

113TH CONGRESS  
2D SESSION

# H. R. 4618

To develop and implement national standards for the use of solitary confinement in the Nation's prisons, jails, and juvenile detention facilities.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2014

Mr. RICHMOND (for himself, Mr. CONYERS, Mr. RANGEL, Mr. DANNY K. DAVIS of Illinois, Mr. GRIJALVA, Mr. CÁRDENAS, Mr. ELLISON, Ms. KAPTUR, Ms. BASS, Ms. KELLY of Illinois, Mr. POLIS, Mr. HASTINGS of Florida, Ms. MOORE, Ms. WILSON of Florida, Ms. JACKSON LEE, Ms. NORTON, Mr. HONDA, and Mr. THOMPSON of Mississippi) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To develop and implement national standards for the use of solitary confinement in the Nation's prisons, jails, and juvenile detention facilities.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “The Solitary Confine-  
5 ment Study and Reform Act of 2014”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are to—

1           (1) develop and implement national standards  
2           for the use of solitary confinement to ensure that it  
3           is used infrequently and only under extreme cir-  
4           cumstances;

5           (2) establish a more humane and constitu-  
6           tionally sound practice of segregated detention or  
7           solitary confinement in the Nation's prisons;

8           (3) accelerate the development of best practices  
9           and make reforming solitary confinement a top pri-  
10          ority in each prison, jail, and juvenile detention sys-  
11          tem at the Federal and State levels;

12          (4) increase the available data and information  
13          on the incidence of solitary confinement, con-  
14          sequently improving the management and adminis-  
15          tration of correctional and juvenile justice facilities;

16          (5) standardize the definitions used for col-  
17          lecting data on the incidence of solitary confinement;

18          (6) increase the accountability of prison, jail,  
19          and juvenile corrections officials who fail to design  
20          and implement humane and constitutionally sound  
21          solitary confinement practices;

22          (7) protect the Eighth Amendment rights of  
23          Federal, State, and local prisoners and juvenile de-  
24          tainees; and

1           (8) reduce the costs that solitary confinement  
2           imposes on interstate commerce.

3 **SEC. 3. NATIONAL SOLITARY CONFINEMENT STUDY AND**  
4 **REFORM COMMISSION.**

5           (a) **ESTABLISHMENT.**—There is established a com-  
6 mission to be known as the National Solitary Confinement  
7 Study and Reform Commission.

8           (b) **MEMBERS.**—

9           (1) **IN GENERAL.**—The Commission shall be  
10 composed of 9 members, of whom—

11           (A) 3 shall be appointed by the President;

12           (B) 2 shall be appointed by the Speaker of  
13 the House of Representatives, unless the Speak-  
14 er is of the same party as the President, in  
15 which case 1 shall be appointed by the Speaker  
16 of the House of Representatives and 1 shall be  
17 appointed by the minority leader of the House  
18 of Representatives;

19           (C) 1 shall be appointed by the minority  
20 leader of the House of Representatives (in addi-  
21 tion to any appointment made under subpara-  
22 graph (B));

23           (D) 2 shall be appointed by the majority  
24 leader of the Senate, unless the majority leader  
25 is of the same party as the President, in which

1 case 1 shall be appointed by the majority leader  
2 of the Senate and 1 shall be appointed by the  
3 minority leader of the Senate; and

4 (E) 1 member appointed by the minority  
5 leader of the Senate (in addition to any ap-  
6 pointment made under subparagraph (D)).

7 (2) PERSONS ELIGIBLE.—Each member of the  
8 Commission shall be an individual who has knowl-  
9 edge or expertise in matters to be studied by the  
10 Commission.

11 (3) CONSULTATION REQUIRED.—The President,  
12 the Speaker and minority leader of the House of  
13 Representatives, and the majority leader and minor-  
14 ity leader of the Senate shall consult with one an-  
15 other prior to the appointment of the members of  
16 the Commission to achieve, to the maximum extent  
17 possible, fair and equitable representation of various  
18 points of view with respect to the matters to be  
19 studied by the Commission.

20 (4) TERM.—Each member shall be appointed  
21 for the life of the Commission.

22 (5) TIME FOR INITIAL APPOINTMENTS.—The  
23 appointment of the members shall be made not later  
24 than 180 days after the date of enactment of this  
25 Act.

1           (6) VACANCIES.—A vacancy in the Commission  
2 shall be filled in the manner in which the original  
3 appointment was made, and shall be made not later  
4 than 60 days after the date on which the vacancy  
5 occurred.

6           (c) OPERATION.—

7           (1) CHAIRPERSON.—Not later than 15 days  
8 after appointments of all the members are made, the  
9 President shall appoint a chairperson for the Com-  
10 mission from among its members.

11           (2) MEETINGS.—The Commission shall meet at  
12 the call of the chairperson. The initial meeting of the  
13 Commission shall take place not later than 30 days  
14 after the initial appointment of the members is com-  
15 pleted.

16           (3) QUORUM.—A majority of the members of  
17 the Commission shall constitute a quorum to con-  
18 duct business, but the Commission may establish a  
19 lesser quorum for conducting hearings scheduled by  
20 the Commission.

21           (4) RULES.—The Commission may establish by  
22 majority vote any other rules for the conduct of  
23 Commission business, if such rules are not incon-  
24 sistent with this Act or other applicable law.

1 (d) COMPREHENSIVE STUDY OF THE IMPACTS OF  
2 SOLITARY CONFINEMENT.—

3 (1) IN GENERAL.—The Commission shall carry  
4 out a comprehensive legal and factual study of the  
5 penological, physical, mental, medical, social, fiscal,  
6 and economic impacts of solitary confinement in the  
7 United States on—

8 (A) Federal, State, and local governments;  
9 and

10 (B) communities and social institutions  
11 generally, including individuals, families, and  
12 businesses within such communities and social  
13 institutions.

14 (2) MATTERS INCLUDED.—The study under  
15 paragraph (1) shall include—

16 (A) a review of existing Federal, State,  
17 and local government policies and practices with  
18 respect to the extent and duration of the use of  
19 solitary confinement;

20 (B) an assessment of the relationship be-  
21 tween solitary confinement and prison, jail, and  
22 juvenile detention facility conditions and exist-  
23 ing monitoring, regulatory, and enforcement  
24 practices;

1 (C) an assessment of the characteristics of  
2 prisoners and detainees most likely to be re-  
3 ferred to solitary confinement and the effective-  
4 ness of various types of treatment or programs  
5 to reduce such likelihood;

6 (D) an assessment of the impacts of soli-  
7 tary confinement on individuals, families, social  
8 institutions, and the economy generally;

9 (E) an identification of additional scientific  
10 and social science research needed on the preva-  
11 lence of solitary confinement in Federal, State,  
12 and local prisons, jails, and juvenile detention  
13 centers as well as a full assessment of existing  
14 literature;

15 (F) an assessment of the general relation-  
16 ship between solitary confinement and mental  
17 illness;

18 (G) an assessment of the relationship be-  
19 tween solitary confinement and levels of train-  
20 ing, supervision, and discipline of corrections  
21 staff; and

22 (H) an assessment of existing Federal and  
23 State systems for collecting and reporting the  
24 number and duration of solitary confinement

1 incidents in prisons, jails, and juvenile detention  
2 facilities nationwide.

3 (3) REPORT.—

4 (A) DISTRIBUTION.—Not later than two  
5 years after the date of the initial meeting of the  
6 Commission, the Commission shall submit a re-  
7 port on the study carried out under this sub-  
8 section to—

9 (i) the President;

10 (ii) the Congress;

11 (iii) the Attorney General of the  
12 United States;

13 (iv) the Secretary of Health and  
14 Human Services;

15 (v) the Director of the Federal Bu-  
16 reau of Prisons;

17 (vi) the Administrator of the Office of  
18 Juvenile Justice and Delinquency Preven-  
19 tion;

20 (vii) the chief executive of each State;

21 and

22 (viii) the head of the department of  
23 corrections of each State.

24 (B) CONTENTS.—The report under sub-  
25 paragraph (A) shall include—



1 (i) the findings and conclusions of the  
2 Commission;

3 (ii) the recommended national stand-  
4 ards for reducing the use of solitary con-  
5 finement described in subsection (e); and

6 (iii) a summary of the materials relied  
7 on by the Commission in the preparation  
8 of the report.

9 (e) RECOMMENDATIONS.—

10 (1) IN GENERAL.—As part of the report sub-  
11 mitted under subsection (d)(3), the Commission  
12 shall provide the Attorney General and the Secretary  
13 of Health and Human Services with recommended  
14 national standards for significantly reducing the use  
15 of solitary confinement in the Nation’s prisons, jails,  
16 and juvenile detention facilities.

17 (2) MATTERS INCLUDED.—The information  
18 provided under paragraph (1) shall include rec-  
19 ommended national standards relating to—

20 (A) how authorities can progress toward  
21 significantly limiting the utilization of solitary  
22 confinement so that a prisoner or detainee may  
23 be placed in solitary confinement only when the  
24 safety or security of the facility or another per-  
25 son is at imminent risk, during an ongoing dis-

1           disciplinary investigation concerning an adult pris-  
2           oner, or to punish an adult prisoner for an ex-  
3           tremely serious disciplinary infraction;

4           (B) methods that can be employed to en-  
5           sure that the duration of solitary confinement  
6           of a prisoner at an institution can be limited to  
7           fewer than 30 days in any 45-day period, except  
8           in a case in which the head of a corrections fa-  
9           cility makes an individualized determination  
10          that prolonged solitary confinement of the pris-  
11          oner for a serious disciplinary infraction is nec-  
12          essary for the order or security of the institu-  
13          tion or a prisoner requests such placement;

14          (C) ensuring that prior to being classified,  
15          assigned, or subject to long-term solitary con-  
16          finement, an adult prisoner shall be entitled to  
17          a meaningful hearing on the reason for and du-  
18          ration of the confinement and have access to  
19          legal counsel for such hearings;

20          (D) ensuring that indefinite sentencing of  
21          an adult prisoner to long-term solitary confine-  
22          ment will not be allowed and that the prisoner  
23          will be afforded a meaningful review of the con-  
24          finement at least once every 30 days that the  
25          prisoner remains in solitary confinement and

1 that facility officials must record and provide a  
2 transcript of the review proceedings for the  
3 prisoner under review to the prisoner or the  
4 prisoner's designee;

5 (E) ensuring that corrections authorities  
6 design and implement programming that allows  
7 adult prisoners subject to long-term solitary  
8 confinement to earn placement in less restric-  
9 tive housing through positive behavior;

10 (F) limiting the use of involuntary solitary  
11 confinement for the purpose of protective cus-  
12 tody solely because of a personal characteristic  
13 that makes the prisoner particularly vulnerable  
14 to harm, including age, gender identity, race, or  
15 religion;

16 (G) ensuring that corrections authorities  
17 improve access to mental health treatment for  
18 prisoners and juvenile detainees in solitary con-  
19 finement;

20 (H) ensuring that corrections authorities  
21 work toward systems wherein prisoners and ju-  
22 venile detainees diagnosed by a qualified mental  
23 health professional with a serious mental illness  
24 shall not be held in long-term solitary confine-  
25 ment;

1 (I) ensuring that corrections authorities do  
2 all that is feasible to make certain that pris-  
3 oners and juvenile detainees younger than 18  
4 years of age shall not be held in solitary con-  
5 finement for any duration, except under ex-  
6 treme emergency circumstances;

7 (J) ensuring that corrections authorities  
8 develop alternative methods to manage issues  
9 with juvenile detainees and prisoners under 18  
10 other than solitary confinement; and

11 (K) such other matters as may reasonably  
12 be related to the goal of reducing solitary con-  
13 finement in the Nation's prisons.

14 (3) LIMITATION.—The Commission shall not  
15 propose a recommended standard that would impose  
16 substantial additional costs compared to the costs  
17 presently expended by Federal, State, and local cor-  
18 rections authorities and shall seek to propose stand-  
19 ards that reduce the costs of incarceration to these  
20 authorities.

21 (f) CONSULTATION WITH ACCREDITATION ORGANI-  
22 ZATIONS.—In developing recommended national standards  
23 for the reduction of solitary confinement, the Commission  
24 shall consider any standards that have already been devel-  
25 oped, or are being developed simultaneously to the delib-

1 erations of the Commission. The Commission shall consult  
2 with accreditation organizations responsible for the ac-  
3 creditation of Federal, State, local, or private corrections  
4 facilities, that have developed or are currently developing  
5 standards related to solitary confinement. The Commis-  
6 sion shall also consult with national associations rep-  
7 resenting the corrections profession, the legal profession,  
8 the medical profession, or any other pertinent professional  
9 body that has developed or is currently developing stand-  
10 ards related to solitary confinement.

11 (g) HEARINGS.—

12 (1) IN GENERAL.—The Commission shall hold  
13 public hearings. The Commission may hold such  
14 hearings, sit and act at such times and places, take  
15 such testimony, and receive such evidence as the  
16 Commission considers advisable to carry out its du-  
17 ties under this section.

18 (2) WITNESS EXPENSES.—Witnesses requested  
19 to appear before the Commission shall be paid the  
20 same fees as are paid to witnesses under section  
21 1821 of title 28, United States Code. The per diem  
22 and mileage allowances for witnesses shall be paid  
23 from funds appropriated to the Commission.

24 (h) INFORMATION FROM FEDERAL OR STATE AGEN-  
25 CIES.—The Commission may secure directly from any

1 Federal department or agency such information as the  
2 Commission considers necessary to carry out its duties  
3 under this section. The Commission may request the head  
4 of any State or local department or agency to furnish such  
5 information to the Commission.

6 (i) PERSONNEL MATTERS.—

7 (1) TRAVEL EXPENSES.—The members of the  
8 Commission shall be allowed travel expenses, includ-  
9 ing per diem in lieu of subsistence, at rates author-  
10 ized for employees of agencies under subchapter I of  
11 chapter 57 of title 5, United States Code, while  
12 away from their homes or regular places of business  
13 in the performance of service for the Commission.

14 (2) DETAIL OF FEDERAL EMPLOYEES.—With  
15 the affirmative vote of  $\frac{2}{3}$  of the Commission, any  
16 Federal Government employee, with the approval of  
17 the head of the appropriate Federal agency, may be  
18 detailed to the Commission without reimbursement,  
19 and such detail shall be without interruption or loss  
20 of civil service status, benefits, or privileges.

21 (3) PROCUREMENT OF TEMPORARY AND INTER-  
22 MITTENT SERVICES.—Upon the request of the Com-  
23 mission, the Attorney General shall provide reason-  
24 able and appropriate office space, supplies, and ad-  
25 ministrative assistance.

1 (j) CONTRACTS FOR RESEARCH.—

2 (1) NATIONAL INSTITUTE OF JUSTICE.—With a  
3  $\frac{2}{3}$  affirmative vote, the Commission may select non-  
4 governmental researchers and experts to assist the  
5 Commission in carrying out its duties under this  
6 Act. The National Institute of Justice shall contract  
7 with the researchers and experts selected by the  
8 Commission to provide funding in exchange for their  
9 services.

10 (2) OTHER ORGANIZATIONS.—Nothing in this  
11 subsection shall be construed to limit the ability of  
12 the Commission to enter into contracts with other  
13 entities or organizations for research necessary to  
14 carry out the duties of the Commission under this  
15 section.

16 (k) TERMINATION.—The Commission shall terminate  
17 on the date that is 60 days after the date on which the  
18 Commission submits the reports required by this section.

19 (l) EXEMPTION.—The Commission shall be exempt  
20 from the Federal Advisory Committee Act.

21 **SEC. 4. ADOPTION AND EFFECT OF NATIONAL STANDARDS.**

22 (a) PUBLICATION OF STANDARDS.—

23 (1) FINAL RULE.—Not later than two years  
24 after receiving the report specified in section  
25 (3)(d)(3), the Attorney General shall publish a final

1 rule adopting national standards for the reduction of  
2 solitary confinement in the Nation's prisons, jails,  
3 and juvenile detention centers.

4 (2) INDEPENDENT JUDGMENT.—The standards  
5 referred to in paragraph (1) shall be based upon the  
6 independent judgment of the Attorney General, after  
7 giving due consideration to the recommended na-  
8 tional standards provided by the Commission under  
9 section 3(e), and being informed by such data, opin-  
10 ions, and proposals that the Attorney General deter-  
11 mines to be appropriate to consider.

12 (3) LIMITATION.—The Attorney General shall  
13 not establish a national standard under this section  
14 that would impose substantial additional costs com-  
15 pared to the costs presently expended by Federal,  
16 State, and local corrections authorities. The Attor-  
17 ney General may, however, provide a list of improve-  
18 ments for consideration by correctional facilities.

19 (4) TRANSMISSION TO STATES.—Within 90  
20 days of publishing the final rule under paragraph  
21 (1), the Attorney General shall transmit the national  
22 standards adopted under that paragraph to the chief  
23 executive of each State, the head of the department  
24 of corrections of each State, the head of the depart-  
25 ment of juvenile justice of each state, and to the ap-



1 appropriate authorities in those units of local govern-  
2 ment who oversee operations in one or more prisons,  
3 jails, or juvenile detention facilities.

4 (b) APPLICABILITY TO FEDERAL BUREAU OF PRIS-  
5 ONS.—The national standards referred to in subsection  
6 (a) shall apply to the Federal Bureau of Prisons imme-  
7 diately upon adoption of the final rule under subsection  
8 (a)(1).

9 (c) ELIGIBILITY FOR FEDERAL FUNDS.—

10 (1) ADOPTION OF NATIONAL STANDARDS.—For  
11 each fiscal year, any amount that a State would oth-  
12 erwise receive for prison, jail, and juvenile detention  
13 purposes for that fiscal year under a grant program  
14 covered by paragraph (2) shall be reduced by 15  
15 percent unless the chief executive of the State or  
16 pertinent local government official submits to the  
17 Attorney General—

18 (A) a certification that the State or local  
19 government has adopted, and is in full compli-  
20 ance with, the national standards described in  
21 subsection (a)(1); or

22 (B) an assurance that not less than 5 per-  
23 cent of such amount shall be used only for the  
24 purpose of enabling the State or local govern-  
25 ment to adopt, and achieve full compliance

1 with, those national standards, so as to ensure  
2 that a certification under subparagraph (A)  
3 may be submitted in future years.

4 (2) COVERED PROGRAMS.—

5 (A) IN GENERAL.—A grant program is  
6 covered by this subsection if—

7 (i) the program is carried out by or  
8 under the authority of the Attorney Gen-  
9 eral; and

10 (ii) the program may provide amounts  
11 to States or local governments for criminal  
12 justice or juvenile justice purposes.

13 (B) LIST.—For each fiscal year, the Attor-  
14 ney General shall prepare a list identifying each  
15 program that meets the criteria of subpara-  
16 graph (A) and make such list available to each  
17 State and local government.

18 (3) REPORT ON NONCOMPLIANCE.—Not later  
19 than September 30 of each year, the Attorney Gen-  
20 eral shall publish a report listing each grantee that  
21 is not in compliance with the national standards  
22 adopted pursuant to subsection (a)(1).

23 (4) REDISTRIBUTION OF AMOUNTS.—Amounts  
24 under a grant program not granted by reason of a  
25 reduction under paragraph (1) shall be granted to

1 one or more entities not subject to such reduction or  
2 such prohibition, subject to the other laws governing  
3 that program.

4 (5) IMPLEMENTATION.—The Attorney General  
5 shall establish procedures to implement this sub-  
6 section, including procedures for effectively applying  
7 this subsection to discretionary grant programs.

8 (6) EFFECTIVE DATE.—The programs covered  
9 under paragraph (2) shall be subject to decreases  
10 under this Act in the second fiscal year that com-  
11 mences after the date the Attorney General issues  
12 the final rule under subsection (a)(1).

13 **SEC. 5. DEFINITIONS.**

14 For purposes of this Act, the following definitions  
15 shall apply:

16 (1) ATTORNEY GENERAL.—The term “Attorney  
17 General” means the Attorney General of the United  
18 States.

19 (2) COMMISSION.—The term “Commission”  
20 means the National Solitary Confinement Study and  
21 Reform Commission established under section 3 of  
22 this Act.

23 (3) LONG-TERM.—The term “long-term” means  
24 any period lasting more than 30 days, consecutive or  
25 nonconsecutive, in any 45-day period.

1           (4) QUALIFIED MENTAL HEALTH PROFES-  
2           SIONAL.—The term “qualified mental health profes-  
3           sional” means a psychiatrist, psychologist, psy-  
4           chiatric social worker, licensed professional coun-  
5           selor, psychiatric nurse, or another individual who,  
6           by virtue of education, credentials, and experience, is  
7           permitted by law to evaluate and provide mental  
8           health care.

9           (5) SERIOUS MENTAL ILLNESS.—The term “se-  
10          rious mental illness” means a substantial disorder  
11          that—

12                 (A) significantly impairs judgment, behav-  
13                 ior, or capacity to recognize reality or cope with  
14                 the ordinary demands of life; and

15                 (B) is manifested by substantial pain or  
16                 disability, the status of being actively suicidal,  
17                 a severe cognitive disorder that results in sig-  
18                 nificant functional impairment, or a severe per-  
19                 sonality disorder that results in significant  
20                 functional impairment.

21          (6) SOLITARY CONFINEMENT.—The term “soli-  
22          tary confinement” means confinement of a prisoner  
23          or juvenile detainee in a cell or other place, alone or  
24          with other persons, for approximately 22 hours or

1 more per day with severely restricted activity, move-  
2 ment, and social interaction.

3 (7) CORRECTIONS.—The term “corrections” in-  
4 cludes prisons, jails, and juvenile detention facilities.

○