



SHU Exclusion Law Fact Sheet

The SHU Exclusion Law protects people with serious mental illness in New York State prisons from being placed in solitary confinement. As of July 1, 2011, the state must comply with the law.

What does the law require?

Prisoners with **serious mental illness** must be diverted or removed from segregated confinement (disciplinary confinement in a Special Housing Unit (SHU) or separate keeplock housing unit) to a **residential mental health treatment unit** (RMHTU), where such confinement could potentially be for more than 30 days, except in exceptional circumstances.

How does it work?

When a person is placed in segregated confinement, there must be a suicide prevention screening and an initial assessment to determine whether the person has a serious mental illness.

- ***When should the assessment be done?***

It depends on the mental health classification of the prison. If it is a prison with full-time mental health staff (Level 1 or 2 facility), then a mental health clinician must do the assessment within one business day of placement in segregated confinement. If it is a prison with part-time mental health staff (Level 3 or 4 facility), the assessment must occur within 14 days of placement.

- ***What happens if the person has a serious mental illness?***

There is an administrative process to determine whether the person should be removed from segregated confinement or whether exceptional circumstances exist allowing the Department of Corrections to hold the person in segregated confinement. This process must be completed within 14 days of the initial assessment. If the determination is that the person should be removed from segregated confinement, the removal must happen within 72 hours. If there are exceptional circumstances, then the person with serious mental illness does not have to be removed from segregated confinement to an RMHTU.

- ***What are exceptional circumstances that permit a prisoner with serious mental illness to be kept in segregated confinement?***

When removal would pose a substantial risk to the safety of the prisoner or others or a substantial threat to the security of the facility even if additional restrictions were placed on the prisoner in an RMHTU OR

When the assessing clinician determines that placement in segregated confinement is in the prisoner's best interest based on his/her mental condition and that removing the prisoner to an RMHTU would be detrimental to his/her mental condition.

What is a residential mental health treatment unit (RMHTU)?

Housing for prisoners with serious mental illness that is operated jointly by the Department of Corrections and Office of Mental Health and is therapeutic in nature. The units cannot be operated as disciplinary housing units. Residential Mental Health Units, Behavioral Health Units, Intermediate Care Programs, and Intensive Intermediate Care Programs qualify as RMHTUs.

In RMHTUs, prisoners must receive

- Therapy and programming in a setting appropriate to the person's clinical needs while maintaining the safety and security of the prison
- At least four hours a day of structured out-of-cell therapeutic programming and/or mental health treatment
- Property, services, and privileges similar to prisoners in general population although additional restrictions may be imposed to maintain security and order on the unit

While in the RMHTU, the person's disciplinary sentence will continue to run. The disciplinary sentence must be periodically reviewed to determine whether it should be reduced (a time cut) and whether the person should be transferred to a less restrictive setting.

In these units, prisoners must not

- Receive a restricted diet as a disciplinary sanction
- Be issued misbehavior reports for refusing treatment or medication, but may be subject to the disciplinary process for refusing to go to the location where treatment is provided or medication is dispensed
- Be sanctioned with segregated confinement for misconduct on the unit or removed from the unit and placed in segregated confinement, except when the prisoner's conduct poses a significant and unreasonable risk to the safety of prisoners or staff, or to the security of the facility

A person's access to out-of-cell therapeutic programming can be restricted in an RMHTU in exceptional circumstances when such access presents an unacceptable risk to the safety of prisoners or staff.

What is serious mental illness according to the SHU Exclusion Law?

A prisoner is considered to have a serious mental illness if he or she is:

- Diagnosed with any of the following Axis I disorders:
 - Schizophrenia
 - Delusional Disorder
 - Schizophreniform Disorder
 - Schizoaffective Disorder
 - Brief Psychotic Disorder
 - Substance-Induced Psychotic Disorder (excluding intoxication & withdrawal)
 - Psychotic Disorder NOS
 - Major Depressive Disorders
 - Bipolar Disorder I and II
- Actively suicidal, or has engaged in a recent, serious suicide attempt
- Diagnosed with a mental condition that is frequently characterized by breaks with reality, or perceptions of reality, that lead to significant functional impairment involving acts of self-harm or other behavior that have a seriously adverse effect on life or on mental or physical health.
- Diagnosed with an organic brain syndrome that results in significant functional impairment involving acts of self-harm or other behavior that have a seriously adverse effect on life or on mental or physical health.

- Diagnosed with a severe personality disorder that is manifested by frequent episodes of psychosis or depression, and results in a significant functional impairment involving acts of self-harm or other behavior that have a seriously adverse effect on life or on mental or physical health.
- Determined to have substantially deteriorated mentally or emotionally while confined in segregated confinement and is experiencing significant functional impairment indicating a diagnosis of serious mental illness and involving acts of self-harm or other behavior that have a seriously adverse effect on life or on mental or physical health.

What happens to people with serious mental illness who due to exceptional circumstances are not removed from segregated confinement?

While in segregated confinement, prisoners with serious mental illness

- Must be offered out-of-cell treatment and programming for a minimum of two hours each day, five days a week. *However*, this heightened level of care will not be provided when a mental health clinician determines that it is not required, or when doing so would create an unacceptable risk to the safety and security of prisoners or staff.
- Must be reassessed within two weeks of the initial assessment and every two weeks thereafter. At each reassessment, a mental health clinician must make a recommendation regarding removal.
- Must not be placed on a restricted diet unless the restricted diet is necessary for reasons of safety and security.

Does the law provide any protections for prisoners placed in segregated confinement and not initially assessed as having a serious mental illness?

Yes, but it depends on the prison. At Level 1 and 2 prisons, the prisoner must be offered an interview with a mental health clinician within 14 days of the initial assessment and an additional interview at least every 30 days after that. At Level 3 and 4 prisons, the prisoner must be offered an interview with a mental health clinician within 30 days of the initial assessment and an additional interview at least every 90 days after that.

Does the law provide any other benefits to prisoners with mental illness?

Yes, oversight by an outside agency and training to correction officers about mental illness.

- The Commission on Quality of Care and Advocacy for Persons with Disabilities must monitor and make recommendations regarding the quality of prison mental health care and oversee compliance with the SHU Exclusion Law. The Commission is required to report on the state’s progress in complying with the law.
- The Commission must also appoint an advisory committee on psychiatric correctional care to advise the Commission on its oversight responsibilities and make recommendations regarding improvements to prison-based mental health care.
- New correction officers and other new Corrections staff who will regularly work in programs providing mental health treatment for prisoners must receive eight hours of mental health training. Corrections staff who are transferred into a RMHTU must receive at least eight additional hours of mental health training and eight hours of annual training as long as they work on the unit.