

Finding of Necessity:

On March 31, 2021, Governor Cuomo signed into law what is commonly known as the Humane Alternatives to Long-Term Solitary Confinement (HALT) Act (Chapter 93 of the Laws of 2021), which generally serves to restrict the use of segregated confinement in state and local correctional facilities, while creating alternative therapeutic and rehabilitative confinement options.

The legislation places strict limitations on a local correctional facility's use of segregated confinement, which is defined as the confinement of an incarcerated individual to a cell in excess of 17 hours per day, with limited exceptions. The segregated confinement of incarcerated individuals 21 years of age and younger, 55 years of age or older, disabled or pregnant is prohibited. Out-of-cell programming must generally be offered to individuals in segregated confinement at least 4 hours per day, and at least 6 hours per day for individuals confined in residential rehabilitation units, utilized by large facilities for incarcerated individuals who have reached the time limitations of segregated confinement.

The HALT Act imposes numerous and precise requirements on the conditions, programming, duration and reporting of a local correctional facility's use of segregated confinement and operation of a residential rehabilitation unit. Consequently, the proposed rulemaking is immediately necessary to conform with the enactment of the HALT Act and to provide local governments with the rules necessary to comply with the legislation.

For the aforementioned reasons, SCOC finds that immediate adoption of the rule is necessary for the preservation of public safety and general welfare, and that compliance with the rulemaking procedures set forth in State Administrative Procedure Act section 202(1) would be contrary to the public interest. By immediately adopting these regulations, SCOC will be able to ensure that the incarcerated individuals of local correctional facilities are not subject to segregated confinement or confinement to a residential rehabilitation unit in

violation of the requirements of the HALT Act. Given the upcoming statutory deadline, emergency adoption is needed to require timely compliance with the legislation. Thus, SCOC finds that the regulation must be adopted and implemented effective March 31, 2022 on an emergency basis, and compliance with the minimum periods of notice, public comment and other requirements of State Administrative Procedure Act section 202(1) would be contrary to the public interest.