

114TH CONGRESS
1ST SESSION

H. R. 3399

To develop and implement national standards for the use of solitary confinement in correctional facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2015

Mr. RICHMOND (for himself, Mr. CHAFFETZ, Mr. SCOTT of Virginia, Mr. ROONEY of Florida, Mr. THOMPSON of Mississippi, and Mr. CLYBURN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To develop and implement national standards for the use of solitary confinement in correctional facilities, and for other purposes.

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 2015”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are to—

8 (1) develop and implement national standards
9 for the use of solitary confinement to ensure that it

1 is used infrequently and only under extreme cir-
2 cumstances;

3 (2) establish a more humane and constitu-
4 tionally sound practice of segregated detention or
5 solitary confinement in correctional facilities;

6 (3) accelerate the development of best practices
7 and make reforming solitary confinement a top pri-
8 ority in each correctional facility at the Federal and
9 State levels;

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

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

16 (6) increase the accountability of correctional
17 facility officials who fail to design and implement
18 humane and constitutionally sound solitary confine-
19 ment practices;

20 (7) protect the Eighth Amendment rights of in-
21 mates at correctional facilities; and

22 (8) reduce the costs that solitary confinement
23 imposes on interstate commerce.

1 **SEC. 3. NATIONAL SOLITARY CONFINEMENT STUDY AND**
2 **REFORM COMMISSION.**

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

6 (b) MEMBERS.—

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

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

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

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

21 (D) 2 shall be appointed by the majority
22 leader of the Senate, unless the majority leader
23 is of the same party as the President, in which
24 case 1 shall be appointed by the majority leader
25 of the Senate and 1 shall be appointed by the
26 minority leader of the Senate; and

1 (E) 1 shall be appointed by the minority
2 leader of the Senate (in addition to any ap-
3 pointment made under subparagraph (D)).

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

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

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

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

23 (6) VACANCIES.—A vacancy in the Commission
24 shall be filled in the manner in which the original
25 appointment was made, and shall be made not later

1 than 60 days after the date on which the vacancy
2 occurred.

3 (c) OPERATION.—

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

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

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

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

22 (d) COMPREHENSIVE STUDY OF THE IMPACTS OF
23 SOLITARY CONFINEMENT.—

24 (1) IN GENERAL.—The Commission shall carry
25 out a comprehensive legal and factual study of the

1 penological, physical, mental, medical, social, fiscal,
2 and economic impacts of solitary confinement in the
3 United States on—

4 (A) Federal, State, and local governments;

5 and

6 (B) communities and social institutions
7 generally, including individuals, families, and
8 businesses within such communities and social
9 institutions.

10 (2) MATTERS INCLUDED.—The study under
11 paragraph (1) shall include—

12 (A) a review of existing Federal, State,
13 and local government policies and practices with
14 respect to the extent and duration of the use of
15 solitary confinement;

16 (B) an assessment of the relationship be-
17 tween solitary confinement and correctional fa-
18 cility conditions, and existing monitoring, regu-
19 latory, and enforcement practices;

20 (C) an assessment of the characteristics of
21 prisoners and juvenile detainees most likely to
22 be referred to solitary confinement and the ef-
23 fectiveness of various types of treatment or pro-
24 grams to reduce such likelihood;

1 (D) an assessment of the impacts of soli-
2 tary confinement on individuals, families, social
3 institutions, and the economy generally;

4 (E) an identification of additional scientific
5 and social science research needed on the preva-
6 lence of solitary confinement in correctional fa-
7 cilities as well as a full assessment of existing
8 literature;

9 (F) an assessment of the general relation-
10 ship between solitary confinement and mental
11 illness;

12 (G) an assessment of the relationship be-
13 tween solitary confinement and levels of train-
14 ing, supervision, and discipline of the staff of
15 correctional facilities; and

16 (H) an assessment of existing Federal and
17 State systems for collecting and reporting the
18 number and duration of solitary confinement
19 incidents in correctional facilities nationwide.

20 (3) REPORT.—

21 (A) DISTRIBUTION.—Not later than two
22 years after the date of the initial meeting of the
23 Commission, the Commission shall submit a re-
24 port on the study carried out under this sub-
25 section to—

- 1 (i) the President;
- 2 (ii) the Congress;
- 3 (iii) the Attorney General of the
- 4 United States;
- 5 (iv) the Secretary of Health and
- 6 Human Services;
- 7 (v) the Director of the Federal Bu-
- 8 reau of Prisons;
- 9 (vi) the Administrator of the Office of
- 10 Juvenile Justice and Delinquency Preven-
- 11 tion;
- 12 (vii) the chief executive of each State;
- 13 and
- 14 (viii) the head of the department of
- 15 corrections of each State.

16 (B) CONTENTS.—The report under sub-

17 paragraph (A) shall include—

- 18 (i) the findings and conclusions of the
- 19 Commission;
- 20 (ii) the recommended national stand-
- 21 ards for reducing the use of solitary con-
- 22 finement described in subsection (e); and
- 23 (iii) a summary of the materials relied
- 24 on by the Commission in the preparation
- 25 of the report.

1 (e) RECOMMENDATIONS.—

2 (1) IN GENERAL.—As part of the report sub-
3 mitted under subsection (d)(3), the Commission
4 shall provide the Attorney General and the Secretary
5 of Health and Human Services with recommended
6 national standards for significantly reducing the use
7 of solitary confinement in correctional facilities.

8 (2) MATTERS INCLUDED.—The information
9 provided under paragraph (1) shall include rec-
10 ommended national standards relating to—

11 (A) how authorities can progress toward
12 significantly limiting the utilization of solitary
13 confinement so that a prisoner or juvenile de-
14 tainee may be placed in solitary confinement
15 only when the safety or security of the facility
16 or another person is at imminent risk, during
17 an ongoing disciplinary investigation concerning
18 an adult prisoner, or to punish an adult pris-
19 oner for an extremely serious disciplinary in-
20 fraction;

21 (B) methods that can be employed to en-
22 sure that the duration of solitary confinement
23 of a prisoner or juvenile detainee at an institu-
24 tion can be limited to fewer than 30 days in
25 any 45-day period, except in a case in which the

1 head of a correctional facility makes an individ-
2 ualized determination that prolonged solitary
3 confinement of the prisoner or detainee for a
4 serious disciplinary infraction is necessary for
5 the order or security of the institution, or a
6 prisoner or detainee requests such placement;

7 (C) ensuring that prior to being classified,
8 assigned, or subject to long-term solitary con-
9 finement, an adult prisoner shall be entitled to
10 a meaningful hearing on the reason for and du-
11 ration of the confinement and have access to
12 legal counsel for such hearings;

13 (D) ensuring that indefinite sentencing of
14 an adult prisoner to long-term solitary confine-
15 ment will not be allowed and that the prisoner
16 will be afforded a meaningful review of the con-
17 finement at least once every 30 days that the
18 prisoner remains in solitary confinement and
19 that correctional facility officials must record
20 and provide a transcript of the review pro-
21 ceedings for the prisoner under review to the
22 prisoner or the prisoner's designee;

23 (E) ensuring that correctional facility offi-
24 cials design and implement programming that
25 allows adult prisoners subject to long-term soli-

1 tary confinement to earn placement in less re-
2 strictive housing through positive behavior;

3 (F) limiting the use of involuntary solitary
4 confinement for the purpose of protective cus-
5 tody solely because of a personal characteristic
6 that makes the prisoner or juvenile detainee
7 particularly vulnerable to harm, including age,
8 gender identity, race, or religion;

9 (G) ensuring that correctional facility offi-
10 cials improve access to mental health treatment
11 for prisoners and juvenile detainees in solitary
12 confinement;

13 (H) ensuring that correctional facility offi-
14 cials work toward systems wherein prisoners
15 and juvenile detainees diagnosed by a qualified
16 mental health professional with a serious men-
17 tal illness are not held in long-term solitary
18 confinement;

19 (I) ensuring that correctional facility offi-
20 cials do all that is feasible to make certain that
21 prisoners and juvenile detainees are not held in
22 solitary confinement for any duration, except
23 under extreme emergency circumstances;

24 (J) ensuring that correctional facility offi-
25 cials develop alternative methods to manage

1 issues with prisoners and juvenile detainees
2 other than solitary confinement; and

3 (K) such other matters as may reasonably
4 be related to the goal of reducing solitary con-
5 finement in correctional facilities.

6 (3) LIMITATION.—The Commission shall not
7 propose a recommended standard that would impose
8 substantial additional costs compared to the costs
9 presently expended by correctional facilities, and
10 shall seek to propose standards that reduce the costs
11 of incarceration at such facilities.

12 (f) CONSULTATION WITH ACCREDITATION ORGANI-
13 ZATIONS.—In developing recommended national standards
14 for the reduction of solitary confinement under subsection
15 (e), the Commission shall consider any standards that
16 have already been developed, or are being developed simul-
17 taneously to the deliberations of the Commission. The
18 Commission shall consult with accreditation organizations
19 responsible for the accreditation of correctional facilities
20 that have developed or are developing standards related
21 to solitary confinement. The Commission shall also consult
22 with national associations representing the corrections
23 profession, the legal profession, the medical profession, or
24 any other pertinent professional body that has developed
25 or is developing standards related to solitary confinement.

1 (g) HEARINGS.—

2 (1) IN GENERAL.—The Commission shall hold
3 public hearings. The Commission may hold such
4 hearings, sit and act at such times and places, take
5 such testimony, and receive such evidence as the
6 Commission considers advisable to carry out its du-
7 ties under this section.

8 (2) WITNESS EXPENSES.—Witnesses requested
9 to appear before the Commission shall be paid the
10 same fees as are paid to witnesses under section
11 1821 of title 28, United States Code. The per diem
12 and mileage allowances for witnesses shall be paid
13 from funds appropriated to the Commission.

14 (h) INFORMATION FROM FEDERAL OR STATE AGEN-
15 CIES.—The Commission may secure directly from any
16 Federal department or agency such information as the
17 Commission considers necessary to carry out its duties
18 under this section. The Commission may request the head
19 of any State or local department or agency to furnish such
20 information to the Commission.

21 (i) PERSONNEL MATTERS.—

22 (1) TRAVEL EXPENSES.—The members of the
23 Commission shall be allowed travel expenses, includ-
24 ing per diem in lieu of subsistence, at rates author-
25 ized for employees of agencies under subchapter I of

1 chapter 57 of title 5, United States Code, while
2 away from their homes or regular places of business
3 in the performance of service for the Commission.

4 (2) DETAIL OF FEDERAL EMPLOYEES.—With
5 the affirmative vote of $\frac{2}{3}$ of the Commission, any
6 Federal Government employee, with the approval of
7 the head of the appropriate Federal agency, may be
8 detailed to the Commission without reimbursement,
9 and such detail shall be without interruption or loss
10 of civil service status, benefits, or privileges.

11 (3) PROCUREMENT OF TEMPORARY AND INTER-
12 MITTENT SERVICES.—Upon the request of the Com-
13 mission, the Attorney General shall provide reason-
14 able and appropriate office space, supplies, and ad-
15 ministrative assistance.

16 (j) CONTRACTS FOR RESEARCH.—

17 (1) NATIONAL INSTITUTE OF JUSTICE.—With a
18 $\frac{2}{3}$ affirmative vote, the Commission may select non-
19 governmental researchers and experts to assist the
20 Commission in carrying out its duties under this
21 Act. The National Institute of Justice shall contract
22 with the researchers and experts selected by the
23 Commission to provide funding in exchange for their
24 services.

1 (2) OTHER ORGANIZATIONS.—Nothing in this
2 subsection shall be construed to limit the ability of
3 the Commission to enter into contracts with other
4 entities or organizations for research necessary to
5 carry out the duties of the Commission under this
6 section.

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

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

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

13 (a) PUBLICATION OF STANDARDS.—

14 (1) FINAL RULE.—Not later than two years
15 after receiving the report specified in section
16 (3)(d)(3), the Attorney General shall publish a final
17 rule adopting national standards for the reduction of
18 solitary confinement in correctional facilities.

19 (2) INDEPENDENT JUDGMENT.—The standards
20 referred to in paragraph (1) shall be based upon the
21 independent judgment of the Attorney General, after
22 giving consideration to the recommended national
23 standards provided by the Commission under section
24 3(e), and being informed by such data, opinions, and

1 proposals that the Attorney General determines to
2 be appropriate to consider.

3 (3) LIMITATION.—The Attorney General shall
4 not establish a national standard under this section
5 that would impose substantial additional costs com-
6 pared to the costs presently expended by Federal
7 and State correctional systems. The Attorney Gen-
8 eral may, however, provide a list of improvements
9 for consideration by correctional facilities.

10 (4) TRANSMISSION TO STATES.—Not later than
11 90 days after publishing the final rule under para-
12 graph (1), the Attorney General shall transmit the
13 national standards adopted under that paragraph to
14 the chief executive of each State, the head of the de-
15 partment of corrections of each State, the head of
16 the department of juvenile justice of each State, and
17 to the appropriate authorities in those units of local
18 government who oversee operations in one or more
19 correctional facilities.

20 (b) APPLICABILITY TO FEDERAL BUREAU OF PRIS-
21 ONS.—The national standards referred to in subsection
22 (a) shall apply to the Federal Bureau of Prisons imme-
23 diately upon adoption of the final rule under subsection
24 (a)(1).

25 (c) ELIGIBILITY FOR FEDERAL FUNDS.—

1 (1) IN GENERAL.—Beginning in the second fis-
2 cal year that begins after the date on which the At-
3 torney General issues a the final rule under sub-
4 section (a)(1), in order to be eligible to receive a
5 grant under a program identified by the Attorney
6 General under paragraph (2), the chief executive of
7 a State or unit of local government seeking such a
8 grant shall submit to the Attorney general a certifi-
9 cation that the State or local government has adopt-
10 ed, and is in full compliance with the national stand-
11 ards described in subsection (a)(1).

12 (2) COVERED GRANT PROGRAMS.—The Attor-
13 ney General shall identify grant programs carried
14 out by the Department of Justice which provide
15 funding to States and units of local government for
16 the construction, maintenance, or operation of cor-
17 rectional facilities, and make a list of such programs
18 publicly available.

19 **SEC. 5. DEFINITIONS.**

20 For purposes of this Act, the following definitions
21 shall apply:

22 (1) ATTORNEY GENERAL.—The term “Attorney
23 General” means the Attorney General of the United
24 States.

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

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

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

16 (5) SERIOUS MENTAL ILLNESS.—The term “se-
17 rious mental illness” means a substantial disorder
18 that—

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

22 (B) is manifested by substantial pain or
23 disability, the status of being actively suicidal,
24 a severe cognitive disorder that results in sig-
25 nificant functional impairment, or a severe per-

1 sonality disorder that results in significant
2 functional impairment.

3 (6) SOLITARY CONFINEMENT.—The term “solitary
4 confinement” means confinement of a prisoner
5 or juvenile detainee in a cell or other place, alone or
6 with other persons, for approximately 22 hours or
7 more per day with severely restricted activity, move-
8 ment, and social interaction, which is separate from
9 the general population of that correctional facility.

10 (7) CORRECTIONAL FACILITY.—The term “cor-
11 rectional facility” means a Federal, State, local, or
12 privately run prison, jail, or juvenile detention facil-
13 ity.

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