

114TH CONGRESS
2D SESSION

S. 3432

To reform the use of solitary confinement and other forms of restrictive housing in the Bureau of Prisons, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2016

Mr. DURBIN (for himself, Mr. COONS, Mr. LEAHY, Mr. BOOKER, and Mr. FRANKEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To reform the use of solitary confinement and other forms of restrictive housing in the Bureau of Prisons, 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 “Solitary Confinement
5 Reform Act”.

6 **SEC. 2. SOLITARY CONFINEMENT REFORMS.**

7 (a) AMENDMENT.—Chapter 303 of title 18, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

1 **“§ 4050. Solitary confinement**

2 “(a) DEFINITIONS.—In this section:

3 “(1) ADMINISTRATIVE MAXIMUM FACILITY.—

4 The term ‘administrative maximum facility’ means a
 5 maximum-security facility, including the Administra-
 6 tive Maximum facility in Florence, Colorado, de-
 7 signed to house inmates who present an ongoing sig-
 8 nificant and serious threat to other inmates, staff,
 9 and the public.

10 “(2) ADMINISTRATIVE SEGREGATION.—The

11 term ‘administrative segregation’ means a non-puni-
 12 tive form of solitary confinement that removes an in-
 13 dividual from the general population of a correc-
 14 tional facility for—

15 “(A) investigative, protective, or preventa-
 16 tive reasons resulting in a substantial and im-
 17 mediate threat; or

18 “(B) transitional reasons, including a
 19 pending transfer, pending classification, or
 20 other temporary administrative matter.

21 “(3) APPROPRIATE LEVEL OF CARE.—The term

22 ‘appropriate level of care’ means the appropriate
 23 treatment setting for mental health care that an in-
 24 mate with mental illness requires, which may include
 25 outpatient care, emergency or crisis services, day

1 treatment, supported residential housing, infirmary
2 care, or inpatient psychiatric hospitalization services.

3 “(4) DIRECTOR.—The term ‘Director’ means
4 the Director of the Bureau of Prisons.

5 “(5) DISCIPLINARY HEARING OFFICER.—The
6 term ‘disciplinary hearing officer’ means an em-
7 ployee of the Bureau of Prisons who is responsible
8 for conducting disciplinary hearings for which soli-
9 tary confinement may be a sanction, as described in
10 section 541.8 of title 28, Code of Federal Regula-
11 tions, or any successor thereto.

12 “(6) DISCIPLINARY SEGREGATION.—The term
13 ‘disciplinary segregation’ means a punitive form of
14 solitary confinement imposed only by a Disciplinary
15 Hearing Officer as a sanction for committing a sig-
16 nificant and serious disciplinary infraction.

17 “(7) INTELLECTUAL DISABILITY.—The term
18 ‘intellectual disability’ means a significant mental
19 impairment characterized by significant limitations
20 in both intellectual functioning and in adaptive be-
21 havior.

22 “(8) MULTIDISCIPLINARY STAFF COM-
23 MITTEE.—The term ‘multidisciplinary staff com-
24 mittee’ means a committee—

1 “(A) made up of staff at the facility where
 2 an inmate resides who are responsible for re-
 3 viewing the initial placement of the inmate in
 4 solitary confinement and any extensions of time
 5 in solitary confinement; and

6 “(B) which shall include—

7 “(i) not less than 1 licensed mental
 8 health professional;

9 “(ii) not less than 1 medical profes-
 10 sional; and

11 “(iii) not less than 1 member of the
 12 leadership of the facility.

13 “(9) ONGOING SIGNIFICANT AND SERIOUS
 14 THREAT.—The term ‘ongoing significant and serious
 15 threat’ means an ongoing set of circumstances that
 16 require the highest level of security and staff super-
 17 vision for an inmate who, by the behavior of the in-
 18 mate—

19 “(A) has been identified as assaultive,
 20 predacious, riotous, or a serious escape risk;
 21 and

22 “(B) poses a great risk to other inmates,
 23 staff, and the public.

24 “(10) PROTECTION CASE.—The term ‘protec-
 25 tion case’ means an inmate who, by the request of

1 the inmate or through a staff determination, re-
2 quires protection, as described by section
3 541.23(c)(3) of title 28, Code of Federal Regula-
4 tions, or any successor thereto.

5 “(11) SERIOUS MENTAL ILLNESS.—The term
6 ‘serious mental illness’ means a substantial disorder
7 of thought or mood that significantly impairs judg-
8 ment, behavior, capacity to recognize reality, or abil-
9 ity to cope with the ordinary demands of life.

10 “(12) SIGNIFICANT AND SERIOUS DISCIPLINARY
11 INFRACTION.—The term ‘significant and serious dis-
12 ciplinary infraction’ means—

13 “(A) an act of violence that either—

14 “(i) resulted in or was likely to result
15 in serious injury or death to another; or

16 “(ii) occurred in connection with any
17 act of non-consensual sex; or

18 “(B) an escape, attempted escape, or con-
19 spiracy to escape from within a security perim-
20 eter or custody, or both; or

21 “(C) possession of weapons, possession of
22 illegal narcotics with intent to distribute, or
23 other similar, severe threats to the safety of the
24 inmate, other inmates, staff, or the public.

1 “(13) SOLITARY CONFINEMENT.—The term
 2 ‘solitary confinement’ means confinement character-
 3 ized by substantial isolation in a cell, alone or with
 4 other inmates, including administrative segregation,
 5 disciplinary segregation, and confinement in any fa-
 6 cility designated by the Bureau of Prisons as a spe-
 7 cial housing unit, special management unit, or ad-
 8 ministrative maximum facility.

9 “(14) SPECIAL ADMINISTRATIVE MEASURES.—
 10 The term ‘special administrative measures’ means
 11 reasonably necessary measures used to—

12 “(A) prevent disclosure of classified infor-
 13 mation upon written certification to the Attor-
 14 ney General by the head of an element of the
 15 intelligence community (as specified or des-
 16 ignated under section 3(4) of the National Se-
 17 curity act of 1947 (50 U.S.C. 3003(4))) that
 18 the unauthorized disclosure of such information
 19 would pose a threat to the national security and
 20 that there is a danger that the inmate will dis-
 21 close such information, as described by section
 22 501.2 of title 28, Code of Federal Regulations,
 23 or any successor thereto; or

24 “(B) protect persons against the risk of
 25 death or serious bodily injury, upon written no-

tification to the Director by the Attorney General or, at the Attorney General's direction, by the head of a Federal law enforcement agency, or the head of an element of the intelligence community (as specified or designated under section 3(4) of the National Security act of 1947 (50 U.S.C. 3003(4))), that there is a substantial risk that the communications of an inmate or contacts by the inmate with other persons could result in death or serious bodily injury to persons, or substantial damage to property that would entail the risk of death or serious bodily injury to persons, as described by section 501.3 of title 28, Code of Federal Regulations, or any successor thereto.

“(15) SPECIAL HOUSING UNIT.—The term ‘special housing unit’ means a housing unit in an institution of the Bureau of Prisons in which inmates are securely separated from the general inmate population for disciplinary or administrative reasons, as described in section 541.21 of title 28, Code of Federal Regulations, or any successor thereto.

“(16) SPECIAL MANAGEMENT UNIT.—The term ‘special management unit’ means a non-punitive housing program with multiple, step-down phases for

1 inmates whose history, behavior, or situation re-
 2 quires enhanced management approaches in order to
 3 ensure the safety of other inmates, the staff, and the
 4 public.

5 “(17) SUBSTANTIAL AND IMMEDIATE
 6 THREAT.—The term ‘substantial and immediate
 7 threat’ means any set of temporary and unforeseen
 8 circumstances that require immediate action in order
 9 to combat a threat to the safety of an inmate, other
 10 inmates, staff, or the public.

11 “(b) USE OF SOLITARY CONFINEMENT.—

12 “(1) IN GENERAL.—The placement of a Federal
 13 inmate in solitary confinement within the Bureau of
 14 Prisons or any facility that contracts with the Bu-
 15 reau of Prisons to provide housing for inmates in
 16 Federal custody shall be limited to situations in
 17 which such confinement—

18 “(A) is limited to the briefest term and the
 19 least restrictive conditions practicable, including
 20 not less than 4 hours of out-of-cell time every
 21 day, unless the inmate poses a substantial and
 22 immediate threat;

23 “(B) is consistent with the rationale for
 24 placement and with the progress achieved by
 25 the inmate;

“(C) allows the inmate to participate in meaningful programming opportunities and privileges as consistent with those available in the general population as practicable, either individually or in a classroom setting;

“(D) allows the inmate to have as much meaningful interaction with others, such as other inmates, visitors, clergy, or licensed mental health professionals, as practicable; and

“(E) complies with the provisions of this section.

“(2) TRANSITIONAL PROCESS FOR INMATES IN SOLITARY CONFINEMENT.—

“(A) INMATES WITH UPCOMING RELEASE DATES.—The Director shall establish—

“(i) policies to ensure that an inmate with an anticipated release date of 180 days or less is not housed in solitary confinement, unless—

“(I) such confinement is limited to not more than 5 days of administrative segregation relating to the upcoming release of the inmate; or

“(II) the inmate poses a substantial and immediate threat; and

1 “(ii) a transitional process for each
2 inmate with an anticipated release date of
3 180 days or less who is held in solitary
4 confinement under clause (i)(II), which
5 shall include—

6 “(I) substantial re-socialization
7 programming in a group setting;

8 “(II) regular mental health coun-
9 seling to assist with the transition;
10 and

11 “(III) re-entry planning services
12 offered to inmates in a general popu-
13 lation setting.

14 “(B) INMATES IN LONG-TERM SOLITARY
15 CONFINEMENT.—The Director shall establish a
16 transitional process for each inmate who has
17 been held in solitary confinement for more than
18 30 days and who will transition into a general
19 population unit, which shall include—

20 “(i) substantial re-socialization pro-
21 gramming in a group setting; and

22 “(ii) regular mental health counseling
23 to assist with the transition.

24 “(3) PROTECTIVE CUSTODY UNITS.—The Di-
25 rector—

1 “(A) shall establish within the Federal
2 prison system additional general population
3 protective custody units that provide sheltered
4 general population housing to protect inmates
5 from harm that they may otherwise be exposed
6 to in a typical general population housing unit;

7 “(B) shall establish policies to ensure that
8 an inmate who is considered a protection case
9 shall, upon request of the inmate, be placed in
10 a general population protective custody unit;

11 “(C) shall create an adequate number of
12 general population protective custody units to—

13 “(i) accommodate the requests of in-
14 mates who are considered to be protection
15 cases; and

16 “(ii) ensure that inmates who are con-
17 sidered to be protection cases are placed in
18 facilities as close to their homes as prac-
19 ticable; and

20 “(D) may not place an inmate who is con-
21 sidered to be a protection case in solitary con-
22 finement due to the status of the inmate as a
23 protection case unless—

24 “(i) the inmate requests to be placed
25 in solitary confinement, in which case, at

the request of the inmate the inmate shall
 be transferred to a general population pro-
 tective custody unit or, if appropriate, a
 different general population unit; or

“(ii) such confinement is limited to—

“(I) not more than 5 days of ad-
 ministrative segregation; and

“(II) is necessary to protect the
 inmate during preparation for trans-
 fer to a general population protective
 custody unit or a different general
 population unit.

“(4) VULNERABLE POPULATIONS.—The Bureau
 of Prisons or any facility that contracts with the Bu-
 reau of Prisons shall not place an inmate in solitary
 confinement if—

“(A) the inmate is younger than 18 years
 of age, unless—

“(i) such confinement is a temporary
 response to the behavior of the inmate,
 which poses a substantial and immediate
 threat;

“(ii) all other options to de-escalate
 the situation have been exhausted, includ-
 ing less restrictive techniques such as—

1 “(I) penalizing the inmate
2 through loss of privileges;

3 “(II) speaking with the inmate in
4 an attempt to de-escalate the situa-
5 tion; and

6 “(III) a licensed mental health
7 professional providing an appropriate
8 level of care;

9 “(iii) such confinement is limited to—

10 “(I) 3 hours after the inmate is
11 placed in solitary confinement, if the
12 inmate poses a substantial and imme-
13 diate threat to others; or

14 “(II) 30 minutes after the inmate
15 is placed in solitary confinement, if
16 the inmate poses a substantial and
17 immediate threat only to himself or
18 herself; and

19 “(iv) if, after the applicable maximum
20 period of confinement under subclause (I)
21 or (II) of clause (iii) has expired, the in-
22 mate continues to pose a substantial and
23 immediate threat described in that sub-
24 clause—

1 “(I) the inmate shall be trans-
2 ferred to another facility or internal
3 location where services can be pro-
4 vided to the inmate without relying on
5 solitary confinement; or

6 “(II) if a qualified mental health
7 professional believes the level of crisis
8 service needed is not currently avail-
9 able, a staff member of the facility
10 shall initiate a referral to a location
11 that can meet the needs of the in-
12 mate;

13 “(B) the inmate has a serious mental ill-
14 ness, has an intellectual disability, has a phys-
15 ical disability that a licensed medical profes-
16 sional finds is likely to be exacerbated by place-
17 ment in solitary confinement, is pregnant or in
18 the first 8 weeks of the post-partum recovery
19 period after giving birth, or has been deter-
20 mined by a licensed mental health professional
21 to likely be significantly adversely affected by
22 placement in solitary confinement, unless—

23 “(i) the inmate poses a substantial
24 and immediate threat;

1 “(ii) all other options to de-escalate
2 the situation have been exhausted, includ-
3 ing less restrictive techniques such as—

4 “(I) penalizing the inmate
5 through loss of privileges;

6 “(II) speaking with the inmate in
7 an attempt to de-escalate the situa-
8 tion; and

9 “(III) a licensed mental health
10 professional providing an appropriate
11 level of care;

12 “(iii) such confinement is limited to
13 the briefest term and the least restrictive
14 conditions practicable, including access to
15 medical and mental health treatment;

16 “(iv) such confinement is reviewed by
17 a multidisciplinary staff committee for ap-
18 propriateness every 24 hours; and

19 “(v) as soon as practicable, but not
20 later than 5 days after such confinement
21 begins, the inmate is diverted, upon release
22 from solitary confinement, to—

23 “(I) a general population unit;

24 “(II) a protective custody unit
25 described in paragraph (3); or

1 “(III) a mental health treatment
2 program as described in subsection
3 (c)(2); or

4 “(C) the inmate is lesbian, gay, bisexual,
5 transgender (as defined in section 115.5 of title
6 28, Code of Federal Regulations, or any suc-
7 cessor thereto), intersex (as defined in section
8 115.5 of title 28, Code of Federal Regulations,
9 or any successor thereto), or gender noncon-
10 forming (as defined in section 115.5 of title 28,
11 Code of Federal Regulations, or any successor
12 thereto), when such placement is solely on the
13 basis of such identification or status.

14 “(5) SPECIAL HOUSING UNITS.—The Director
15 shall—

16 “(A) limit administrative segregation—

17 “(i) to situations in which such seg-
18 regation is necessary to—

19 “(I) control a substantial and im-
20 mediate threat that cannot be ad-
21 dressed through alternative housing;
22 or

23 “(II) temporarily house an in-
24 mate pending transfer, pending classi-
25 fication, or pending resolution of an-

1 other temporary administrative mat-
2 ter; and

3 “(ii) to a duration of not more than
4 15 consecutive days, and not more than 20
5 days in a 60-day period, unless—

6 “(I) the inmate requests to re-
7 main in administrative segregation
8 under paragraph (3)(D)(i); or

9 “(II) in order to address the con-
10 tinued existence of a substantial and
11 immediate threat, a multidisciplinary
12 staff committee approves a temporary
13 extension, which—

14 “(aa) may not be longer
15 than 15 days; and

16 “(bb) shall be reviewed by
17 the multidisciplinary staff com-
18 mittee every 3 days during the
19 period of the extension, in order
20 to confirm the continued exist-
21 ence of the substantial and im-
22 mediate threat;

23 “(B) limit disciplinary segregation—

24 “(i) to situations in which such seg-
25 regation is necessary to punish an inmate

1 who has been found to have committed a
2 significant and serious disciplinary infrac-
3 tion by a Disciplinary Hearing Officer and
4 alternative sanctions would not adequately
5 regulate the behavior of the inmate; and

6 “(ii) to a duration of not more than
7 30 consecutive days, and not more than 40
8 days in a 60-day period, unless a multi-
9 disciplinary staff committee, in consulta-
10 tion with the Disciplinary Hearing Officer
11 who presided over the inmate’s disciplinary
12 hearing, determines that the significant
13 and serious disciplinary infraction of which
14 the inmate was found guilty is of such an
15 egregious and violent nature that a longer
16 sanction is appropriate and approves a
17 longer sanction, which—

18 “(I) may be not more than 60
19 days in a special housing unit if the
20 inmate has never before been found
21 guilty of a similar significant and seri-
22 ous disciplinary infraction; or

23 “(II) may be not more than 90
24 days in a special housing unit if the
25 inmate has previously been found

1 guilty of a similar significant and seri-
2 ous disciplinary infraction;

3 “(C) ensure that any time spent in admin-
4 istrative segregation during an investigation
5 into an alleged offense is credited as time
6 served for a disciplinary segregation sentence;

7 “(D) ensure that concurrent sentences are
8 imposed for disciplinary violations arising from
9 the same episode; and

10 “(E) ensure that an inmate may be re-
11 leased from disciplinary segregation for good
12 behavior before completing the term of the in-
13 mate, unless the inmate poses a substantial and
14 immediate threat to the safety of other inmates,
15 staff, or the public.

16 “(6) SPECIAL MANAGEMENT UNITS.—The Di-
17 rector shall—

18 “(A) limit segregation in a special manage-
19 ment unit to situations in which such segrega-
20 tion is necessary to temporarily house an in-
21 mate whose history, behavior, or circumstances
22 require enhanced management approaches that
23 cannot be addressed through alternative hous-
24 ing;

1 “(B) evaluate whether further reductions
2 to the minimum and maximum number of
3 months an inmate may spend in a special man-
4 agement unit are appropriate on an annual
5 basis;

6 “(C) ensure that each inmate understands
7 the status of the inmate in the special manage-
8 ment unit program and how the inmate may
9 progress through the program; and

10 “(D) further reduce the minimum and
11 maximum number of months an inmate may
12 spend in a special management unit if the Di-
13 rector determines such reductions are appro-
14 priate after evaluations are performed under
15 subparagraph (B).

16 “(7) ADMINISTRATIVE MAXIMUM FACILITIES.—
17 The Director shall—

18 “(A) limit segregation in an administrative
19 maximum facility to situations in which such
20 segregation is necessary to—

21 “(i) implement special administrative
22 measures, as directed by the Attorney Gen-
23 eral; or

24 “(ii) house an inmate who poses an
25 ongoing significant and serious threat to

1 the safety of other inmates, staff, or the
2 public that cannot be addressed through
3 alternative housing; and

4 “(B) issue final approval of referral of any
5 inmate who poses an ongoing significant and
6 serious threat for placement in an Administra-
7 tive Maximum facility, including the United
8 States Penitentiary Administrative Maximum in
9 Florence, Colorado.

10 “(8) RIGHT TO REVIEW PLACEMENT IN SOLI-
11 TARY CONFINEMENT.—The Director shall ensure
12 that each inmate placed in solitary confinement has
13 access to—

14 “(A) written notice thoroughly detailing
15 the basis for placement or continued placement
16 in solitary confinement not later than 6 hours
17 after the beginning of such placement, includ-
18 ing—

19 “(i) thorough documentation explain-
20 ing why such confinement is permissible
21 and necessary under paragraph (1); and

22 “(ii) if an exception under paragraph
23 (2)(A), (3)(D), (4)(A), (4)(B), (4)(C),
24 (5)(A), or (5)(B) is used to justify place-
25 ment in solitary confinement or under

1 paragraph (1) to justify increased restric-
2 tive conditions in solitary confinement,
3 thorough documentation explaining why
4 such an exception applied;

5 “(B) a timely, thorough, and continuous
6 review process that—

7 “(i) occurs within not less than 3 days
8 of placement in solitary confinement, and
9 thereafter at least—

10 “(I) on a weekly basis for in-
11 mates in special housing units;

12 “(II) on a monthly basis for in-
13 mates in special management units;
14 and

15 “(III) on a monthly basis for in-
16 mates at an administrative maximum
17 facility;

18 “(ii) includes private, face-to-face
19 interviews with a multidisciplinary staff
20 committee; and

21 “(iii) examines whether—

22 “(I) placement in solitary con-
23 finement was and remains necessary;

24 “(II) the conditions of confine-
25 ment comply with this section; and

1 “(III) whether any exception
 2 under paragraph (2)(A), (3)(D),
 3 (4)(A), (4)(B), (4)(C), (5)(A), or
 4 (5)(B) used to justify placement in
 5 solitary confinement or under para-
 6 graph (1) used to justify increased re-
 7 strictive conditions in solitary confine-
 8 ment was and remains warranted;

9 “(C) a process to appeal the initial place-
 10 ment or continued placement of the inmate in
 11 solitary confinement;

12 “(D) prompt and timely written notice of
 13 the appeal procedures; and

14 “(E) copies of all documents, files, and
 15 records relating to the inmate’s placement in
 16 solitary confinement, unless such documents
 17 contain contraband, classified information, or
 18 sensitive security-related information.

19 “(c) MENTAL HEALTH CARE FOR INMATES IN SOLI-
 20 TARY CONFINEMENT.—

21 “(1) MENTAL HEALTH SCREENING.—Not later
 22 than 6 hours after an inmate in the custody of the
 23 Bureau of Prisons or any facility that contracts with
 24 the Bureau of Prisons to provide housing for in-
 25 mates in Federal custody is placed in solitary con-

1 finement, the inmate shall receive a comprehensive,
 2 face-to-face mental health evaluation by a licensed
 3 mental health professional in a confidential setting.

4 “(2) MENTAL HEALTH TREATMENT PRO-
 5 GRAM.—An inmate diagnosed with a serious mental
 6 illness after an evaluation required under paragraph
 7 (1)—

8 “(A) shall not be placed in solitary confine-
 9 ment in accordance with subsection (b)(4); and

10 “(B) may be diverted to a mental health
 11 treatment program within the Bureau of Pris-
 12 ons that provides an appropriate level of care to
 13 address the inmate’s mental health needs.

14 “(3) CONTINUING EVALUATIONS.—After each
 15 14-calendar-day period an inmate is held in contin-
 16 uous placement in solitary confinement—

17 “(A) a licensed mental health professional
 18 shall conduct a comprehensive, face-to-face, out-
 19 of-cell mental health evaluation of the inmate in
 20 a confidential setting; and

21 “(B) the Director shall adjust the place-
 22 ment of the inmate in accordance with this sub-
 23 section.

24 “(4) REQUIREMENT.—The Director shall oper-
 25 ate mental health treatment programs in order to

1 ensure that inmates of all security levels with serious
2 mental illness have access to an appropriate level of
3 care.

4 “(d) TRAINING FOR BUREAU OF PRISONS STAFF.—

5 “(1) TRAINING.—All employees of the Bureau
6 of Prisons or any facility that contracts with the Bu-
7 reau of Prisons to provide housing for inmates in
8 Federal custody who interact with inmates on a reg-
9 ular basis shall be required to complete training in—

10 “(A) the recognition of symptoms of men-
11 tal illness;

12 “(B) the potential risks and side effects of
13 psychiatric medications;

14 “(C) de-escalation techniques for safely
15 managing individuals with mental illness;

16 “(D) consequences of untreated mental ill-
17 ness;

18 “(E) the long- and short-term psycho-
19 logical effects of solitary confinement; and

20 “(F) de-escalation and communication
21 techniques to divert inmates from situations
22 that may lead to the inmate being placed in sol-
23 itary confinement.

24 “(2) NOTIFICATION TO MEDICAL STAFF.—An
25 employee of the Bureau of Prisons shall immediately

1 notify a member of the medical or mental health
2 staff if the employee—

3 “(A) observes an inmate with signs of
4 mental illness, unless such employee has knowl-
5 edge that the inmate’s signs of mental illness
6 have previously been reported; or

7 “(B) observes an inmate with signs of
8 mental health crisis.

9 “(e) CIVIL RIGHTS OMBUDSMAN.—

10 “(1) IN GENERAL.—Within the Bureau of Pris-
11 ons, there shall be a position of the Civil Rights Om-
12 budsman (referred to in this subsection as the ‘Om-
13 budsman’) and an Office of the Civil Rights Om-
14 budsman.

15 “(2) APPOINTMENT.—The Ombudsman shall be
16 appointed by the Attorney General and shall report
17 directly to the Director. The Ombudsman shall have
18 a background in corrections and civil rights and
19 shall have expertise on the effects of prolonged soli-
20 tary confinement.

21 “(3) REPORTING.—The Director shall ensure
22 that each Bureau of Prisons facility or any facility
23 that contracts with the Bureau of Prisons provides
24 multiple internal ways for inmates and others to

1 promptly report civil rights violations and violations
 2 of this section to the Ombudsman, including—

3 “(A) not less than 2 procedures for in-
 4 mates and others to report civil rights violations
 5 and violations of this section to an entity or of-
 6 fice that is not part of the facility, and that is
 7 able to receive and immediately forward inmate
 8 reports to the Ombudsman, allowing the inmate
 9 to remain anonymous upon request; and

10 “(B) not less than 2 procedures for in-
 11 mates and others to report civil rights abuses
 12 and violations of this section to the Ombuds-
 13 man in a confidential manner, allowing the in-
 14 mate to remain anonymous upon request.

15 “(4) NOTICE.—The Director shall ensure that
 16 each Bureau of Prisons facility or any facility that
 17 contracts with the Bureau of Prisons provides in-
 18 mates with—

19 “(A) notice of how to report civil rights
 20 violations and violations of this section in ac-
 21 cordance with paragraph (3), including—

22 “(i) notice prominently posted in the
 23 living and common areas of each such fa-
 24 cility;

1 “(ii) individual notice to inmates at
 2 initial intake into the Bureau of Prisons,
 3 when transferred to a new facility, and
 4 when placed in solitary confinement;

5 “(iii) notice to inmates with disabili-
 6 ties in accessible formats; and

7 “(iv) written or verbal notice in a lan-
 8 guage the inmate understands; and

9 “(B) notice of permissible practices related
 10 to solitary confinement in the Bureau of Pris-
 11 ons, including the requirements of this section.

12 “(5) FUNCTIONS.—The Ombudsman shall—

13 “(A) review all complaints the Ombudsman
 14 receives;

15 “(B) investigate all complaints that allege
 16 a civil rights violation or violation of this sec-
 17 tion;

18 “(C) refer all possible violations of law to
 19 the Department of Justice;

20 “(D) refer to the Director allegations of
 21 misconduct involving Bureau of Prisons staff;

22 “(E) identify areas in which the Bureau of
 23 Prisons can improve the Bureau’s policies and
 24 practices to ensure that the civil rights of in-
 25 mates are protected;

1 “(F) identify areas in which the Bureau of
 2 Prisons can improve the solitary confinement
 3 policies and practices of the Bureau and reduce
 4 the use of solitary confinement; and

5 “(G) propose changes to the policies and
 6 practices of the Bureau of Prisons to mitigate
 7 problems and address issues the Ombudsman
 8 identifies.

9 “(6) ACCESS.—The Ombudsman shall have un-
 10 restricted access to Bureau of Prisons facilities and
 11 any facility that contracts with the Bureau of Pris-
 12 ons and shall be able to speak privately with inmates
 13 and staff.

14 “(7) ANNUAL REPORTS.—

15 “(A) OBJECTIVES.—Not later than De-
 16 cember 31 of each year, the Ombudsman shall
 17 submit to the Committee on the Judiciary of
 18 the Senate and the Committee on the Judiciary
 19 of the House of Representatives a report on the
 20 activities of the Office of the Ombudsman for
 21 the fiscal year ending in such calendar year.

22 “(B) CONTENTS.—Each report submitted
 23 under subparagraph (A)—

24 “(i) contain full and substantive anal-
 25 ysis, in addition to statistical information;

1 “(ii) identify the recommendations the
2 Office of the Ombudsman has made on ad-
3 dressing reported civil rights violations and
4 violations of this section and reducing the
5 use and improving the practices of solitary
6 confinement in the Bureau of Prisons;

7 “(iii) contain a summary of problems
8 relating to reported civil rights violations
9 and violations of this section, including a
10 detailed description of the nature of such
11 problems and a breakdown of where the
12 problems occur among Bureau of Prisons
13 facilities and facilities that contract with
14 the Bureau of Prisons;

15 “(iv) contain an inventory of the items
16 described in clauses (ii) and (iii) for which
17 action has been taken and the result of
18 such action;

19 “(v) contain an inventory of the items
20 described in clauses (ii) and (iii) for which
21 action remains to be completed and the pe-
22 riod during which each item has remained
23 on such inventory;

24 “(vi) contain an inventory of the items
25 described in clauses (ii) and (iii) for which

no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and shall identify any official of the Bureau of Prisons who is responsible for such inaction;

“(vii) contain recommendations for such legislative or administrative action as may be appropriate to resolve problems identified in clause (iii); and

“(viii) include such other information as the Ombudsman determines necessary.

“(C) SUBMISSION OF REPORTS.—Each report required under this paragraph shall be provided directly to the Committees described in subparagraph (A) without any prior review, comment, or amendment from the Director or any other officer or employee of the Department of Justice or Bureau of Prisons.

“(8) REGULAR MEETINGS WITH THE DIRECTOR OF THE BUREAU OF PRISONS.—The Ombudsman shall meet regularly with the Director to identify problems with reported civil rights violations and the solitary confinement policies and practices of the Bureau of Prisons, including overuse of solitary con-

1 finement, and to present recommendations for such
 2 administrative action as may be appropriate to re-
 3 solve problems relating to reported civil rights viola-
 4 tions and the solitary confinement policies and prac-
 5 tices of the Bureau of Prisons.

6 “(9) RESPONSIBILITIES OF BUREAU OF PRIS-
 7 ONS.—The Director shall establish procedures re-
 8 quiring that, not later than 3 months after the date
 9 on which a recommendation is submitted to the Di-
 10 rector by the Ombudsman, the Director or other ap-
 11 propriate employee of the Bureau of Prisons issue a
 12 formal response to the recommendation.

13 “(10) NON-APPLICATION OF THE PRISON LITI-
 14 GATION REFORM ACT.—Inmate reports sent to the
 15 Ombudsman shall not be considered an administra-
 16 tive remedy under section 7(a) of the Civil Rights of
 17 Institutionalized Persons Act (42 U.S.C.
 18 1997e(a)).”.

19 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 20 The table of sections for chapter 303 of title 18, United
 21 States Code, is amended by inserting after the item relat-
 22 ing to section 4049 the following:

“4050. Solitary confinement.”.

23 **SEC. 3. REASSESSMENT OF INMATE MENTAL HEALTH.**

24 Not later than 180 days after the date of enactment
 25 of this Act, the Director of the Bureau of Prisons shall—

1 (1) assemble a team of licensed mental health
 2 professionals, which may include licensed mental
 3 health professionals who are not employed by the
 4 Bureau of Prisons, to conduct a comprehensive men-
 5 tal health reevaluation for each inmate held in soli-
 6 tary confinement for more than 30 days as of the
 7 date of enactment of this Act, including a confiden-
 8 tial, face-to-face, out-of-cell interview by a licensed
 9 mental health professional; and

10 (2) adjust the placement of each inmate in ac-
 11 cordance with section 4050(c) of title 18, United
 12 States Code, as added by section 2.

13 **SEC. 4. DIRECTOR OF BUREAU OF PRISONS.**

14 Section 4041 of title 18, United States Code, is
 15 amended—

16 (1) by inserting “(a) IN GENERAL.—” before
 17 the “The Bureau of Prisons shall be”; and

18 (2) by adding at the end the following:

19 “(b) OMBUDSMAN.—The Director of the Bureau of
 20 Prisons shall—

21 “(1) meet regularly with the Ombudsman ap-
 22 pointed under section 4050(e) to identify how the
 23 Bureau of Prisons can address reported civil rights
 24 violations and reduce the use of solitary confinement

1 and correct problems in the solitary confinement
2 policies and practices of the Bureau;

3 “(2) conduct a prompt and thorough investiga-
4 tion of each referral from the Ombudsman under
5 section 4050(e)(5)(D), after each such investigation
6 take appropriate disciplinary action against any Bu-
7 reau of Prisons employee who is found to have en-
8 gaged in misconduct or to have violated Bureau of
9 Prisons policy, and notify the Ombudsman of the
10 outcome of each such investigation; and

11 “(3) establish procedures requiring a formal re-
12 sponse by the Bureau of Prisons to any rec-
13 ommendation of the Ombudsman in the annual re-
14 port submitted under section 4050(e)(6) not later
15 than 90 days after the date on which the report is
16 submitted to Congress.”.

17 **SEC. 5. DATA TRACKING OF USE OF SOLITARY CONFINEMENT.**
18 **MENT.**

19 Section 4047 of title 18, United States Code, is
20 amended by adding at the end the following:

21 “(d) PRISON SOLITARY CONFINEMENT ASSESS-
22 MENTS.—

23 “(1) IN GENERAL.—Not later than March 31 of
24 each year, the Director of the Bureau of Prisons
25 shall prepare and transmit to the Committee on the

1 Judiciary of the Senate and the Committee on the
2 Judiciary of the House of Representatives an annual
3 assessment of the use of solitary confinement by the
4 Bureau of Prisons, as defined in section 4050(a).

5 “(2) CONTENTS.—Each assessment submitted
6 under paragraph (1) shall include—

7 “(A) the policies and regulations of the
8 Bureau of Prisons, including any changes in
9 policies and regulations, for determining which
10 inmates are placed in each form of solitary con-
11 finement, or housing in which an inmate is sep-
12 arated from the general population in use dur-
13 ing the reporting period, and a detailed descrip-
14 tion of each form of solitary confinement in use,
15 including all maximum and high security facili-
16 ties, all special housing units, all special man-
17 agement units, all Administrative Maximum fa-
18 cilities, including the United States Peniten-
19 tiary Administrative Maximum in Florence, Col-
20 orado, and all Communication Management
21 Units;

22 “(B) the number of inmates in the custody
23 of the Bureau of Prisons who are housed in
24 each type of solitary confinement for any period
25 and the percentage of all inmates who have

1 spent at least some time in each form of soli-
2 tary confinement during the reporting period;

3 “(C) the demographics of all inmates
4 housed in each type of solitary confinement de-
5 scribed in subparagraph (A), including race,
6 ethnicity, religion, age, and gender;

7 “(D) the policies and regulations of the
8 Bureau of Prisons, including any updates in
9 policies and regulations, for subsequent reviews
10 or appeals of the placement of an inmate into
11 or out of solitary confinement;

12 “(E) the number of reviews of and chal-
13 lenges to each type of solitary confinement
14 placement described in subparagraph (A) con-
15 ducted during the reporting period and the
16 number of reviews or appeals that directly re-
17 sulted in a change of placement;

18 “(F) the general conditions and restric-
19 tions for each type of solitary confinement de-
20 scribed in subparagraph (A), including the
21 number of hours spent in ‘isolation,’ or re-
22 straint, for each, and the percentage of time
23 these conditions involve single-inmate housing;

24 “(G) the mean and median length of stay
25 in each form of solitary confinement described

1 in subparagraph (A), based on all individuals
2 released from solitary confinement during the
3 reporting period, including maximum and high
4 security facilities, special housing units, special
5 management units, the Administrative Max-
6 imum facilities, including the United States
7 Penitentiary Administrative Maximum in Flor-
8 ence, Colorado, Communication Management
9 Units, and any maximum length of stay during
10 the reporting period;

11 “(H) the number of inmates who, after a
12 stay of 5 or more days in solitary confinement,
13 were released directly from solitary confinement
14 to the public during the reporting period;

15 “(I) the cost for each form of solitary con-
16 finement described in subparagraph (A) in use
17 during the reporting period, including as com-
18 pared with the average daily cost of housing an
19 inmate in the general population;

20 “(J) statistics for inmate assaults on cor-
21 rectional officers and staff of the Bureau of
22 Prisons, inmate-on-inmate assaults, and staff-
23 on-inmate use of force incidents in the various
24 forms of solitary confinement described in sub-

1 paragraph (A) and statistics for such assaults
2 in the general population;

3 “(K) the policies for mental health screen-
4 ing, mental health treatment, and subsequent
5 mental health reviews for all inmates, including
6 any update to the policies, and any additional
7 screening, treatment, and monitoring for in-
8 mates in solitary confinement;

9 “(L) a statement of the types of mental
10 health staff that conducted mental health as-
11 sessments for the Bureau of Prisons during the
12 reporting period, a description of the different
13 positions in the mental health staff of the Bu-
14 reau of Prisons, and the number of part- and
15 full-time psychologists and psychiatrists em-
16 ployed by the Bureau of Prisons during the re-
17 porting period;

18 “(M) data on mental health and medical
19 indicators for all inmates in solitary confine-
20 ment, including—

21 “(i) the number of inmates requiring
22 medication for mental health conditions;

23 “(ii) the number diagnosed with an
24 intellectual disability;

- 1 “(iii) the number diagnosed with seri-
 2 ous mental illness;
 3 “(iv) the number of suicides;
 4 “(v) the number of attempted suicides
 5 and number of inmates placed on suicide
 6 watch;
 7 “(vi) the number of instances of self-
 8 harm committed by inmates;
 9 “(vii) the number of inmates with
 10 physical disabilities, including blind, deaf,
 11 and mobility-impaired inmates; and
 12 “(viii) the number of instances of
 13 forced feeding of inmates; and
 14 “(N) any other relevant data.”.

15 **SEC. 6. NATIONAL RESOURCE CENTER ON SOLITARY CON-**
 16 **FINEMENT REDUCTION AND REFORM.**

17 (a) DEFINITION OF ELIGIBLE ENTITY.—In this sec-
 18 tion, the term “eligible entity” means an entity, or a part-
 19 nership of entities, that has demonstrated expertise in the
 20 fields of—

- 21 (1) solitary confinement, including the reduc-
 22 tion and reform of its use; and
 23 (2) providing technical assistance to corrections
 24 agencies on how to reduce and reform solitary con-
 25 finement.

1 (b) REQUIREMENTS.—Not later than 180 days after
2 the date of enactment of this Act, the Bureau of Justice
3 Assistance shall enter into a cooperative agreement, on a
4 competitive basis, with an eligible entity for the purpose
5 of establishing a coordinating center for State, local, and
6 Federal corrections systems, which shall conduct activities
7 such as—

8 (1) provide on-site technical assistance and con-
9 sultation to Federal, State, and local corrections
10 agencies to safely reduce the use of solitary confine-
11 ment;

12 (2) act as a clearinghouse for research, data,
13 and information on the safe reduction of solitary
14 confinement in prisons and other custodial settings,
15 including facilitating the exchange of information be-
16 tween Federal, State, and local practitioners, na-
17 tional experts, and researchers;

18 (3) create a minimum of 10 learning sites in
19 Federal, State, and local jurisdictions that have al-
20 ready reduced their use of solitary confinement and
21 work with other Federal, State, and local agencies to
22 participate in training, consultation, and other forms
23 of assistance and partnership with these learning
24 sites;

1 (4) conduct evaluations of jurisdictions that
2 have decreased their use of solitary confinement to
3 determine best practices;

4 (5) conduct research on the effectiveness of al-
5 ternatives to solitary confinement, such as step-down
6 or transitional programs, strategies to reintegrate
7 inmates into general population, the role of officers
8 and staff culture in reform efforts, and other re-
9 search relevant to the safe reduction of solitary con-
10 finement;

11 (6) develop and disseminate a toolkit for sys-
12 tems to reduce the excessive use of solitary confine-
13 ment;

14 (7) develop and disseminate an online self-as-
15 sessment tool for State and local jurisdictions to as-
16 sess their own use of solitary confinement and iden-
17 tify strategies to reduce its use; and

18 (8) conduct public webinars to highlight new
19 and promising practices.

20 (c) ADMINISTRATION.—The program under this sec-
21 tion shall be administered by the Bureau of Justice Assist-
22 ance.

23 (d) REPORT.—On an annual basis, the coordinating
24 center shall report to the Committee on the Judiciary of
25 the Senate and the Committee on the Judiciary of the

1 House of Representatives on its activities and any changes
2 in solitary confinement policy at the Federal, State, or
3 local level that have resulted from its activities.

4 (e) DURATION.—The Bureau of Justice Assistance
5 shall enter into a cooperative agreement under this section
6 for 5 years.

7 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

8 There is authorized to be appropriated—

9 (1) to the Director of the Bureau of Prisons
10 such sums as may be necessary to carry out sections
11 2, 3, 4, and 5, and the amendments made by such
12 sections; and

13 (2) to the Bureau of Justice Assistance such
14 sums as may be necessary to carry out section 6.

15 **SEC. 8. NOTICE AND COMMENT REQUIREMENT.**

16 The Director of the Bureau of Prisons shall prescribe
17 rules, in accordance with section 553 of title 5, United
18 States Code, to carry out this Act and the amendments
19 made by this Act.

20 **SEC. 9. EFFECTIVE DATE.**

21 Except as otherwise provided, this Act and the
22 amendments made by this Act shall take effect 18 months
23 after the date of enactment of this Act.

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