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Leno seeks to limit solitary confinement for juvenile offenders

By Bob Egelko
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Photo: Lea Suzuki, The Chronicle

Sarah Shourd, of Oakland, sits for a portrait in her home on Monday, November 30, 2015 in Oakland, Calif.

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California prisons are starting to reduce their once-widespread use of solitary confinement after settling a lawsuit by hunger-striking inmates. But the settlement doesn't apply to juveniles, and state legislators have rejected four proposals in the last four years to restrict isolation of youthful offenders.

A Bay Area lawmaker is about to try again with a bill that would limit solitary confinement placements to four hours at a time for juveniles, and allow them only for conduct that threatened the safety of the institution or the youths themselves.

“We must end this type of cruel punishment, which does nothing to help these troubled youths turn their lives around,” state Sen. Mark Leno, D-San Francisco, said of the measure he is announcing Tuesday.

It is similar to Leno’s SB124, which cleared the state Senate on a 26-13 vote in June but died in the Assembly Appropriations Committee, where opponents cited its projected costs of several million dollars a year. Leno has lined up some prominent supporters for the new measure, including Sarah Shourd, who spent 410 days in solitary confinement in Iran after she and two fellow hikers were taken captive by an Iranian border guard in July 2009.

“It reduces you to an almost animal-like state,” Shourd said in an interview, recalling her confinement. “You’re pacing back and forth in your cell, full of anxiety. ... Who you are, why you get up, why you’re alive, all of that unravels.”

She said the aftereffects — “insomnia, rage, depression” — lasted for years.

Shourd, 37, lives in Oakland with her husband and former fellow captive, Shane Bauer. She has become an activist against solitary confinement and has written a play, “The Box,” based on correspondence with more than a dozen solitary-confinement prisoners, that is scheduled to open at San Francisco’s Z Space theater in July.

Leno’s measure, to be introduced at the start of the new legislative session in January, is also backed by civil rights groups and defense lawyers. The chief opposition probably will come from local probation officers, who successfully fought Leno’s last bill and three measures by then-Sen. Leland Yee, D-San Francisco, in the three preceding years.

Probation officers use lockups to separate disruptive inmates after gang fights and would be unduly restricted by a state-imposed four-hour limit on confining youths to individual cells, Alberto Torrico, a lobbyist for the State Coalition of Probation Organizations, said Monday.

“These are teenagers,” he said. “Four hours is not enough.”

Before the recent settlement reducing solitary confinement in adult prisons, California’s Corrections Department had kept thousands of inmates in isolation, sometimes for decades, based on evidence that they belonged to or were associated with a prison gang. The inmates are held in concrete cells for 22 hours a day or more, are fed through a slot, and are excluded from job training and other programs.

The settlement, announced Sept. 1, allows inmates to be put in solitary confinement only for violent acts or other serious misconduct. It limits the confinement in most cases to 10 years.

Confinement orders are usually much briefer in state and local juvenile facilities, which can hold youths only until they turn 21, or until 25 if they were tried as adults. But Leno said youths can still be placed in solitary confinement for statements or behavior — “screaming loudly, acting out, causing a disturbance” — that would no longer land an adult inmate in isolation.

Leno also said youths are more susceptible to psychological harm in isolation, including suicidal impulses. The suicide of a 22-year-old inmate who had spent three years locked up awaiting trial, most of it in isolation, led New York Mayor Bill de Blasio to prohibit solitary confinement for inmates under 21 in his city earlier this year.

The new legislation would ban the use of solitary confinement as punishment for juveniles and set statewide standards for confinement orders. Leno said its terms are similar to those that Contra Costa County officials accepted — after substantial legal expenses — in settling a suit last year over solitary confinement at its juvenile hall.

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