County, that are doing their best to get people on the right path and back out into society and have a productive life. Thank you.

ACTING SPEAKER ROZIC: Ms. Rosenthal.

MS. ROSENTHAL: Thank you, Madam Speaker.

On the bill.

ACTING SPEAKER ROZIC: On the bill.

MS. ROSENTHAL: Solitary confinement is and has always been a cruel but, sadly, not unusual punishment in New York State. People are locked in tiny boxes no larger than an elevator for months and sometimes even for years. The consequences of the severe isolation and social deprivation cannot be understated. After spending even a short period of time in isolation, people suffer severe psychological and often irrevocable trauma. Many never overcome the trauma and sadly take their own lives. Solitary confinement does not make prisons safer and it doesn't make prisoners more compliant.

As a result of its barbarism, the use of prolonged extreme isolation has been denounced as a human rights violation by the UN and human rights groups across the world.

In addition to brutalizing people who experience it, extreme isolation is used disproportionately against Black and Brown people who are incarcerated, despite the fact that Black people make up only 18 percent -- make up 18 percent of the State's population and 48 percent of people incarcerated in New York State, an astounding 57 percent of the people held in solitary confinement are Black. It is also recklessly used against young people, people suffering with mental illness, and trans people.

Now, you cannot learn when you are locked inside of a box without access to light, air, and society. You do not learn when you are not provided with supportive services and educational opportunities. It is beyond time that we in New York State move from a system that values punitive detention over humanity. For far too long, our criminal justice system has placed a premium on punishment over rehabilitation. As a result, the system failed our communities, particularly communities of color which, over the years, have been targeted for over-incarceration, but not made safer as a result. We must move toward a system of justice, one that recognizes and prioritizes humanity and understands that no person deserves to be judged by their worst actions. Nearly everyone is capable of change, but not alone and not locked in a box. Even incarceration, especially incarceration, people need access to

supportive services, educational and vocational opportunities, and relationship building because we hope one day they will be out in the world. If you provide people with the building blocks of a good life, with the tools they need to rise above their circumstances, and the support they need to seize these opportunities, we can help to build a criminal justice system that heals more than it hurts.

Ending the prolonged use of extreme isolation is an important step in the process we have undertaken as a legislative Body and as a society to reform our criminal justice system. I remember in 2009, I had a discussion about this very legislation with the sponsor, and I remember how committed he was 11 years ago and even before we had that discussion. His humanity is -- is here for all of us to see, and I congratulate him for his patience and his perseverance, because the pursuit of justice should know no deadline. I also thank the Speaker. We passed this bill in 2018, we're going to pass it today, thank you for putting it before us. I would also like to thank the tenacious advocates for justice from HALT Solitary, New York Campaign for Alternatives to Isolated Confinement, everyone else who schlepped to Albany and never gave up. And it has been nothing short of remarkable to see formerly incarcerated individuals turned advocates use their freedom and their voices to fight for reforms that reaffirm the humanity of those who are still incarcerated.

I dedicate my vote to the memory of Layleen Polanco, Kalief Browder, and the many others whose names are lost to time. Thank you.

ACTING SPEAKER ROZIC: Mr. Lawler.

MR. LAWLER: Thank you, Madam Speaker. I -- I believe the sponsor left you a manual to deal with me if I get out of hand, so I -- I will ask the sponsor if he would yield for a few questions?

ACTING SPEAKER ROZIC: Mr. Aubry, will you yield?

MR. AUBRY: Absolutely not.

(Laughter)

Mr. Lawler, it is a pleasure to be here in the pit with you.

(Laughter)

ACTING SPEAKER ROZIC: The sponsor yields.

MR. LAWLER: Thank you, Mr. Aubry. First, let me just say, I -- I appreciate the work you have done to put this bill together and that of my colleagues, and many of whom have shared personal stories or stories about people in their district that -- that they're aware of, and so I appreciate that. But I think we also have to recognize that most of the people that do end up in jail and do end up in the SHU did something wrong and -- and they broke the law, they were convicted of a crime, they were sent to prison. Many of them did something wrong in prison to -- to warrant being put in the SHU. My question -- first question is, do you know what percentage of the prison population is currently in the SHU or have -- have an overview of that?

MR. AUBRY: Right. We have 40,000 individuals in prison and we have a few thousand, 2,000-plus who are in the SHU.

MR. LAWLER: Okay.

MR. AUBRY: And of course, that's a snapshot in time --

MR. LAWLER: It -- right -- it's.

MR. AUBRY: It's rolling --

MR. LAWLER: It -- it fluctuates over time.

MR. AUBRY: And only let me say this though on your introduction, I don't want to, you know, cross you up, but you say "warrant being in the SHU." And that's the question. Do they warrant being in the SHU and is that the best way to do what the correction system is supposed to do, which is to provide an opportunity for people to change their lives so that when they come home, they come home better able to live the life that we want them to live. Just --

MR. LAWLER: I -- and I appreciate that sentiment. Of the several thousand that you mentioned that were in the SHU at any given moment, do we have an idea of how many are in there for their safety versus the safety of the general population? I know several of my colleagues have mentioned that some people get put in there for their safety and they think that's unfair. I'm just curious, do we have an idea of how many are there because of their own conduct or because of their safety?

MR. AUBRY: Right. So I don't know that we know that. One of the things the bill does is require the Department to keep

statistics on those kinds of individuals who would be either in SHU or keeplock or some other administrative segregation. And so they are, you know, sometimes those are transgender people, sometimes they are people who are of high status. If we sent you to jail, probably they would put you in it --

(Laughter)

-- to keep you protected, particularly if they watched your debates.

(Laughter)

But that -- with those kinds of individuals, we don't have any numbers that I'm aware of at the moment of what that number is of the larger number. But again --

MR. LAWLER: So -- so this bill would seek to get more information on that?

MR. AUBRY: Right. One of the -- and as I said earlier, one of the things that we have as a legislator -- Legislature have not done as adequately, I believe, as we need to is to monitor what goes on inside those facilities. They are fortresses, quite frankly. You don't get information out very easily and their information that's brought out is controlled. They -- they tell you what they want you to hear.

MR. LAWLER: Okay. How do you -- how do you define solitary confinement currently? Under current law, how would you describe it?

MR. AUBRY: Well, let me go back and then I'll say

that total number of individuals in the SHU cells was, in 2019, was 2,377. Individuals in keeplock was 479. The average length of stay -- stay in the SHU cell was 107 to -- was at 108, became 70. And individuals between the ages of 18 and 21 is 156. So those are sort of numbers. But again, we don't break it down in the way that you ask, which is a -- a legitimate question and one that people have been asking to know, just how they use this power - and it is power - how do you use the power? Show us those statistics so that we may understand it and so that we may make comment on as the representatives. So I'm sorry, go back to your question.

MR. LAWLER: That's okay. So how would you define solitary confinement under the current law?

MR. AUBRY: Under the current law. Under the current law, it is the ability for the Department to fine -- to put your through the administrative process that determines that you're going to get SHU time, and you can be there 24 hours a day, you know, the lockup the normal way, and you can be there unrestricted under today's rules. Now, the -- the rules that change in October based on the Governor's directive changes that scenario. But as of today, the -- the argument that we're having is that they have unrestricted use to use SHU, as they have for decades.

MR. LAWLER: When -- when you say 24 hours a day, are you saying that they are --

MR. AUBRY: Twenty three, I'm sorry; they -- they have to let you out for an hour some kind of way.

MR. LAWLER: Okay. So people that are currently in New York's Special Housing Units, do they have the ability to have unlimited legal visits, currently?

MR. AUBRY: Generally, yes.

MR. LAWLER: Okay. Do they have access to, currently as of today, do they have access to the same meals as the general population?

MR. AUBRY: Sometimes based on the decisions of the institution they get the loaf. If you ever met a loaf, you'd know what I'm talking about.

MR. LAWLER: Okay, so...

MR. AUBRY: Bread and cabbage cooked about like this (indicating). Very appetizing. But that, of course, is one of the management tools that are used by the system.

MR. LAWLER: Okay. Do they have --

MR. AUBRY: And again, let me only say this, when you say they have the -- you asked whether they have access to legal help. The question is that, yes, on the books it is; the practical question is where are they getting it from? Have you -- I know you're a lawyer, are you not?

MR. LAWLER: I'm not.

MR. AUBRY: Oh. Okay.

MR. LAWLER: I just -- I just play one on TV.

MR. AUBRY: Well, we should find out any lawyers in the House, have they done pro bono work for people in jail? I -- I

suggest to you it's a very small character. There are some funded programs that provide that, but I would bet that they are not as readily available as one might imagine. No, I'm sure you would imagine that they're not that readily available. And now as a Corrections Chair, I have gotten "legal briefs," quote unquote, written by inmates that are admirable attempts of someone who does -- who's learned the law on their own to try and argue their case, but...

MR. LAWLER: Do they -- okay. Do those that are in the SHU have access to mental health assessments currently?

MR. AUBRY: The Department I'm sure provides -- there are mental health professionals who I believe, for the most part, work in facilities if they are -- the staffing is full. A lot of times we have those jobs, particularly up in the -- the more upper regions of our State where those jobs would go unfilled because they don't pay enough in order for people to live there and work there and provide that. So while they do have that, they are also mental health and we had this battle for years over what trumps what. Security always trumps the mental health capacity, I believe, and that has always been a fairly consistent standard, and one might expect that; however, if there's a battle between you should let this guy out because he is deteriorating on the floor, you know, in a deteriorated state, or he's screaming like a banshee and the security says, *Well, it's better to keep him in that cell than to let him out because we don't know what we're going to do with him*, the security seems to always trump.

MR. LAWLER: Okay. I asked you just a few things

that they may have access to, and you indicated that at least to some degree they have access to it --

MR. AUBRY: Mm-hmm.

MR. LAWLER: -- which says to me that kind of the idea of solitary confinement as -- as presented is not, in fact, the case. They do -- they do, even though they're in the SHU, have access to services, have access to interaction with staff, have access to interaction with legal representation. They are not held there in perpetuity without any amenities or access.

MR. AUBRY: So your -- your position is that if somebody is able to visit you once a month or somebody sticks their head in the slot, only a slot, and looks at you, says, *How do you feel today*, that that's human contact? I -- I'd argue that that's not even close to what is required for human beings to be healthy and to survive both physically and emotionally. I would argue, though you could say the case that they have access, so somebody does stick their head in and look at you through the slot, I don't know if you've ever been there, but the -- these slots that you pull back, and so you could --

MR. LAWLER: Well, I think -- I think the way you may describe it is in -- in one of the most extreme examples of it.

MR. AUBRY: Well, the -- that is the ones that I've seen. If there were other unextreme things, I -- I unfortunately didn't see them, not in -- in the SHUs, certainly not in the max SHUs that I've -- I've visited, so...

MR. LAWLER: Okay.

MR. AUBRY: And so that --

MR. LAWLER: Let me shift gears for a second. The number of assaults on staff since 2013 has risen since the Anucci Settlement, about -- in 2013, 645 inmate assaults. As of 2020, it's up to 1,050. Do we know why there's such a -- an increase in assaults on staff?

MR. AUBRY: Well, again, when you look at the numbers, if you read the -- I don't know which document you have, I have the DOCS document. When you read the definition of how assaults are categorized, they have this, this, and this, if you could look all the way down to serious, no injury, minor, moderate, serious, severe. Right? So when you look down that list, the -- the big X seems to me, the big changes are in the no injury category, which can be anything from --

MR. LAWLER: Well, I think -- I think part of the -- part of the reason it gets maybe classified as an assault is because if you don't address it, you will have escalation, you will have a situation that arises. It -- it's human nature that when somebody is committing crimes and they start out small, and then they go up and they escalate.

MR. AUBRY: But --

MR. LAWLER: And so if you don't address that when it is occurring and don't try to correct the behavior when it happens, doesn't it stand reason that it's only going to get worse?

MR. AUBRY: So first of all, the assaults in the -- that are -- the majority of these assaults are not crimes. Right. If you

read the -- the Department's own information, they're not crimes. They don't rise to the level of crimes. They rise to the violations of rules. That's the majority of them. And those violations, as I've said before, can be any number of them: Didn't eat all his food; threw his food on the floor; you know, had a bad day, was -- you know, talked back to a Correction Officer. All of those things are violations that could and would lead you there to -- to SHU time and could do that. So -- and I do understand there's a whole 'nother category whether or not it is a crime. When there is a crime that's not -- we're not contesting how you might manage that in terms of that that might deserve SHU time. We're talking about the majority of these things are these, you know, these reports. I would probably argue to you that the reporting is at least best, as far as I can tell, is sort of how do you feel that day? Both parties, the incarcerated person and the guy at work. You walk (inaudible) one day and roll your eyes because maybe you pushed me out of bed if I was an inmate and you were an officer. Maybe you pushed me out of bed or made me get up when I didn't want to and so when I see you, I might roll my eyes. And on a good day, maybe that's, you know, all right, so he rolled my eyes, I'll roll my eyes back and we'll roll. On a bad day, for both, it goes to another level.

MR. LAWLER: So given --

MR. AUBRY: Because that's human interaction, as you say.

MR. LAWLER: Given -- given my time constraints,

I just want to --

MR. AUBRY: I'm sorry. Yeah.

MR. LAWLER: That's okay. That's okay.

MR. AUBRY: I can sit down and you can do it --

MR. LAWLER: Let me -- let me ask you a quick question. Under -- under your bill, somebody is capped at 20 days in a 60-day period, correct?

MR. AUBRY: Mm-hmm.

MR. LAWLER: So on day 21 they get released out of the SHU, they go back and they -- and they commit an offense, what should happen to them?

MR. AUBRY: They go back. Like learned counsel says, *Well, you go back.*

MR. LAWLER: They go back into the SHU?

MR. AUBRY: Yes. For a new crime. For a --

MR. LAWLER: So -- so they can start a new 20 days based on a new crime?

ACTING SPEAKER ROZIC: Mr. Lawler, your time is up.

MR. AUBRY: Yes, based on a new crime. Can't go back for the -- I'm sorry. I really talked through the gentleman's time. And I apologize, Mr. Lawler.

MR. LAWLER: That's okay.

MR. AUBRY: I can't shut up when I have to.

MR. LAWLER: I -- I appreciate the clarification on

that question --

MR. AUBRY: Thank you.

MR. LAWLER: -- and I -- I thank the Speaker for the extra time.

ACTING SPEAKER ROZIC: Mr. Weprin.

MR. WEPRIN: On the bill, Madam Speaker.

ACTING SPEAKER ROZIC: On the bill.

MR. WEPRIN: I'm pleased to speak and -- and honored to be shepherding -- to having shepherd this bill through the Correction Committee for the second time in my Chairmanship. This is my fifth year, and the bill was first passed under my Chairmanship in 2018. I -- I really want to thank the Speaker, though, for having this bill on the agenda so early in the Session because in 2018, it was towards the end of Session and we were unable to work out any kind of agreement at that point for it to become law, but I'm much more optimistic this time. I also want to thank the sponsor of this bill, Jeff Aubry, for his tenaciousness and his advice to me since I became Chair, and I know he has been living with this bill for so many years and fighting so hard for it, and it's -- it's really, he really has done an amazing job today and throughout the process. I also want to thank my immediate predecessor Danny O'Donnell, who is also committed to this bill and everything he could do at that time.

The United Nations has declared solitary confinement to be torture. The psychological harm from isolation alone in a cell for day after day, week after week and more is well-known and

well-documented. I have visited the so-called "Special Housing Units" many times myself during a lot of tours of -- of State correctional facilities. I have stepped into these isolation cells. It is clear that long-term placement in segregated housing is currently constituted -- as currently constituted can be extremely harmful. We can move our State prison system to more humane -- to a more humane approach while clearly maintaining security and promoting safety from both incarcerated persons and the brave staff in our correctional facilities.

This bill was carefully crafted not just to limit segregated confinement time, but to follow it up with placement in rehabilitation units specially designed to address and help prevent improper behavior in custody. I have every confidence that working with the Office of Mental Health and its own specialized staff, DOCS can partner with us to bring about these changes in a modern, humane, and secure manner. Thank you very much.

ACTING SPEAKER ROZIC: Mr. Dinowitz.

Mr. Dinowitz, you have to unmute yourself.

MR. DINOWITZ: Okay. How is that? Is that better?

ACTING SPEAKER ROZIC: Great.

MR. DINOWITZ: Thank you. I pressed un-mute three times, just so you know.

I want to thank the sponsor of this bill and acknowledge his tireless work over so many years. You know,

sometimes bills happen quickly and sometimes it takes a long time, but this bill I think is worth having worked so hard for. And I also wanted to say thank you to the Speaker for bringing this bill to the floor. This bill was just reported out by our Codes Committee yesterday, and I will just speak very briefly.

You know, on January 6th of this year, the right-wing insurrectionists really attempted to do something that was never done in this country before, but it didn't happen because Democracy prevailed. We're in the country which is the greatest Democracy in the world. This country often lectures other countries about Democracy, about human rights, but solitary confinement is not worthy of a Democracy. It's worthy of an authoritarian government such as what some of those insurrectionists might have wanted to impose on this country, but it didn't happen. But we're not an authoritarian government. The people who were part of that insurrection a few months ago, they're from a different world than we are. In a Democracy, you treat people humanely. Solitary confinement is not humane; in fact, it's torture. It's barbaric. We must act like the Democracy that we say that we are. We must not allow our society to act the way authoritarian governments act. I know we're the world's greatest Democracy, so we should act it.

This bill is important because it does something to alleviate a horrible condition which doesn't exist in most other Democracies. Solitary confinement will be, in large part, eliminated as a result of this bill and the hard work of the sponsor of the bill. So I

thank him again for the work that he has done on this, and I just want to say that we should be who we profess to be, the world's greatest Democracy. This bill has to pass. I vote yes. I urge everybody in this Chamber to vote yes.

ACTING SPEAKER ROZIC: Ms. Glick.

MS. GLICK: Thank you, Ms. Speaker. You know what they say, almost everything's been said, but it hasn't been said by everybody, so I will be relatively brief. I want to thank the advocates who have worked long and hard to raise awareness of the cruelty and the inhumanity of solitary confinement. And I certainly want to honor the perseverance and passion of my colleague, Jeff Aubry.

We know, and we may not admit it, but we know that justice is not evenly administered in our -- in our country, and certainly not in our State. We know that people who are well-to-do frequently escape punishment; it is in part why bail reform was necessary. We also know that isolation is a tool used by our country and others as a means to break down one's ability to resist interrogations. And despite the fact that the UN may refer to it as torture, it is utilized in our world in a very pernicious fashion.

That does not make New York State's continued use of solitary confinement acceptable. It is not. And the way in which control that is exercised by Correction Officers who admittedly have a very, very difficult job, and it doesn't really matter which side of the bars you are on, you are in prison and there are difficulties in that environment, surviving it emotionally, mentally. But the unrestrained

ability to punish people for perceived slights, and that is frequently what happens. Mr. Aubry has indicated that many of the reasons that people wind up in solitary are not crimes but, rather, violation of rules. They understand that one needs to maintain control in a correctional facility, but frequently it can be abused. People who have that kind of power over others may exert that in a less than evenhanded fashion.

So I believe that as we continue to try to make this State a more humane state, the country a more humane country, to try to support the ability of the people who wind up in prison, you know, I'm -- I'm reminded, I've been here a long time and I'm reminded of the 11-hour debates that we had on the death penalty. And there were a lot of people on both sides of the aisle very supportive of the death penalty until DNA made it possible to demonstrate that there were many people wrongfully convicted. And there are people today in prison who have been wrongfully convicted. So -- not everybody, I understand. Then society has a right to remove from the general public those who have committed violent crimes, and I appreciate that, but at the same time, we could do more to eliminate the poverty to prison pipeline. And I hope that efforts that we are undertaking with a renewed approach to expanded education opportunities, et cetera, will elevate people instead of isolate and punitively harm them in ways that are inappropriate and we would never ever want to happen to one of our family members.

So I yield back the rest of my time and look forward to voting in the affirmative.

ACTING SPEAKER ROZIC: Mr. Magnarelli.

MR. MAGNARELLI: Thank you. I don't have -- I'm not going to add very much to this debate. I think most everything has been said to this point. But I did want to congratulate the sponsor and my colleague and just let him know that I will be voting in the affirmative on this bill. Thank you.

ACTING SPEAKER ROZIC: Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker. Would the sponsor yield?

ACTING SPEAKER ROZIC: Mr. Aubry, will you yield?

MR. AUBRY: Certainly, Mr. Goodell.

ACTING SPEAKER ROZIC: Mr. Aubry yields.

MR. GOODELL: Thank you, Mr. Aubry. I think I have questions that haven't been yet asked.

MR. AUBRY: Oh.

MR. GOODELL: But if, if I'm mistaken, just indicate that they've been asked and answered and I'll review the transcript of our debates. There's special language about special populations and, as I understand it, the special populations would include anyone under the age of 21, anyone with a disability as defined in the Executive Law, anyone who's pregnant. I think those are the -- well, there must be one other category - over 55 years of age. And for that group of special -- the special population, am I correct this bill would say no Special Housing Unit, no segregation for that

group?

MR. AUBRY: Those individuals would go into the RRU. Right. So yes, they would go into RRU.

MR. GOODELL: But they would not go into the Special Housing Unit, they would just go into RRU?

MR. AUBRY: Yes.

MR. GOODELL: And I note that this bill has a 15-day cap on any transfer into a Special Housing Unit with certain exceptions, more serious crimes like attempt to cause serious injury, non-consensual sexual act, extortion, coercion, causing riot, things of that nature, right? And if someone committed a very serious act then they could be transferred into a Special Housing Unit for more than 15 days, correct?

MR. AUBRY: Yes.

MR. GOODELL: Am I also correct, though, that none of those exceptions would apply to anyone who falls within the special population group?

MR. AUBRY: They will go to the RRUs.

MR. GOODELL: And so even if a person who is, say, 55 years old, quite a bit younger than I am, I vaguely remember that time, but somebody who is, in my view, the prime of their life, 55 years old, engaged in a sexual act or caused a riot or caused serious injury or death, they would not be subjected at all to being placed in a Special Housing Unit, correct, under this legislation?

MR. AUBRY: Asked and answered. The only thing

I can add as a caveat, Mr. Goodell, is that RRUs can be excessively extremely restrict -- that how they are managed is still in the discretion of the Department. So in such a case, and I see where you're going, that individuals who committed these grievous offenses, as you have identified, would then be in a place that was going to still be restrictive, but not necessarily a Special Housing Unit.

MR. GOODELL: I see. Is there -- is there a reason --

MR. AUBRY: A cell is a cell is a cell, as they always say.

MR. GOODELL: Yes. Thank you. Of course we've heard a lot of comments about problems with, you know, isolation, solitary confinement, and -- and there's a lot of studies that certainly document those issues and I don't dispute those at all. But we haven't heard a lot of talk about what's been happening in the last several years. I mean, we had first a court case, right, and that eliminated what many people would have considered solitary confinement and as part of the settlement, required a number of reforms. And that happened back in 2016, is that correct?

MR. AUBRY: The settlement, right.

MR. GOODELL: Yes, settlement.

MR. AUBRY: It was four years ago.

MR. GOODELL: And then less than two years ago, less than two years ago we had a three-way agreement, right, with our Speaker, Carl Heastie, Senate Majority Leader Stewart-Cousins, and

our Governor, right, and that was in June of 2019 and they implemented a whole series of reforms dealing with this that were phased in over a couple of years, correct?

MR. AUBRY: So the characterization of it as a -- an agreement is one that I guess is open to interpretation because I wasn't in the room. I know that when the Governor produced his regulations, he so indicated that that was the case. I have no evidence from anywhere on my side that that, in fact, it was an agreement other than a recognition that at the time, the bill as we presented it was because, as Chairman Weprin said, was not going to be able to be passed and negotiated in the time that we had. So -- but that's what I know of it and -- and all I can speak to.

MR. GOODELL: And -- and you're correct. I'm looking at the official statement from Governor Andrew M. Cuomo dated back June 21st, 2019, and back then I thought what he said was always accurate. Some people may not always agree with the accuracy, but back then he said it was a three-way agreement and -- but we all agree that at least pursuant to his press release he agreed to a series of changes over a series of a couple of years, right, to really address this issue of --

MR. AUBRY: Absolutely.

MR. GOODELL: -- being in Special Housing Units.

MR. AUBRY: Right and -- and the only thing that caused me pause in this discussion was the length of time it took for those regulations to be promulgated from that time until, I guess two

months or so ago, even though they were put up as part of the regulatory change process, they lapsed at one point and had to be reintroduced because they didn't. And what I -- in my estimation, what I felt was the resistance by the Department to even accept those, in my -- in my opinion, and I could be proven wrong, but the -- the answers that we got relative to what was happening to them were vague at best. I know that we -- and out of my office, we sent a letter particularly trying to enhance those regulations since we knew they were regulations and, in this process, I've always said the Governor with a snap of his finger -- in this case it was a two-year snap could, you know, have changed processes at his will. As did -- any other Governor could've done.

MR. GOODELL: Thank you. Thank you, Mr. Aubry, and thank you for answering all of our questions over the course of the afternoon.

MR. AUBRY: Mr. Goodell, it has been an absolute pleasure.

MR. GOODELL: And I am so happy to bring absolute pleasure to my colleague who has done such a great job today.

And on the bill, Madam Speaker.

ACTING SPEAKER ROZIC: On the bill.

MR. GOODELL: Thank you very much again to my colleagues. I appreciate the comments on both sides of the aisle.

Make no mistake about it, solitary confinement is not

a pleasant experience. It is not intended to be a pleasant experience. Prison is really not a pleasant experience either, it's very, very disruptive for many people. And for those who commit serious crimes, they -- they face a really horrific situation of watching their kids grow up without them, watching sunrises and sunsets outside and not being able to go to a park or to enjoy a nice restaurant. And in many regards, you know, prison is really the last place where most of us ever want to be. And within the prison, as my colleagues have eloquently pointed out, solitary confinement is the worst place we want to be and a bad place we want to be out of. There's no question about that. And there's no question that in the past this was really inhumane.

There's also no question, though, that there's been significant movement in this area in the last few years, starting in March of 2016 with a court settlement that mandated, under court supervision, a number of reforms, followed up in June 2019 with what was reported as a three-way agreement, which I thought was a great step in the right direction. Just last week, by the way, New York City announced that it is completely eliminating any solitary confinement, which is great news for -- for many advocates. Even as we're going through this process, as some of my colleagues noted, those who are incarcerated, even in Special Housing Units, receive property services and amenities similar to those in the general population, including outdoor recreation, personal visits, unlimited legal visits, headphones, personal radios, commissary privileges, in general the same meals as

inmates in the general population, literature, playing cards, books, photographs, access to tablets for phone calls and various forms of media, literature, educational materials, writing materials, religious materials, frequent mental health assessments, packages, mail, legal mail access and privileges, access to daily medical sick call and emergency sick call, access to general library services, law library services, weekly laundry, weekly access to a notary public, weekly religious counseling services, access to inmate grievance programs, access to cell study educational services, daily visits from the Offender Rehabilitation Coordinator for additional counseling services, and potential diversion to mental health residential units.

Having made that list, let me be absolutely clear, no one in prison wants to be in a Special Housing Unit, even with these services. So why should we set aside the agreement that was made by our Legislative Leaders two years ago that, as my colleague pointed out, as being implemented, and I agree, maybe it should be implemented faster. It's not as bad as it was in the past. It's still bad, it's intended to be unpleasant. There are dangers with unpleasanties, including mental health issues, and I don't mean to downplay any of those.

So for me, when I come back to it, I'm encouraged that we're making substantial movement. I'm encouraged the agreement that we reached in June of 2019 was a negotiated agreement between the Legislative Leaders and our Governor. I'm encouraged that this process of implementing these reforms is an

orderly process that's being implemented by those that we believe are the experts. And I'm very mindful of the limitations of my own knowledge and my own understanding, and I joke sometimes back in my district that as I drive closer and closer to Albany, there's a danger that I believe that I become more and more expert over subjects I've never ever considered, until I finally arrive here in this beautiful Chamber and -- and debate bills on how to operate a prison, where I've never operated a prison. And thankfully I've never been sentenced, yet, to prison. And so when I'm here recognizing the limitations in my knowledge, I look to the experts who run our prisons, the administrators, the wardens, the officers and, certainly, we absolutely should listen to the inmates, but we should also give great deference to the expertise of those who have devoted their entire lives in addressing this situation.

And with incredible opposition against from almost everybody in the Correctionals community, and in recognition of all the settlements and progress that we've made and we've agreed to make and we are making, I will be voting against this. And again, I appreciate the comments from my colleagues and Mr. Aubry, as always, and I'm delighted that you're happy to be answering all those for us. Thank you so much, sir, and thank you, Madam Speaker.

ACTING SPEAKER ROZIC: Mr. Lavine.

Mr. Lavine, you have to un-mute yourself.

MR. LAVINE: Thank you, Madam Speaker. I hope I'm un-muted at the present time. I want to try answer a question that

the sponsor, my good friend, posed. I have done pro bono work. I have represented people in jail pro bono, and I spent a lot of time in my life in jail both as a lawyer and as a New York City Probation Officer, although that was a long time ago. And I learned a lot in jail, and I learned that it is an environment that on the best of days is full of tension and full of danger. I learned, as well, that one of the contributing factors to that environment of danger is the arbitrary imposition of solitary confinement. All this bill does is establish a rational set of protocols for the imposition of placement in Special Housing Units.

My colleague across the aisle, or some of my colleagues across the aisle have spoken about riots, and I agree with them, although this may shock them, that those who incite riots deserve to be in jail. And I am not simply speaking about the events of January the 6th of this year. If we look at the history of when and where riots occur, they always occur in the least humane of prisons. Our concept of punishment is evolving. It is not that long ago that debtors were placed in prison and even today, people who are unable to pay their court costs or their fines can end up in jail. I'm not simply speaking about the State of New York, I'm speaking about nationally. Due process is also, thank goodness, a concept that evolves. Our concept of due process today involves us passing laws that protect everyone within the confines of a prison, not simply the prisoners, but the Corrections Officers as well.

So I will be voting in the affirmative and I do want to

thank the sponsor who has been, for so long, a champion of humanity for those whose humanity is and has been denied, and at times destroyed, by far too many. And I want to thank his counsel, as well. I will be voting in the affirmative. Thanks for the opportunity to share my thoughts.

ACTING SPEAKER ROZIC: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Madam Speaker. I certainly want to appreciate all the comments that we have heard here today, and certainly thank Mr. Aubry for his sponsorship of this legislation. Since becoming a member of this honorable Body, I have listened to Mr. Aubry debate many pieces of legislation that seek to reform our criminal justice system and I've always admired his unique knowledge of it and the manner that he presents his arguments. So I want to congratulate him again. Special Housing Units are a lot different than what a lot of people are looking for and are now called "tiny houses." These are things that are literally inhumane. And so any effort that we can make towards making us a more humane society is a good one.

And so I again applaud the sponsor and look forward to voting in the affirmative on this one. Thank you, Madam Speaker.

ACTING SPEAKER ROZIC: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ROZIC: The Clerk will record the vote on Rules Report No. 40. This is a Party vote. Any member who wishes to be recorded as an exception to their Conference

position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker. The Republican Caucus will generally be in the negative. Those who would like to vote in favor of this legislation should contact the Minority Leader's Office. Thank you, Madam Speaker.

ACTING SPEAKER ROZIC: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you. This is to remind my colleagues that this is a Majority vote in the affirmative. Colleagues choosing to vote be an exception to this one, please feel free to contact the office and we will so record your vote.

(The Clerk recorded the vote.)

ACTING SPEAKER ROZIC: Mr. Aubry to explain his vote.

MR. AUBRY: Thank you, Madam Speaker. It is -- I have so many people to thank, I don't have enough time to thank them all. But clearly, to this Body, to those who are sponsors of the bill with me, to those who believe in making good trouble, I certainly want to thank all of you for your support. My colleagues who have engaged in this debate, I know that it is contentious, but I am assured in my soul that we are in the right direction when we decide to choose the high path, go the high road. I particularly want to say my thanks for those who were previously in S-H-U-s and were out of this prison system and decided to come back and fight for those who they left

behind. They are, in my mind, the Harriet Tubmans of today. Because you have given of yourself, shared your pain, shared your experience, you have given life to this and you caused enumerable organizations to understand the need for change in this way. And so I salute you. People talked about the long battle. It was your battle that was long, not mine. I merely was privileged to ride on your shoulders, and I recognize that. And so I want to thank you all for this, thank the Speaker and this Body to continue to seek justice where justice has been denied.

Thank you very much. I vote in the affirmative.

ACTING SPEAKER ROZIC: Mr. Aubry in the affirmative.

Ms. Solages.

MS. SOLAGES: To explain my vote. I want to thank the Speaker as well as the sponsor for their leadership and their -- their hard-fought patience, energy and time for this legislation. My colleagues, I ask you to join me in -- in voting in the affirmative. The United Nations defines solitary confinement beyond 15 days as torture. Yet in New York State, we routinely spend -- have individuals spend time -- spend months in solitary confinement. The long-term isolation costs too much. It does nothing to rehabilitate prisoners and exacerbates mental illness. We have to follow the science. Solitary confinement has negative and psychological effects. This form of torture disproportionately affects communities of color and people with mental illness, and it drives the epidemic of suicide

and self-harm behind bars and increases the rate of recidivism. Your prison sentence shouldn't be a death sentence.

I vote in the affirmative, Mr. Speaker [sic].

ACTING SPEAKER ROZIC: Ms. Solages in the affirmative.

Mr. Lawler.

MR. LAWLER: Thank you, Madam Speaker. And again, I reiterate, I appreciate the sponsor's work on this bill though we -- we are coming at it from different ends and -- and have a difference of opinion on it. I think once again we're -- we're in a situation where we have this idea that people who work in prisons, our Corrections Officers, somehow are the ones that are in the wrong and not the criminals who are actually in the prisons for the crimes that they committed. And I think one of the things that we're doing here is we're not allowing for the reforms that were agreed upon, that were put in place, to take effect and to make progress while still ensuring that those who are committing crimes or offenses while still in prison. As one of my colleagues pointed out, it's not meant to become comfortable. It's not meant to be a walk in the park. There are consequences for decisions, there are consequences for actions. And some of my colleagues have made it out to be that some of these people are the victims rather than the people who were the victims of their crimes. And so I cannot support this legislation. I think the reforms that were previously agreed upon by the Speaker of this Body were good and should be allowed to take effect.

So I will be voting in the negative on this bill.

ACTING SPEAKER ROZIC: Mr. Lawler in the negative.

Mr. Durso.

MR. DURSO: Thank you, Madam Speaker. I appreciate it. To rise to explain my vote. Mr. Aubry, I appreciate your sponsorship of this bill, your compassion and your passion for this subject. I find it amazing and obviously we all respect you very much. But I have to disagree with you on this for many reasons. One is, again, the prior legislation I think was enough and has been working. I also find it amazing that in these times that we could sit here while people are still out there out of work, businesses are closing, people are leaving our State in droves, people are still dying every day from COVID. And we're actually sitting here discussing how to make prisons more comfortable for the people who break the laws. Someone said in this Body today having family visits, being able to make phone calls is what helps them survive being incarcerated. Also, I heard just because you're in prison you should not lose your humanity. I do agree with that. I also feel that that goes for everyone that works in the prison. Their humanity, their families, their dignity shouldn't be on the line, either. Some of those people that are in these prisons that we are now making more comfortable are murderers, rapists, child molesters. Can we explain to their families, the families of the victims, of how these inmates feel? On how we can make their mental stability better? What about the families? What

about the ones that are suffering? Many people have made references of all sorts of mental health studies, books written by former inmates and advocacy groups. Not one person here, not one, has held up a piece of information written by a Corrections Officer. I'm so glad that we can only get one side of the story. It is dangerous enough for Corrections Officers with (inaudible).

ACTING SPEAKER ROZIC: Mr. Durso --

MR. DURSO: They are constantly outnumbered at all times. Now we're tying one hand behind their back. That is why I'm voting against this piece of legislation.

ACTING SPEAKER ROZIC: Mr. Durso in the negative.

Mr. Angelino.

MR. ANGELINO: Thank you, Madam Speaker. I commend the sponsor, Mr. Aubry. Thank you very much for a long day here. As I'm a graduate of the New York State Corrections Officer Academy right over here on New Scotland Ave. and as a person who has devoted their entire life to protecting victims of crime, and invoking the names of Donna Payant and Nancy Vial, both female New York State Corrections Officers killed in the line of duty, I will be voting in the negative.

ACTING SPEAKER ROZIC: Mr. Angelino in the negative.

Mr. Brown.

MR. BROWN: Thank you, Madam Speaker. I rise

to just explain my vote. I appreciate the opportunity to debate with Mr. Aubry, but I do beg to differ on several points. I think this bill contains two important loopholes. The first being that I read that there's nothing that happens in the RRU or in the mental health unit that can be used with respect to placing somebody back in the S-H-U. That is completely disturbing to me when you consider that if we release someone from the S-H-U under this bill and they go out and they commit an offense in the prison, then that offense can't be used to put them back into the S-H-U. And secondly, the second loophole is that a segregated confinement can be for no more than 15 days or 20 days total within a 60-day period. What that means is that after the 21st day, that inmate who now goes back to general population could commit any offense and there's nothing the prison administration can do for 40 days. That makes absolutely no sense to me.

So I just want to clarify two quick things. Number one, it was mentioned that these are conjured up images of cells that are like the movie *The Great Escape* or the movie *Pat Down*, when in fact, these are regular cells. And one thing I want to convey to this Body is that having been inside of Sing Sing, having been inside Downstate facilities, having been inside Green Haven, the one major thing that I was left with -- and I appreciate the fact that my colleagues have toured these facilities, because the reason these facilities remain safe is because there's mutual respect between prison officers and inmates. And what this bill does is it now gives too much weight and ability of inmates to commit offenses inside. (Inaudible) --

ACTING SPEAKER ROZIC: Mr. Brown, your time is up.

MR. BROWN: -- (inaudible). And it's for those reasons and many others I'll be voting in the negative. Thank you.

ACTING SPEAKER ROZIC: Mr. Brown in the negative.

Ms. Jean-Pierre.

MS. JEAN-PIERRE: Thank you, Mr. Speaker, for allowing me to explain my vote. And I would like to thank the sponsor and all the advocates for working so diligent and hard on this piece of legislation. Solitary confinement people are held for weeks, months and sometimes years. This has been in -- inhumane and has caused tremendous mental health and -- you know, we -- there's -- mental health is such a huge issue. Some people go into prison coming out with huge mental health problems, and -- and this has been judgmental to the person. I had a staffer who was as young as 16 and was in solitary confinement for over a -- over a year. And I am excited that we are passing this progressive piece of legislation that will help people and end the inhumane treatment in our prisons.

Again, I want to thank the sponsor and all the advocates for working so hard on this piece of legislation and I'll be voting in the affirmative and -- and I urge my colleagues to do the same. Thank you.

ACTING SPEAKER ROZIC: Ms. Jean-Pierre in the affirmative.

Mr. Pichardo.

MR. PICHARDO: Thank you, Madam Speaker, for allowing me to explain my vote. I want to just take this opportunity to thank and congratulate our colleague, the Speaker Pro Tem, Mr. Jeff Aubry, for his leadership and his-- and his tenacity in passing this legislation. It's been so eloquently stated by many of our colleagues that solitary confinement is torture. This bill will put us more in line with the Geneva Convention and most of all countries in the world in how we treat our prisoners. It is mentioned that, and needs to be understood, that if a person is incarcerated for doing a crime, whether it's rape, murder or anything like that, they are still incarcerated. Whether or not we limit the idea and the ability to -- to -- to put someone in solitary confinement, they're still doing their time. But what's important that folks need to understand is that most people who attempt to go to prison come back out. And a lot of these individuals who look like me and many of my colleagues here come back to our communities even worse and even more broken than when they went back. And then it's up to us to deal and pick up the mess and it becomes more and more difficult and less and less attainable for them to be -- to reacclimate to society.

So again, I thank the sponsor, I thank the Speaker, I thank the leadership of this House in putting forward this legislation and I'm proud to be voting in the affirmative. Thank you, Ms. -- Madam Speaker.

ACTING SPEAKER ROZIC: Mr. Pichardo in the

affirmative.

Ms. Niou.

MS. NIOU: Thank you, Ms. Speaker, for the opportunity to speak on the HALT Act. I commend the sponsor of this bill with all of my heart. This is something he has fought for year after year passionately. This bill does not end solitary confinement entirely. I hope we can one day. This bill is one step, but we have many more to take. I support this legislation for the simple and undeniable reason that solitary confinement is a means of torture. Torture is not a tool. Tools, by definition, are used to fix. Torture is used to break people. Often, people say this is part of a broken system. But I want to correct that thought and state that our system isn't broken. In fact, it is working exactly as it was designed. It is intentionally cruel, intentionally painful, intentionally harmful to particular communities and people. Designed to break them. The targets of our cruelty are Black and Brown bodies and minds thrown into solitary sometimes for months at a time, sometimes years at a time, sometimes decades at a time. Despite compromise -- despite comprising less than half of the prison population, Black bodies account for almost 60 percent of those in solitary. In solitary they suffer the physical and mental effects of forced isolation. And instead of rehabilitation and social development, these New Yorkers emerge from solitary confinement with less functionality than when they entered. Suicide and self-harm follow. That doesn't sound like a system interested in rehabilitation. But it is one interested in

reminding people that they can be made to suffer, to break. That should not be who we are. And I support every effort to end this revolving door of preventable misery. We've pretended prisons are places of rehabilitation for far too long, for decades. But really, it is a system designed to hurt and to harm. We must build and redesign a new system of healing. We start by ending the barbaric practice of solitary confinement.

I commend the persistence of our sponsor for fighting for this bill for almost two decades and who fights every day of his life to redesign this intentionally cruel system. Thank you to our Speaker and our sponsor for leading. I am proudly voting in the affirmative.

ACTING SPEAKER AUBRY: Ms. Niou in the affirmative.

Ms. Fahy.

MS. FAHY: Thank you, Mr. Speaker. I rise to explain my vote. And I want to start by saying I commend you, the -- the bill sponsor. I, too, want to echo so many of the comments that we heard today. Twenty-two years ago, I can remember reading a long exposé. It was either the *New York Times* or the *Times Union*. And I was relatively new to New York at that time. And it stayed with me. I'd never heard of what a SHU was, this Special Housing Unit. And I -- I -- she was a newborn at the time and it was -- it was emotional, so it always stayed with me. It was a ten-day series or something. It was very profound. And yes, as few articulated earlier today, there have been improvements made. There have been changes made. And this

is, as was said by others, does not eliminate the use of those Special Housing Units or solitary confinement, but it does make the most progress. And I should also add that the 22 years ago and less, I read of the bill sponsor and heard your name many, many years before I ever joined the New York Assembly. So I've also been for many years an outspoken advocate about mental health reforms and the need for mental health which we've heard so much over -- about the last year during COVID. This is about breaking people, and there has to be a better way.

So I commend you, the bill sponsor, the Speaker and others for your tremendous perseverance over the years in trying to make changes. A host of juvenile justice changes, as well as these type of criminal justice reforms. I commend you and I proudly vote in the affirmative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you. Ms. Fahy in the affirmative.

Mr. Kim to explain his vote.

MR. KIM: Thank you, Mr. Speaker. And thank you for being the main sponsor of this bill. I think so many of us, since we've been in office we've learned so much through you and your advocacy and your passion for social justice. Not only -- only around this issue, but so many other issues, trying to fix our broken criminal justice system. So thank you, Mr. Aubry, for all that you do. And to the advocates of HALT Solitary, I know it's been a long road and this is the first step and we have many other things to fix. I look forward

to getting to them as soon as possible. But what's clear today and moving forward is that we can't respond to violence with State-sanctioned violence, and that's been the norm for the last many decades. From the war on crime to the war on terror, our response has always been with State-backed violence, and that's not good enough anymore. We, as a Body, must step up and take responsibility to get to the root of our failed systems. You know, we must invest in our people. We must improve the social conditions that brew the -- the violence and the hatred that we are seeing. The tensions between communities of color that we are seeing every single day. It's not a fault of individuals. It's not -- we can't reduce it to individual character flaws because that's not -- that's how we -- that's a copout. You know, and by dehumanizing the inmates by saying they deserve nothing else but to be in solitary confinement and to be tortured, we allow the dehumanization of not just those inmates, but all Black and Brown young men that are out there who are looking for opportunities, looking for jobs, looking for economic justice. But we -- it's easier to dehumanize them outside of the prison industrial complex as well. That is why I believe this bill is so critical to reset, to get us to a better place moving forward, to see the value of every single person around us. And if we -- if we see someone failing, it's not on them, but it's --

ACTING SPEAKER AUBRY: Mr. Kim, how do you vote? I'm sorry.

MR. KIM: I vote in the affirmative and I urge my colleagues to vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Mr. Kim in the affirmative.

Ms. Griffin.

MS. GRIFFIN: Thank you, Mr. Speaker, for permitting me to explain my vote. In my first year of office I visited New York State Correctional facilities at Sing Sing and Bedford Hills, as well as the Nassau County Correctional Center. I spent a great deal of time listening to Correction Officers, superintendents, sheriffs and stakeholders, and appreciate their service and dedication and acknowledge the risks they take and the danger they're exposed to daily. I also spoke to formerly-incarcerated people, family members, clergy and advocates. The safety of Correction Officers and the humane treatment of incarcerated individuals are both paramount. I've heard from many constituents in support of this important legislation, and I thank them for reaching out. It is also worth noting that I did not receive any letters or e-mails in opposition from my constituency. I received a compelling letter of support from the New York State Catholic Conference, and I would like to share an expert -- excerpt of this letter. Solitary confinement works against the purpose of improving public safety, both inside our prisons and jails and in our communities. For all Americans committed to building a safer, healthier society, we cannot ignore the mental illness, debilitating trauma and recidivism that are the hallmarks of placing inmates in segregated confinement.

I applaud the sponsor of this legislation for his

tireless efforts, compassion and expertise. Thank you to the Speaker for bringing this to the floor. I vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Thank you. Ms. Griffin in the affirmative.

Mr. Rodriguez to explain his vote.

MR. RODRIGUEZ: Thank you, Mr. Speaker, for the opportunity to explain my vote, and thank you to the sponsor for his tireless perseverance in terms of moving ahead this really important piece of legislation. During these debates I always learn so much, and -- and Member Aubry always shares so much of his wisdom. But it is through a process that I'm currently working through on a clemency case for a potentially wrongfully-convicted individual, Jon-Adrian Velazquez that it brings to light that our criminal justice system has not served everyone equally. That there has been, you know, different applications of the law, whether we're talking about marihuana decriminalization that have victimized Black and Brown communities. And, you know, this notion that when we send them to jail that they're -- you know, that this is potentially making it more comfortable, it's not reducing their sentence, it's not reducing the time that they have to spend. It's not reducing the -- the conditions that exist in -- in the prison that they're serving it in. I think what this important piece of legislation does is it creates a framework for isolating those in the most extreme of circumstances. Anything less than -- less than that should be providing a venue for that person to be able to find some sort of pathway towards returning to their communities in a condition

that is improved. You know, that's supposed to be the goal. That's not the system that exists there today. And I think this important legislation is taking that important step to making this a better system, even though we know it is completely and has been used in many, many (inaudible) ways.

So I thank the sponsor for moving this ahead and I proudly support this legislation and encourage my colleagues to do the same.

ACTING SPEAKER AUBRY: Mr. Rodriguez in the affirmative.

Ms. Mitaynes.

MS. MITAYNES: Thank you. Permission to speak on the floor.

ACTING SPEAKER AUBRY: We can hear you.

MS. MITAYNES: Great. Solitary confinement is torture. People are mostly sent to solitary -- solitary confinement for non-violent conduct, often for not following orders, but also as coverups for staff abuse and retaliation for advocating for basic rights. Solitary confinement fails to address and often exacerbates underlying causes of problematic behavior as people deteriorate physically, psychologically and socially. Lack of human interaction and extreme idleness can lead to intense suffering, severe lasting damage to physical and mental health. Solitary confinement is deadly. One in three prison suicides takes place in solitary confinement in our State jails and prisons.

For my incarcerated brothers and sisters, for their families, for the tireless work of the advocates and for the sponsor of this bill, I vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Thank you. Ms. Mitaynes in the affirmative.

Mr. Lemondes to explain his vote.

MR. LEMONDES: Thank you, Mr. Speaker. I -- I respect your opinion but -- but hold a different one on this matter. And I believe accountability matters, and as such, there are consequences for breaking the law in or out of prison. Additionally, Correction Officers matter who risk their lives every day for us, as does their safety. Victims of crimes matter.

For all these reasons and those stated by my colleagues, I vote in the negative on this. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Certainly. Mr. Lemondes in the negative.

Mr. Palmesano.

MR. PALMESANO: Thank you, Mr. Speaker. To explain my vote. First, I just wanted to say to you I have such great respect for you and your passion on this issue. Thank you for your comments today. And certainly to my colleagues on the other side of the aisle who spoke today and who feel so very strongly on this issue. I have great respect for you as well. I think I've -- I have visited several facilities and visited Special Housing Units around the State, and today I heard a lot of talk about solitary confinement and the --

and the word "torture." I have to respectfully disagree with you on that assertion, especially when -- when those in Special Housing Units get outdoor recreation, personal visits, unlimited legal visits, access to religious counseling services, daily medical access, daily visits from (inaudible) rehabilitation coordinators for additional counseling availability. I view that -- I don't view that as torture or solitary confinement. Special Housing Units are tools to help segregate dangerous, violent, disruptive inmates from other inmates who truly want to rehabilitate and do their time and be safe while doing it. I think I come at this from a different perspective just because I'm really concerned about what I see is going on in the correctional facilities today and the impact it's having on our Corrections Officers, our staff. And yes, even the inmates in the facilities. Prison closures, more prison closures. No support for a secure vendor program. No support for drug dogs at our correctional facilities. No support for enhanced technology to do drug screening to keep the drugs out of our facilities which leads to more and more violence. And now restricting the use of Special Housing Units to keep our more -- more dangerous individuals away from the rest of the population. I'm just concerned about some of the policies coming forward that's going to continue to lead to this dangerous powder keg environment that we continue to see going on and exacerbating it in our facilities. We know that inmate-on-inmate stab and inmate-on-staff assaults are up dramatically, 38 and 31 percent respectively.

Mr. Speaker and my colleagues, I'm just concerned these policies -- this is just going to create more of a dangerous environment and that's why I'm going to vote no, Mr. Speaker. Thank you.

ACTING SPEAKER AUBRY: Thank you, Mr. Palmesano. Mr. Palmesano in the negative.

Ms. Seawright to explain her vote.

MS. SEAWRIGHT: Thank you, Mr. Speaker. To explain my vote. Today I am proud to cast my vote in the affirmative for this important piece of legislation which is long overdue. And I commend the bill sponsor for his dedication, his persistence and never giving up on this issue. Today we're moving in the right direction. As a former prosecutor I've seen firsthand the negative effects. And I want to say that we're going to keep moving forward on progressive legislation and I am very pleased and honored to cast my vote and thank the bill sponsor.

Thank you very much.

ACTING SPEAKER AUBRY: Thank you. Ms. Seawright in the affirmative.

Ms. Rozic.

MS. ROZIC: Thank you, Mr. Speaker, and today's champion. For as long as I have served in this House I've been on the Corrections Committee. And in that short time I've gone to visit Albion, Taconic, Bedford Hills, Rikers. I've gone to see what these S-H-U or solitary confinement units look like. When you approach

the building, it's actually caged. When you go inside it's dark, small, it's cramped. Women who can't even get out of bed. They can't even look up at you. Call it the box, call it the hole, call it solitary, call it whatever you want. To me, that's inhumane. Solitary confinement, to me, is deadly. It actually changes people's brains, the way they think, the way they behave, and that has to stop. You know, for a long time I advocated to end solitary for pregnant women. I'm glad to see that this is in the bill as well. This is about rehabilitation. This is about correction. This is about holistic repair of those incarcerated. Lives will change for the better, even if incrementally, through this legislation. I want to lift up today's sponsor, Mr. Aubry, for all his work and many of the organizations and advocates, Women's Community Justice Association, Our Children, New Hour for Women and Children, so many others. Claire Deroche from my district who has come to see me every year about this. I thank them for their advocacy.

I will be proudly be voting in the affirmative and urge my colleagues to do the same.

ACTING SPEAKER AUBRY: Ms. Rozic in the affirmative.

Mr. Burke to explain his vote.

MR. BURKE: Thank you, Mr. Speaker. And I'd like to thank you for your efforts here today. I will be voting in favor of human rights. I'll be voting in favor of the legacy of Nelson Mandela. And I'll be voting in favor of making prisons safer for Corrections

Officers and the inmates.

I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Burke in the affirmative.

Are there any other votes?

Mr. Goodell.

MR. GOODELL: Thank you, sir. Please record Mr. Ashby in the affirmative.

ACTING SPEAKER AUBRY: So noted, sir.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if you could please record our colleagues Mr. Santabarbara, Ms. Woerner, Ms. Buttenschon, Ms. Wallace, Mrs. Gunther, Ms. McMahon and Mr. Stern in the negative on this one.

ACTING SPEAKER AUBRY: Thank you, Mrs. Peoples-Stokes. So noted.

Announce the results.

(The Clerk announced the results.)

The bill is passed.

(Applause)

Rules Report No. 41, the Clerk will read.

THE CLERK: Assembly No. A05719-A, Rules Report No. 41, Galef, Stirpe, Hunter, McDonough, Manktelow, Walker, Barrett, Buttenschon, Griffin, Steck. An act to amend the Judiciary Law, in relation to authorizing the chief administrator of the

courts to establish veterans treatment courts; and to amend the Criminal Procedure Law, in relation to the removal of certain actions to veterans treatment courts.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print A.5719-A. This is a fast roll call. Any member who wishes to be recorded in the negative is reminded to contact the Majority or Minority Leader at the numbers previously provided.

(The Clerk recorded the vote.)

Mr. Manktelow to explain his vote.

MR. MANKTELOW: Thank you, Mr. Speaker. I, first of all, want to thank Assemblywoman Galef for bringing this piece of legislation forward and for allowing me to be a cosponsor. About two years ago I had the chance to work with a young U.S. Marine that had just gotten back from a combat mission and he was pulled over and had some issues that had come up, and we worked with the family. And even though we didn't have a veterans treatment court in our county, we were able to get him to one. And we saw how important it was to work with these young men and women, especially our combat veterans coming back home. And what they were able to do with him and his family were -- was very remarkable. We kept him out of jail. And -- and we need these -- these courts to make sure this happens for all of our veterans, especially in the -- in the times that

we're in now.

So again, I just want to thank the sponsor for bringing this forward, and I will definitely be voting in the affirmative and I'll ask my colleagues to vote the same. Thank you.

ACTING SPEAKER AUBRY: Mr. Manktelow in the affirmative.

Mr. Angelino.

MR. ANGELINO: Thank you, Mr. Speaker.

On the bill.

ACTING SPEAKER AUBRY: We're explaining our votes.

MR. ANGELINO: Oh, okay. That's right. We're moving right along. Thank you.

ACTING SPEAKER AUBRY: No problem.

MR. ANGELINO: To explain my vote in the affirmative, less than 1 percent of this great nation has the courage and raises their hand and takes that oath of office that writes a blank check. And many times they're very young people, some right out of high school, men and women. And it's their first experience away from home and it could be traumatic and stressful, to say the least. Not everyone goes into combat, but they all have that same stressful job that they're going to perform, and they don't know about the -- what lays ahead. Oftentimes they're -- they deal with the stress by abusing substances, most likely alcohol, and when they come back out they have no real support system. It's their first time in adulthood and they

run afoul of the law. There's a reason this is a fast vote. It is because nobody's going to vote against this. These people need the help. And I only wish that every county had a veterans court part, because there's sometimes that a veteran in one county will get diverted while a veteran in another county might be incarcerated. And some will say they've already been incarcerated for their four years.

And I'll be voting in the affirmative.

ACTING SPEAKER AUBRY: Mr. Angelino in the affirmative. Thank you, sir.

Mr. Santabarbara.

MR. SANTABARBARA: Thank you, Mr. Speaker. I also want to thank the sponsor of this legislation. We owe a debt of gratitude to the brave men and women who defend our great nation, and we must know that the transition back to civilian life isn't always easy. Combat experiences sometimes take a great toll on the well-being of our veterans once they get home. The trauma they experience often leads to mental -- mental illness, depression and PTSD. It can also affect decisions in daily life. And we absolutely -- we cannot leave these veterans behind. This bill will provide New York veterans with the support and resources that they need, rather than leave them in a system that cannot support their unique needs.

For those reasons I'm proud to be a cosponsor on this bill and I cast my vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Santabarbara in the affirmative.

Mr. Smullen.

MR. SMULLEN: Thank you, Mr. Speaker. I really want to appreciate the wisdom of the sponsor on this bill for shepherding this through the process. This has been a long time coming. And it's a proven principle to take care of those who have defended our country. As a -- as a three-time combat veteran, I understand what our veterans who have been overseas who have been subject, particularly in the wars since September 11th, for the last 20 years or so, and there are many more of them out there. And -- and what they really need is someone who understands the situation that they've been in, that perhaps if they have PTSD or issues associated with their combat experiences. These courts are just the right tool to do so, to not only -- to -- to get them on the right path, but get them the services that they would need that would really help them along if they need a handout.

So again, I -- I commend the sponsor and vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Smullen in the affirmative.

Mrs. Barrett.

MRS. BARRETT: Thank you, Mr. Speaker. I, too, join my colleagues in supporting this bill proudly as a sponsor and to thank the -- the sponsor of this bill. As the Chair of Veterans' Affairs, I was troubled by not being able to maintain, you know, in our budget the Article VII language that was put forward to expand these veterans

treatment courts. And I was very pleased that the sponsor was so thoughtful in her willingness to work with all of us and -- and come up with a solution -- address a bill that she'd already launched, but expand it to -- to really work in the best way possible to -- to support the men and women who have served and come back wounded in so many different ways, emotionally and mentally. And -- and -- and we want to be able to give them -- as we discussed in this -- in the last bill that we debated -- therapeutic and rehabilitative opportunities and these treatment courts do just that.

So I'm proud to vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Thank you. Ms. Barrett in the affirmative.

Mr. Ashby.

MR. ASHBY: Thank you, Mr. Speaker. As -- as someone who was deployed to a combat zone and come back and had to struggle with some issues, and I sought help for those issues, you know, I'm -- I'm very proud to vote in favor of this legislation. And I know that it will have a tremendous impact on veterans throughout this State. And I'm so grateful for the support of my colleagues on this bill and the impact that it will have for so many veterans and their families for the time to come. And I know that I'm not alone in this Chamber. I know that many of us here have been down that road.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir. Mr. Ashby in the affirmative.

Mr. Burdick.

MR. BURDICK: Thank you, Mr. Speaker. On the bill, I wish to voice my support as well and wish to thank the sponsor for being so quick in accommodating the need for this since it was not going forward in the Article VII, as the Chair of the Veterans' Committee, Mrs. Barrett, had mentioned. And I'm grateful for the leadership that you've shown in bringing this forward and having it come to the floor. And clearly, there's the need for this special treatment for those men and women who come back harmed in so many ways, and this is the correct and the right thing to do.

So thank you so much for your leadership on this, and I thank the -- the Speaker as well for bringing it to the floor and I will be voting in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Mr. Burdick in the affirmative. Thank you, sir.

Mr. Pichardo.

MR. PICHARDO: Thank you, Mr. Speaker, for allowing me to explain my vote. I want to also add my voice to many of my colleagues on both sides of the aisle in commending the sponsor for this important legislation, and making sure that folks when they return home from the combat theater have the support that they not only need, but they also deserve. And I vote in the affirmative on behalf of Specialist Jose A. Neris, my older brother and the father of Jordan, who hopefully is seeing this back at home. But again, for all those folks and for everyone back at home and for the veterans who

deserve this piece of legislation to pass and the support that they deserve to have and many of my colleagues as well, I'll be proud to vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Pichardo in the affirmative.

Mrs. Galef to explain her vote.

MRS. GALEF: Well, we've had a really long day and this is a wonderful culmination of a long day. I just want to thank all of my colleagues for your support. I hope, actually -- I -- I don't think I've ever seen a bill that had 150 sponsors on it. So maybe there's a possibility of doing that as I reach out, because I think we all want to do what we can to help our veterans. And this bill really builds on a -- a bill that -- that we passed in 2019 that became law. But I think during that discussion, I -- I learned a lot from the colleagues that brought forth information about some of the counties not being able to provide veterans court. Maybe it's resources, maybe it was the size of the county. So this will really help us expand services for our veterans in such a significant way. And I have had the wonderful opportunity to spend a day at the Bronx Veterans Treatment Court. It was an outstanding day. I mean, it was -- with all -- the judge that had so much empathy, so much knowledge about veterans issues, and all of the volunteers and the court workers that were there, you know, I was so impressed. And so I know that we're really doing a great thing for our veterans tonight. We're -- we're going to make them proud, and I am proud of all of us for doing what we're doing.

So thank you very much. I appreciate the support.

ACTING SPEAKER AUBRY: Mrs. Galef in the affirmative.

Mr. Morinello to explain his vote.

MR. MORINELLO: I have to unmute.

ACTING SPEAKER AUBRY: You're unmuted, sir.

MR. MORINELLO: Am I unmuted?

ACTING SPEAKER AUBRY: Yes, sir.

MR. MORINELLO: Thank you. I want to thank the sponsor for this bill. I'm going to give a little bit from the other side. When I was a judge, I was part of the inception of a veterans court at the early inception of the concept. And the concept behind it was similar to drug court, mental health court. And that is, what is the root underlying problem causing the outbursts and if we could resolve the underlying problem as any other problem-solving courts. And that is why the court is so important. Now, it takes a special kind of judge. I was not the judge, I was the second chair. But it takes a special kind of judge to understand the difficulties that these individuals go through. And they're mentored by veterans. They're mentored by those that they can associate with. The recidivism once they complete veterans court is extremely low. Because if it's necessary to address the alcohol issue while they're in veterans court, that is done. It is done with a total therapeutic concept. There is no punishment. And it's interesting with that comment because of some of the conversations in the earlier debate. But I just wanted to give everyone

a different perspective on this. And those of you know, I am a Vietnam combat veteran. Fortunately, I was able to not need that particular court, but it gave me a better insight. I have spoken at graduation, two out of the three, and I'll tell you, it is so emotional. But the best part is, similar to success in the other speciality courts when they united -- reunited with their families, reunited with their children, getting jobs, becoming productive citizens.

So again, I thank the sponsor. This bill will go a long way in assisting and ultimately bringing people back to the reality --

ACTING SPEAKER AUBRY: Mr. Morinello in the affirmative. Thank you, sir.

Mr. McDonough.

You have to unmute yourself, sir. There we go.

MR. MCDONOUGH: Thank you, Mr. Speaker. Can you hear me now?

ACTING SPEAKER AUBRY: Yes, I can.

MR. MCDONOUGH: I am so proud to be a member of the Legislature and be able to support this. I served in both the U.S. Coast Guard and the United States Air Force. Fortunately, I was never in combat, but I have met many people, many of my constituents who did serve in combat. And I think there's nothing more we can do for them than this, and we got to keep it up and salute those people who are willing to sacrifice for our good.

So, thank you. I'm so proud to support this bill.

ACTING SPEAKER AUBRY: Mr. McDonough in

the affirmative. Thank you, sir.

Ms. Griffin.

MS. GRIFFIN: Thank you, Mr. Speaker, for permitting to explain my vote. I am a proud sponsor of this legislation because veterans treatment courts are so vital to support our veterans. I commend the sponsor and thank the Speaker for bringing this to the floor.

I vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Ms. Griffin in the affirmative.

Mrs. Peoples-Stokes to close.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. To explain my vote. I certainly want to commend the sponsor of this legislation. And now I want to say there -- a lot of returning veterans from, say, the Vietnam Era, before there were drug or veterans treatment courts, they ended up in our criminal justice system because of their inability to return to life in their respective communities after leaving what they saw in Vietnam. Mr. Speaker, I submit that the last discussion that we just had, a lot of those are veterans who end up in solitary confinement because they didn't get the right kind of treatment. So this sort of legislation is -- is more than exactly what we need to move our society forward.

So again, I want to commend the sponsor and am very pleased to vote in the affirmative.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes

in the affirmative.

And I correct myself, the door is slightly open.

Mr. Fitzpatrick.

It's closed now.

MR. FITZPATRICK: Thank you, Mr. Speaker. Jeff, I just want to congratulate you for your passion and commitment to this issue. And I have to say, I've enjoyed this debate. I've sat here and listened to both sides. Both sides raised some very interesting points. But I am going to support this legislation. And I salute you. You're a dear friend, a great tennis partner and an even greater basketball coach. But your passion on -- on this issue is -- should be recognized. And if you need a good reason why to vote for this, it's very simple. Read -- read Luke 6:36 to 38 and there's your answer.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you. Mr. Fitzpatrick, I think there's sometimes a time warp in the electronic system that we operate. I believe Mr. Fitzpatrick is actually affirmative on this particular bill.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, do you have any further housekeeping or resolutions?

ACTING SPEAKER AUBRY: A number of fine

resolutions which we will take up with one vote.

On the resolutions, all those in favor signify by saying aye; opposed, no. The -- the resolutions are adopted.

(Whereupon, Resolution Nos. 108-115 were unanimously adopted.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: I now move that the Assembly stand adjourned until 11:00 a.m., Wednesday, March the 17th, tomorrow being a Session day.

ACTING SPEAKER AUBRY: The Assembly stands adjourned.

(Whereupon, at 7:38 p.m., the House stood adjourned until Wednesday, March 17th at 11:00 a.m., that being a Session day.)