

119TH CONGRESS
1ST SESSION

S. _____

To end the use of solitary confinement and other forms of restrictive housing
in all Federal agencies and entities with which Federal agencies contract.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY (for himself, Ms. WARREN, and Mr. SANDERS) introduced the
following bill; which was read twice and referred to the Committee on

A BILL

To end the use of solitary confinement and other forms
of restrictive housing in all Federal agencies and entities
with which Federal agencies contract.

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 “End Solitary Confine-
5 ment Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the use of solitary confinement as a carceral
2 practice causes devastating harm and constitutes a
3 form of torture;

4 (2) solitary confinement of any length of time,
5 measured in days or even hours, can cause self-muti-
6 lation, suicide, heart disease, anxiety, depression,
7 psychosis, mental and physical deterioration, and a
8 significantly heightened risk of death;

9 (3) over 120,000 people are estimated to be in
10 solitary confinement on any given day in Federal,
11 State, local, and immigration detention facilities;

12 (4) solitary confinement and other forms of re-
13 strictive housing and practices are disproportionately
14 inflicted on Black, Latinx, Native, and other people
15 of color, as well as transgender and gender noncon-
16 forming people, people with mental health needs,
17 and young people;

18 (5) survivors of solitary confinement often carry
19 significant trauma and other physical and psycho-
20 logical harm with them for the rest of their lives;

21 (6) solitary confinement has directly caused the
22 deaths of far too many people and has increased vio-
23 lence and harm in prisons, detention facilities, and
24 communities;

1 (7) solitary confinement derives from, and helps
2 perpetuate, a horrific and brutal incarceration sys-
3 tem that is rooted in racism and focuses on extreme
4 punishment and abuse, rather than on providing op-
5 portunities for growth, healing, redemption, and
6 transformation;

7 (8) the United States is an outlier among ad-
8 vanced democracies in the use of solitary confine-
9 ment;

10 (9) evidence shows that out-of-cell, prosocial en-
11 gagement and programming increase safety, well-
12 being, and reentry outcomes;

13 (10) solitary confinement is expensive, and cost
14 analyses at the Federal and State levels indicate
15 that the elimination of solitary confinement would
16 save taxpayers billions of dollars; and

17 (11) solitary confinement is costly to taxpayers,
18 does not make communities safer, jeopardizes the
19 safety of incarcerated people and correctional staff,
20 constitutes inhumane and degrading treatment, and
21 has no place in a civilized society.

1 **SEC. 3. ENDING SOLITARY CONFINEMENT AND ESTAB-**
2 **LISHING MINIMUM STANDARDS.**

3 (a) IN GENERAL.—Chapter 301 of title 18, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“§ 4015. Ending solitary confinement and establishing**
7 **minimum standards**

8 “(a) PROHIBITION ON THE USE OF SOLITARY CON-
9 FINEMENT AND ESTABLISHMENT OF MINIMUM STAND-
10 ARDS.—

11 “(1) IN GENERAL.—Except in the cir-
12 cumstances described in paragraph (2)(B), a person
13 incarcerated in a Federal facility may not be placed
14 in solitary confinement.

15 “(2) MINIMUM STANDARDS FOR OUT-OF-CELL
16 TIME AND MEANINGFUL HUMAN ENGAGEMENT.—

17 “(A) CONGREGATE INTERACTION RE-
18 QUIRED.—Except as provided in clauses (iii)
19 and (iv) of subparagraph (B), all persons incar-
20 cerated in a Federal facility, regardless of hous-
21 ing unit or detention status, shall have access
22 to not less than 14 hours per day of out-of-cell
23 congregate interaction in a shared space, with-
24 out physical barriers, that is conducive to mean-
25 ingful group interaction, including access to—

1 “(i) not less than 7 hours per day of
2 structured out-of-cell, congregate program-
3 ming led by a staff member, incarcerated
4 person, or community member, including
5 access to educational, vocational, volunteer,
6 mental health, violence prevention, alcohol
7 and substance use treatment, financial, re-
8 ligious, and reentry programming;

9 “(ii) not less than 1 hour per day of
10 out-of-cell congregate recreation; and

11 “(iii) other unstructured out-of-cell
12 congregate activities, including time in a
13 day room or equivalent space, meals, li-
14 brary and law library, legal visits, social
15 and legal telephone calls, contact social vis-
16 itation without physical barriers, and per-
17 sonal property and commissary.

18 “(B) PROHIBITION ON SOLITARY CONFINEMENT.—A person incarcerated in a Federal fa-
19 cility may not be placed in solitary confinement
20 unless such placement is necessary—
21

22 “(i) at night for count or sleep, not to
23 exceed 8 hours in any 24-hour period;

24 “(ii) during the day for count or re-
25 quired facility business that can only be

1 carried out while a person incarcerated in
2 a Federal facility is placed in a cell, not to
3 exceed 2 hours during any 24-hour period;

4 “(iii) subject to subparagraphs (C)
5 and (D), in an emergency situation as a
6 last resort, only if necessary to de-escalate
7 immediate circumstances that pose a spe-
8 cific and significant risk of imminent seri-
9 ous physical injury to the person, staff, or
10 other incarcerated persons, and for as
11 short a time as necessary to de-escalate
12 such circumstances, not to exceed—

13 “(I) 4 hours total immediately
14 following such emergency situation;

15 “(II) 4 hours total during any
16 24-hour period; or

17 “(III) 12 hours total during any
18 7-day period; or

19 “(iv) as part of a Federal agency-
20 wide, Federal facility-wide, or partial Fed-
21 eral facility-wide lockdown, and—

22 “(I) only if a head of a Federal
23 facility or Federal agency has deter-
24 mined the lockdown is necessary to
25 de-escalate an emergency that involves

1 several incarcerated persons and poses
2 a specific and significant risk of immi-
3 nent serious physical injury to the
4 staff or incarcerated persons;

5 “(II) only when there are no less
6 restrictive means to address an emer-
7 gency, as a last resort after exhaust-
8 ing less restrictive measures;

9 “(III) if the lockdown is confined
10 to as narrow an area as possible and
11 to as limited number of people as pos-
12 sible; and

13 “(IV) if the lockdown is reviewed
14 every hour by the head of the Federal
15 facility or Federal agency, with notifi-
16 cation provided to the Federal agency
17 regional or field office, or equivalent
18 office responsible for oversight of the
19 Federal facility, beginning at the time
20 the lockdown has lasted 2 hours, and
21 is lifted as quickly as possible, pro-
22 vided that such lockdown shall not ex-
23 ceed—

1 “(aa) 4 hours total from the
2 time at which the lockdown
3 starts;

4 “(bb) 4 hours total during
5 any 24-hour period; or

6 “(cc) 12 hours total during
7 any 7-day period.

8 “(C) DE-ESCALATION AND ENGAGE-
9 MENT.—

10 “(i) IN GENERAL.—With respect to
11 any placement pursuant to subparagraph
12 (B)(iii), Federal facility staff shall meet
13 with the incarcerated person not less fre-
14 quently than once per hour to attempt de-
15 escalation, work toward the release of the
16 person from such confinement, and deter-
17 mine whether it is necessary to continue to
18 hold the person in such confinement, and
19 with respect to any placement pursuant to
20 clause (iii) or (iv) of subparagraph (B) or
21 any placement pursuant to subparagraph
22 (G), health care staff must conduct a thor-
23 ough medical, mental health, social, and
24 behavioral assessment upon admission to
25 such placement, conduct meaningful check-

1 ins every 15 minutes to engage with the
2 person in custody, evaluate and treat any
3 urgent health needs, and attempt de-esca-
4 lation.

5 “(ii) RELOCATION BY HEALTH CARE
6 STAFF.—If health care staff determines an
7 incarcerated person should be removed
8 from solitary confinement for assessment
9 or treatment purposes, or because of a
10 negative impact of such confinement, the
11 person shall be relocated to an appropriate
12 setting as determined by health care staff.

13 “(iii) ASSESSMENT.—

14 “(I) IN GENERAL.—Health care
15 staff must conduct a thorough med-
16 ical, mental health, social, and behav-
17 ioral assessment of any person who
18 would have been placed in confine-
19 ment under subparagraph (B)(iii) but
20 who is prohibited from such placement
21 under subparagraph (D).

22 “(II) TREATMENT.—Health care
23 staff shall subsequently treat any
24 health needs identified in an assess-
25 ment conducted under subclause (I).

1 “(D) PROHIBITION ON INVOLUNTARY CON-
2 FINEMENT.—No person may be involuntarily
3 confined in a cell under subparagraph (B)(iii)
4 who—

5 “(i) is 25 years of age or younger;

6 “(ii) is 55 years of age or older;

7 “(iii) has a disability, as defined in
8 section 3 of the Americans with Disabil-
9 ities Act of 1990 (42 U.S.C. 12102);

10 “(iv) has any diagnosed mental health
11 need;

12 “(v) is pregnant, in the first 12 weeks
13 of the postpartum recovery period after
14 giving birth, experiencing a miscarriage, or
15 terminating a pregnancy, or longer if medi-
16 cally necessary, or caring for a child in a
17 facility program; or

18 “(vi) has identified as, or is known or
19 perceived by any facility staff to be, les-
20 bian, gay, bisexual, transgender, intersex,
21 or gender nonconforming.

22 “(E) REQUIREMENTS FOR SEPARATION.—

23 “(i) IN GENERAL.—If a Federal facil-
24 ity determines that a person must be sepa-
25 rated from the general facility population,

1 including any placement in protective cus-
2 tody, for any reasons other than, or in a
3 manner other than as provided under
4 clauses (iii) and (iv) of subparagraph (B),
5 such separation in an alternative unit
6 must—

7 “(I) comply with—

8 “(aa) subparagraphs (A)
9 and (F); and

10 “(bb) paragraphs (3), (4),
11 and (5); and

12 “(II) provide appropriate, high
13 quality medical assessment and care
14 and provide access to out-of-cell, con-
15 gregate, trauma-informed, therapeutic
16 programming aimed at promoting per-
17 sonal development, addressing under-
18 lying causes of problematic behavior
19 resulting in the alternative unit place-
20 ment, and helping prepare for dis-
21 charge from the unit to the general
22 population and to the community.

23 “(ii) ASSESSMENT.—

24 “(I) IN GENERAL.—Immediately
25 upon placement in an alternative unit,

1 health care staff shall conduct a thor-
2 ough medical, mental health, social,
3 and behavioral assessment and subse-
4 quently treat any health needs that
5 result from such assessment.

6 “(II) COGNITIVE IMPAIRMENT
7 EVALUATION.—For a person who is
8 aged 55 or over, and for any other
9 person showing any signs of potential
10 cognitive impairment, such assessment
11 shall include an evaluation for cog-
12 nitive impairment.

13 “(F) PROHIBITION ON LIMITATION OF
14 SERVICES.—In all Federal facilities, the fol-
15 lowing may not be imposed as a form of punish-
16 ment, discipline, or for any other reason:

17 “(i) Limitation on services, program-
18 ming, treatment, contact visitation, phone
19 calls, email, mail, or basic needs such as
20 clothing, food, or bedding.

21 “(ii) Involuntary restricted diets or
22 any other involuntary change in diet.

23 “(iii) Confiscation of approved per-
24 sonal property.

1 “(G) SEPARATION FOR MEDICAL PUR-
2 POSE.—

3 “(i) IN GENERAL.—

4 “(I) REQUIREMENT.—A person
5 may be separated from the general fa-
6 cility population into an alternative
7 unit for medical purposes, including
8 medical quarantine, medical isolation,
9 acute intoxication (while awaiting de-
10 toxification), and/or an acute psy-
11 chiatric crisis (such as acute psychosis
12 awaiting optimization of psychiatric
13 medication) but only if—

14 “(aa) necessary to address
15 immediate, specific, and signifi-
16 cant risk of medical contagion or
17 imminent serious physical injury
18 to a person, staff, or other incar-
19 cerated persons; and

20 “(bb) done in a medical unit
21 overseen by health care staff for
22 as limited a time as medically
23 necessary as determined by
24 health care staff.

1 “(II) ALTERNATIVE UNIT RE-
2 QUIREMENTS.—An alternative unit
3 used under subclause (I) shall be re-
4 quired to—

5 “(aa) be located in the least
6 restrictive environment that is
7 medically appropriate;

8 “(bb) be in compliance with
9 subparagraphs (A), (E), and (F)
10 of this paragraph and paragraph
11 (5) of this subsection; and

12 “(cc) provide comparable ac-
13 cess granted to persons incarcer-
14 ated in the general population to
15 phone calls, emails, contact visits,
16 time outdoors, access to reading
17 materials, recreation, interactions
18 with other incarcerated people,
19 out-of-cell time, and program-
20 ming, all with medically appro-
21 priate modifications determined
22 necessary by health care staff,
23 such as maintaining physical dis-
24 tance determined appropriate by

1 health care staff during infec-
2 tious outbreaks.

3 “(ii) GENERAL REVIEW FOR MEDICAL
4 NECESSITY.—

5 “(I) IN GENERAL.—The lead
6 health care professional at the Federal
7 facility shall immediately review any
8 such placement to determine whether
9 or not the placement is medically nec-
10 essary and shall provide written au-
11 thorization of the placement, if medi-
12 cally necessary.

13 “(II) CONTENTS.—An authoriza-
14 tion under subclause (I) shall state—

15 “(aa) the length of time that
16 the lead health care provider be-
17 lieves the medical quarantine or
18 medical isolation shall last; and

19 “(bb) for persons placed in
20 medical isolation due to acute
21 psychiatric needs, the length of
22 time the lead health care provider
23 expects for the person to become
24 stabilized, including stabilized on
25 anti-psychotic medication.

1 “(iii) REVIEW FOR PLACEMENT OF
2 MORE THAN 24 HOURS.—

3 “(I) IN GENERAL.—If any such
4 placement lasts more than 24 hours,
5 the lead health care professional of
6 the relevant Federal agency shall re-
7 view the placement to determine
8 whether or not the placement is medi-
9 cally necessary and shall provide writ-
10 ten authorization if the lead agency
11 health care professional determines
12 the placement to be medically nec-
13 essary.

14 “(II) CONTINUING REVIEW.—
15 The lead agency health care profes-
16 sional shall review the placement
17 every 24 hours after the review con-
18 ducted under subclause (I) to deter-
19 mine if the continued placement is
20 medically necessary and provide writ-
21 ten authorization every 24 hours after
22 the review conducted under subclause
23 (I) until the person is released from
24 such placement or until the lead agen-
25 cy or facility-level health care profes-

1 sional determines the placement is no
2 longer necessary.

3 “(iv) CESSATION OF MEDICAL NECES-
4 SITY.—If, at any time, the lead facility-
5 level health care professional or the lead
6 agency-level health care professional deter-
7 mines that such placement is no longer
8 medically necessary to address immediate
9 circumstances that pose an immediate, spe-
10 cific, and significant risk of medical con-
11 tagion or imminent serious physical injury
12 to a person, staff, or other incarcerated
13 persons, the person shall be released from
14 the placement.

15 “(v) DISCHARGE TO OUTSIDE COMMU-
16 NITY HOSPITALS.—If a Federal facility is
17 unable to properly treat a person in quar-
18 antine or medical isolation, including med-
19 ical isolation for a person experiencing an
20 acute psychiatric crisis without resorting to
21 the use of solitary confinement beyond
22 uses allowed under clause (i), or (ii) of
23 subparagraph (B) or without complying
24 with the requirements of an alternative
25 unit, then the Federal facility shall dis-

1 charge the person to an appropriate out-
2 side community hospital that can provide
3 the requisite care.

4 “(3) DUE PROCESS REQUIREMENTS.—

5 “(A) HEARING REGULATIONS.—

6 “(i) IN GENERAL.—The reasons and
7 procedures for placement in protective cus-
8 tody shall be subject to the regulations,
9 rules, standards, and procedures (or any
10 successors thereof) applicable to each Fed-
11 eral agency.

12 “(ii) REQUIREMENTS.—All hearings
13 under regulations described in clause (i)
14 shall comply with paragraph (4), and the
15 conditions for all people in protective cus-
16 tody shall comply with—

17 “(I) subparagraphs (A), (E), and
18 (F) of paragraph (2); and

19 “(II) paragraph (5).

20 “(B) REVIEW OF PLACEMENT.—

21 “(i) IN GENERAL.—The placement of
22 an incarcerated person in an alternative
23 unit shall be meaningfully reviewed not
24 less than the first 15 days after placement
25 in the alternative unit, and not less fre-

1 frequently than every 15 days thereafter, by
2 a multidisciplinary team, including pro-
3 gram and health care staff, to determine
4 whether the release of the incarcerated
5 person to the general facility population
6 continues to present a specific and signifi-
7 cant risk of imminent serious physical in-
8 jury to the person, staff, or other incarcer-
9 ated persons.

10 “(ii) NOTICE OF REASONS FOR DE-
11 TERMINATION.—If an incarcerated person
12 is not discharged from an alternative unit
13 at a review described under clause (i), the
14 incarcerated person shall promptly receive
15 in writing the reasons for the determina-
16 tion and the program, treatment, service,
17 or corrective action required before dis-
18 charge.

19 “(iii) ACCESS TO SERVICES; DIS-
20 CHARGE.—Each incarcerated person shall
21 be given access to the programs, treat-
22 ment, and services specified under sub-
23 paragraph (A), and shall be permitted to
24 be discharged from an alternative unit if
25 the person so chooses and does not engage

1 in behavior that presents a specific and
2 significant risk of imminent serious phys-
3 ical injury to the person, staff, or other in-
4 carcerated persons during the subsequent
5 15 days.

6 “(iv) DURATION.—Other than for
7 purposes of protective custody, or upon
8 written request by the person, no person
9 may be held in an alternative unit for more
10 than 60 days during any 6-month period.

11 “(C) NO PLACEMENT BASED ON PREVIOUS
12 INCIDENT.—No person may be placed in an al-
13 ternative unit for an act or incident for which
14 the person was previously placed in such unit.

15 “(4) PLACEMENT HEARINGS.—

16 “(A) PLACEMENT IN ALTERNATIVE
17 UNIT.—Other than separation of persons in
18 protective custody or for purposes of confine-
19 ment under clauses (iii) and (iv) of paragraph
20 (2)(B) and paragraph (2)(G), no person incar-
21 cerated in a Federal facility may be placed in
22 an alternative unit unless and until it is deter-
23 mined in writing following a placement hearing
24 that clear and convincing evidence shows that
25 the person committed 1 of the following acts at

1 the time placement is sought, and the specific
2 circumstances of the acts were so heinous or de-
3 structive that placement of the person in gen-
4 eral facility housing creates a specific and sig-
5 nificant risk of imminent serious physical injury
6 to staff or other incarcerated persons:

7 “(i) Causing or attempting to cause
8 serious physical injury or death to another
9 person.

10 “(ii) Compelling or attempting to
11 compel another person, by force or threat
12 of force, to engage in a sexual act.

13 “(iii) Leading, organizing, inciting, or
14 attempting to cause a riot, or other simi-
15 larly serious disturbance that results in the
16 taking of a hostage, major property dam-
17 age, or serious physical harm to another
18 person.

19 “(iv) Escaping, attempting to escape
20 or facilitating an escape from a Federal fa-
21 cility or escaping, attempting to escape, or
22 facilitating an escape while under super-
23 vision outside the Federal facility.

1 “(B) NEUTRAL DECISION MAKER RE-
2 QUIRED.—Each placement hearing shall be con-
3 ducted by a neutral decision maker.

4 “(C) DEPARTMENT OF JUSTICE.—For all
5 placement hearings involving placement in fa-
6 cilities operated by the Federal Bureau of Pris-
7 ons or facilities contracting with the Federal
8 Bureau of Prisons or United States Marshals
9 Service for incarcerating people in the care or
10 custody of those facilities or entities, the neu-
11 tral decision maker shall be—

12 “(i) appointed by the Assistant Attor-
13 ney General for Civil Rights;

14 “(ii) employed by the Department of
15 Justice; and

16 “(iii) independent of—

17 “(I) any division or unit within
18 the Department of Justice that has
19 people in its care or custody or en-
20 gages in any prosecuting activities;

21 “(II) any other Federal agency;
22 and

23 “(III) any prosecuting entity.

24 “(D) DEPARTMENT OF HOMELAND SECU-
25 RITY.—For all placement hearings involving

1 placement in facilities operated by or con-
2 tracting with U.S. Immigration and Customs
3 Enforcement, the Department of Homeland Se-
4 curity, or U.S. Customs and Border Protection
5 for incarcerating people in the care or custody
6 of those facilities or entities, the neutral deci-
7 sion maker shall be—

8 “(i) appointed by the Officer for Civil
9 Rights and Civil Liberties;

10 “(ii) employed by the Department of
11 Homeland Security; and

12 “(iii) independent of—

13 “(I) the Office for Civil Rights
14 and Civil Liberties;

15 “(II) any division or unit within
16 the Department of Homeland Security
17 that has people in its care or custody
18 or engages in any prosecuting activi-
19 ties;

20 “(III) any other Federal agency;
21 and

22 “(IV) any prosecuting entity.

23 “(E) DEPARTMENT OF HEALTH AND
24 HUMAN SERVICES.—For all placement hearings
25 involving placement in facilities operated by or

1 contracting with the Department of Health and
2 Human Services for incarcerating people in the
3 care or custody of those facilities or entities, the
4 neutral decision maker shall be—

5 “(i) appointed by the Director of the
6 Office for Civil Rights;

7 “(ii) employed by the Department of
8 Health and Human Services; and

9 “(iii) independent of—

10 “(I) the Office for Civil Rights;

11 “(II) any division or unit within
12 the Department of Health and
13 Human Services that has people in its
14 care or custody;

15 “(III) any other Federal agency;

16 “(IV) and any prosecuting entity.

17 “(F) EVIDENCE PRESENTED.—At any
18 placement hearing, the incarcerated person
19 shall be permitted to offer documentary and
20 testimonial evidence, cross-examine witnesses,
21 and present any mitigating evidence, justifica-
22 tion evidence, or other relevant evidence helpful
23 in aiding the defense of the incarcerated person.

24 “(G) REPRESENTATION.—

1 “(i) IN GENERAL.—At such a hearing,
2 the incarcerated person shall be permitted
3 to—

4 “(I) engage in self-representa-
5 tion; or

6 “(II) be represented by any at-
7 torney, law student permitted to prac-
8 tice law, paralegal, community advo-
9 cate, or other incarcerated person cho-
10 sen by the person being represented.

11 “(ii) ASSISTANCE FOR REPRESENTA-
12 TION.—If a person does not have a rep-
13 resentative, the person shall be offered the
14 assistance of a representative as follows:

15 “(I) DEPARTMENT OF JUSTICE
16 PLACEMENT HEARINGS.—For all
17 placement hearings described in sub-
18 paragraph (C), if an incarcerated per-
19 son does not select a representative,
20 an appointed representative shall be—

21 “(aa) selected by the Assist-
22 ant Attorney General for Civil
23 Rights;

24 “(bb) employed by the De-
25 partment of Justice; and

1 “(cc) independent of—

2 “(AA) any division or
3 unit within the Department
4 of Justice that has people in
5 its care or custody or en-
6 gages in any prosecuting ac-
7 tivities;

8 “(BB) any other Fed-
9 eral agency; and

10 “(CC) any prosecuting
11 entity.

12 “(II) DEPARTMENT OF HOME-
13 LAND SECURITY HEARINGS.—For all
14 placement hearings described in sub-
15 paragraph (D), if an incarcerated per-
16 son does not select a representative,
17 an appointed representative shall be—

18 “(aa) selected by the Officer
19 for Civil Rights and Civil Lib-
20 erties;

21 “(bb) employed by the De-
22 partment of Homeland Security;
23 and

24 “(cc) independent of—

1 “(AA) the Office for
2 Civil Rights and Civil Lib-
3 erties;

4 “(BB) any division or
5 unit within the Department
6 of Homeland Security that
7 has people in its care or cus-
8 tody or engages in any pros-
9 ecuting activities;

10 “(CC) any other Fed-
11 eral agency; and

12 “(DD) any prosecuting
13 entity.

14 “(III) DEPARTMENT OF HEALTH
15 AND HUMAN SERVICES HEARINGS.—
16 For all placement hearings described
17 in subparagraph (E), if an incarcer-
18 ated person does not select a rep-
19 resentative, any appointed representa-
20 tive shall be—

21 “(aa) selected by the Direc-
22 tor of the Office for Civil Rights;

23 “(bb) employed by the De-
24 partment of Health and Human
25 Services; and

1 “(cc) independent of—

2 “(AA) the Office for
3 Civil Rights;

4 “(BB) any division or
5 unit within the Department
6 of Health and Human Serv-
7 ices that has people in its
8 care or custody;

9 “(CC) any other Fed-
10 eral agency; and

11 “(DD) any prosecuting
12 entity.

13 “(H) NOTICE.—

14 “(i) IN GENERAL.—Not less than 2
15 days prior to any placement hearing under
16 this paragraph, both the incarcerated per-
17 son and the chosen representative of the
18 incarcerated person shall be provided de-
19 tailed written notice of the reason for pro-
20 posed placement in an alternative unit, in-
21 cluding all relevant evidence, during which
22 time the person may not, other than for
23 purposes of protective custody, be placed in
24 such alternative unit.

1 “(ii) TIME TO PREPARE.—The incar-
2 cerated person and the chosen representa-
3 tive shall be provided adequate time to pre-
4 pare for such hearings and afforded ad-
5 jourments as appropriate.

6 “(iii) REFUSAL TO ATTEND.—Any re-
7 fusal by an incarcerated person to attend
8 such hearings shall be videotaped and
9 made part of the evidentiary record that
10 shall be maintained by the relevant Federal
11 agency.

12 “(iv) FAILURE TO COMPLY.—Failure
13 to provide the notice described in clause (i)
14 or to enter into the record videotaped evi-
15 dence of an alleged refusal to attend by an
16 incarcerated person shall constitute a basis
17 for resolving the hearing in the favor of
18 the incarcerated person.

19 “(I) WRITTEN DETERMINATION.—

20 “(i) IN GENERAL.—Not later than 5
21 business days after the conclusion of the
22 placement hearing, the neutral decision
23 maker shall issue a written determination.

24 “(ii) CLEAR AND CONVINCING EVI-
25 DENCE.—Any finding that an incarcerated

1 person meets the criteria of placement in
2 an alternative unit under subparagraph
3 (A) shall be supported by clear and con-
4 vincing evidence.

5 “(iii) CONTENTS.—The determination
6 shall specify the finding, a summary of the
7 testimony of each witness and an expla-
8 nation of whether the testimony was cred-
9 ited or rejected, the evidence relied upon in
10 reaching the finding, and the placement
11 imposed, if any.

12 “(iv) NOTICE OF DETERMINATION.—
13 Not later than 24 hours after issuance of
14 the determination, a copy of the deter-
15 mination shall be provided to the incarcer-
16 ated person and the chosen representative
17 of the incarcerated person.

18 “(5) USE OF RESTRAINTS.—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraphs (B) through (E), no person in-
21 carcerated in a Federal facility shall be placed
22 in restraints.

23 “(B) EXCEPTIONS.—Subparagraph (A)
24 shall not apply if facility staff make an individ-
25 ualized determination at the time of, or imme-

diately following, an incident precipitating placement in restraints that such restraints are necessary to prevent a specific and significant risk of imminent serious physical injury to the person, other incarcerated persons, or staff based on concrete evidence of such risk.

“(C) LEAST RESTRICTIVE FORM.—If restraints are used pursuant to subsection (B), the least restrictive form of restraints shall be used for no longer than necessary to abate such specific and significant risk of imminent serious physical injury, and in no circumstances shall continue beyond 4 hours unless a supervisory medical provider determines that such restraints are necessary to prevent such risk.

“(D) PLACEMENT HEARING REQUIRED.—

“(i) IN GENERAL.—Restrains shall not be used on the same person on consecutive days unless a placement hearing with protections established under paragraphs (3) and (4) establishes such restraints are necessary to prevent a specific and significant risk of imminent serious physical injury to the incarcerated person, other incarcerated persons, or staff based

1 on concrete evidence of such risk, and sub-
2 ject to the same limitations each day as set
3 forth in this paragraph.

4 “(ii) LIMITATIONS.—Any repeated use
5 of restraints approved at such a due proc-
6 ess hearing shall be no longer than 3 days,
7 subject to the same limitations each day as
8 set forth in this paragraph, meaningfully
9 reviewed by a supervisory medical provider
10 at least daily, and discontinued once re-
11 straints are no longer necessary to prevent
12 a specific and significant risk of imminent
13 serious physical injury to the person, other
14 incarcerated persons, or staff.

15 “(E) SUBSEQUENT USE OF RESTRAINTS.—
16 Once an approved use of restraints has been
17 discontinued, any subsequent use of restraints
18 on that person shall only be permitted to ad-
19 dress a new incident and upon the same re-
20 quirements under this paragraph.

21 “(6) SPECIAL ADMINISTRATIVE MEASURES.—
22 No Federal facility may use special administrative
23 measures.

24 “(b) REPORT REQUIRED.—Not later than 15 days
25 after the end of each quarter of the fiscal year, each Fed-

1 eral agency shall report on the website of the Federal
2 agency the following:

3 “(1) The total number of incidents at each fa-
4 cility operated by the Federal agency during the pre-
5 ceding quarter of self-harm, suicide attempts, and
6 suicide, disaggregated by race, age, gender identity,
7 documented mental health status, documented dis-
8 ability, pregnancy or postpartum status, identifica-
9 tion as lesbian, gay, bisexual, transgender, intersex,
10 or gender nonconforming, type of housing unit in-
11 cluding confinement under clause (iii) or (iv) of sub-
12 section (a)(2)(B), any alternative units under sub-
13 paragraph (E) or (G) of subsection (a)(2), and
14 length of time in such housing unit.

15 “(2) The total number of placements at each
16 facility during the preceding quarter, separately list-
17 ed, in confinement under clauses (iii) and (iv) of
18 subsection (a)(2)(B), in protective custody under
19 subsection (a)(2)(E), and in any alternative units
20 under subparagraphs (E) and (G) of subsection
21 (a)(2) during that quarter.

22 “(3) The total number of people at each facility
23 on the last day of each quarter, separately listed, in
24 confinement under clauses (iii) and (iv) of subsection
25 (a)(2)(B), in protective custody under subsection

1 (a)(2)(E), in any other alternative unit under sub-
2 section (a)(2)(E), and in any alternative unit under
3 subsection (a)(2)(G), disaggregated by race, age,
4 gender identity, documented mental health status,
5 documented disability, pregnancy or postpartum sta-
6 tus, identification as lesbian, gay, bisexual,
7 transgender, intersex, or gender nonconforming, and
8 reason for placement.

9 “(4) The total number of placements at each
10 facility during the preceding quarter, separately list-
11 ed, for which confinement under clauses (iii) and
12 (iv) of subsection (a)(2)(B) lasted for less than 1
13 hour, between 1 and 2 hours, between 2 and 3
14 hours, between 3 and 4 hours, and for longer than
15 4 hours, with a listing of the length of time of each
16 placement that exceeded 4 hours.

17 “(5) The total number of people at each facility
18 who had reached a total period of time during the
19 preceding quarter, separately listed, in protective
20 custody under subsection (a)(2)(E), in any other al-
21 ternative unit under subsection (a)(2)(E), and in
22 any alternative unit under subsection (a)(2)(G) of
23 less than 7 days, between 8 days and 15 days, be-
24 tween 16 days and 30 days, between 31 days and 45
25 days, between 46 days and 60 days, and for longer

1 than 60 days, with a listing of the length of time of
2 each person who had reached a period of time dur-
3 ing the preceding quarter that exceeded a total of 60
4 days in such confinement or housing.

5 “(c) PRIVATE CAUSE OF ACTION.—

6 “(1) IN GENERAL.—

7 “(A) CIVIL ACTION FOR INJURY.—Any
8 person who is injured by a violation of sub-
9 section (a) may bring a civil action in the ap-
10 propriate United States district court against
11 any person, entity, or any other relevant party
12 who violated such subsection for declaratory
13 and injunctive relief, including directing the clo-
14 sure of the facility, building, or unit where the
15 violation took place if that facility, building, or
16 unit is in repeated and systemic noncompliance
17 with this section, and for such money damages
18 as the court determines appropriate, including
19 for emotional pain and suffering.

20 “(B) ADDITIONAL AWARDS.—In an action
21 filed under subparagraph (A), the court may, in
22 addition to any other relief awarded under that
23 subparagraph, award reasonable attorney’s fees
24 and costs of the action to a prevailing plaintiff.

1 “(2) No LIABILITY FOR CERTAIN
2 LOCKDOWNS.—

3 “(A) IN GENERAL.—No Federal agency
4 shall be liable for a Federal agency-wide, facil-
5 ity-wide, or partial facility-wide lockdown that
6 exceeded the 4-hour limit under subsection
7 (a)(2)(B)(iv) if the agency can demonstrate
8 that—

9 “(i) the lockdown, and the length of
10 the time of the lockdown, was necessary to
11 address unexpected, extraordinary cir-
12 cumstances involving the detonation of an
13 explosive device, an acute mass contamina-
14 tion or contagion situation, a violent riot,
15 revolt, or insurrection involving a large
16 number of people that resulted in the tak-
17 ing of a hostage, major property damage,
18 or serious physical harm to a person, or
19 other similar emergency of the same mag-
20 nitude involving a large group of people;

21 “(ii) the head of facility who author-
22 ized the lockdown complied with all notifi-
23 cation requirements, and received approval
24 from the agency regional or field office, or
25 equivalent office responsible for oversight

1 of the facility, at the time the lockdown
2 lasted longer than 4 hours;

3 “(iii) the head of the applicable Fed-
4 eral agency approved of the lockdown if
5 the lockdown exceeded 8 hours and the ap-
6 proval occurred at that time;

7 “(iv) the lockdown was ended as
8 quickly as possible, did not last longer than
9 necessary to address the unexpected, ex-
10 traordinary circumstances, and did not ex-
11 ceed 24 hours; and

12 “(v) the lockdown was not used as a
13 substitute for medical isolation or quar-
14 antine nor individual lock-ins pursuant to
15 subsections (a)(2)(B)(iii) and
16 (a)(2)(B)(iv), nor as a way to circumvent
17 the time limits or protections for people
18 held under those subsections.

19 “(B) CIVIL ACTION FOR CONSTITUTIONAL
20 VIOLATION.—

21 “(i) IN GENERAL.—Any person who is
22 injured by a violation of the Constitution
23 of the United States by a Federal official
24 or person contracting with a Federal agen-
25 cy in a Federal facility may bring a civil

1 action in the appropriate United States
2 district court against any person, entity, or
3 relevant party who violated such constitu-
4 tional provision for declaratory and injunc-
5 tive relief, including directing the closure
6 of the facility, building, or unit where the
7 violation took place, and for such money
8 damages as the court determines appro-
9 priate, including for emotional pain and
10 suffering.

11 “(ii) ADDITIONAL AWARDS.—In an
12 action filed under subparagraph (A), the
13 court may, in addition to any other relief
14 awarded under that subparagraph, award
15 reasonable attorney’s fees and costs of the
16 action to a prevailing plaintiff.”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 for chapter 301 of title 18, United States Code, is amend-
19 ed by inserting after the item relating to section 4014 the
20 following:

“4015. Ending solitary confinement and establishing minimum standards.”.

21 **SEC. 4. OVERSIGHT.**

22 (a) COMMUNITY MONITORING BODY.—

23 (1) IN GENERAL.—Chapter 301 of title 18,
24 United States Code, as amended by section 3 of this

1 Act, is further amended by adding at the end the
2 following:

3 **“§ 4016. Oversight**

4 “(a) COMMUNITY MONITORING BODY.—Not later
5 than 90 days after the date of enactment of this section,
6 the Attorney General, in consultation with the Assistant
7 Attorney General for Civil Rights of the Department of
8 Justice, Officer for Civil Rights and Civil Liberties of the
9 Department of Homeland Security, and Director of the
10 Office for Civil Rights of the Department of Health and
11 Human Services, shall establish a community monitoring
12 body that shall operate independently of the Attorney Gen-
13 eral and of any other unit or division within the Depart-
14 ment of Justice or any other Federal agency.

15 “(b) APPOINTMENT.—The Attorney General, in con-
16 sultation with the Assistant Attorney General for Civil
17 Rights of the Department of Justice, Officer for Civil
18 Rights and Civil Liberties of the Department of Homeland
19 Security, and Director of the Office for Civil Rights of
20 the Department of Health and Human Services, and after
21 obtaining input and recommendations from community or-
22 ganizations that provide educational services and legal
23 support to incarcerated persons or otherwise advocate for
24 the rights of incarcerated people and an end to solitary

1 confinement, shall appoint not less than 15 people to serve
2 as members of the community monitoring body.

3 “(c) MEMBERSHIP.—

4 “(1) IN GENERAL.—Each member of the com-
5 munity monitoring body shall be an individual
6 who—

7 “(A) has survived solitary confinement—

8 “(B) has had loved ones who have experi-
9 enced solitary confinement or lost loved ones
10 because of solitary confinement;

11 “(C) is a faith leader, medical or mental
12 health professional; or

13 “(D) is a civil rights or human rights ad-
14 vocate.

15 “(2) PRIOR EXPERIENCE.—Each member of the
16 community monitoring body shall have experience
17 engaging in advocacy, service provision, or program
18 operation aimed at enhancing the rights and treat-
19 ment of incarcerated persons.

20 “(3) REQUIREMENTS RELATING TO PRIOR EX-
21 PERIENCES.—

22 “(A) IN GENERAL.—The community moni-
23 toring body shall include members with the fol-
24 lowing experience:

1 “(i) Not less than $\frac{1}{2}$ of the members
2 of the community monitoring body shall be
3 individuals who were incarcerated or have
4 had family members incarcerated.

5 “(ii) Not fewer than 2 members of the
6 community monitoring body shall have ex-
7 perience working with children from a
8 trauma-sensitive approach.

9 “(iii) Not fewer than 2 members of
10 the community monitoring body shall have
11 personal or professional experience with
12 immigration detention.

13 “(iv) Not fewer than 2 members of
14 the community monitoring body shall have
15 personal or professional experience with in-
16 carceration in adult prisons or jails.

17 “(B) LIMITATIONS ON WORKING WITH
18 CHILDREN.—Only members of the community
19 monitoring body with expertise in working with
20 children in a trauma-sensitive manner shall
21 interview children in the custody of the Office
22 of Refugee Resettlement.

23 “(d) MEMBERSHIP TERM.—Each member of the
24 community monitoring body shall be appointed for a term

1 of 5 years, with the possibility of 1 reappointment by the
2 Attorney General for a total of 10 years.

3 “(e) REIMBURSEMENT.—Each member shall be reim-
4 bursed by the Department of Justice for any per diem ex-
5 penses of the member in connection with service on the
6 community monitoring body.

7 “(f) ASSISTANCE.—The community monitoring body
8 shall have the ability to designate any person to assist the
9 work of the community monitoring body.

10 “(g) ACCESS.—Notwithstanding any other provision
11 of law, the community monitoring body and its designees
12 shall have the ability to make unannounced visits to Fed-
13 eral agencies and Federal facilities, and have access to
14 every area of every Federal facility and all nonclassified,
15 nonprivileged data from every Federal agency.

16 “(h) IN-PERSON INTERVIEWS.—

17 “(1) IN GENERAL.—The community monitoring
18 body and its designees shall have the ability to con-
19 duct in-person interviews and correspond and com-
20 municate with incarcerated persons and Federal
21 agency and Federal facility staff freely, privately,
22 and confidentially, upon consent of the incarcerated
23 person or staff, respectively.

24 “(2) CONSENT TO INTERVIEWS.—

1 “(A) IN GENERAL.—All applicable laws,
2 regulations, rules and other protections regard-
3 ing a person providing free, voluntary, and in-
4 formed consent, including for children, incarcerated
5 ated persons, and more generally, and including
6 protections related to the need for parental con-
7 sent or consent of counsel, shall apply to con-
8 sent to being interviewed by the community
9 monitoring body.

10 “(B) OFFICE OF REFUGEE RESETTLE-
11 MENT.—With respect to persons in the custody
12 of the Office of Refugee Resettlement, the com-
13 munity monitoring body shall only interview
14 such a person if the person, the person’s ap-
15 pointed child advocate, if the person has a child
16 advocate, and the person’s attorney, if the per-
17 son has an attorney, consent to the interview.

18 “(C) APPLICATION.—Nothing in this para-
19 graph shall be used by a Federal agency to im-
20 pede the ability of the community monitoring
21 body to conduct any interview with an incarcer-
22 ated person who consents to such an interview.

23 “(3) CONSULTATION RELATING TO TRAUMA-
24 SENSITIVE ENGAGEMENT.—

1 “(A) IN GENERAL.—Members of the com-
2 munity monitoring body shall consult with com-
3 munity experts on trauma-sensitive engagement
4 with detained children and adults to develop
5 protocols for how the members of the commu-
6 nity monitoring body will conduct monitoring
7 activities in a manner that—

8 “(i) is trauma-sensitive;

9 “(ii) provides the greatest protection
10 possible for the safety and psychological
11 well-being of people in custody;

12 “(iii) offers options for people in cus-
13 tody coping with any distress or re-trau-
14 matization resulting from monitoring ac-
15 tivities;

16 “(iv) provides people in custody with a
17 sense of agency in the monitoring process;
18 and

19 “(v) accounts for related consider-
20 ations.

21 “(B) DEVELOPMENT AND REVIEW.—The
22 community monitoring body shall—

23 “(i) develop the protocols described in
24 subparagraph (A) based on the existing

1 body of literature relating to trauma-sen-
2 sitive engagement; and

3 “(ii) have experts and the general
4 public review and provide feedback on the
5 protocols described in subparagraph (A)
6 before the protocols are finalized.

7 “(4) NOTES, RECORDINGS, AND RECORDS.—

8 “(A) USE.—All notes, recordings, and
9 records of any interviews conducted by the com-
10 munity monitoring body shall be used solely for
11 the purposes of the community monitoring
12 body.

13 “(B) PROHIBITION.—No information con-
14 tained in notes, recordings, and records of any
15 interviews conducted by the community moni-
16 toring body identifying a specific person who
17 was interviewed by the community monitoring
18 body may ever be—

19 “(i) disclosed under any circumstance
20 without the free, voluntary, and informed
21 consent of that person for purposes of
22 seeking immediate relief for that person; or

23 “(ii) used in any form of proceeding
24 involving the immigration status of that
25 person, a credibility determination or

1 criminal prosecution or appeal relating to
2 that person, or any other related type of
3 proceeding.

4 “(i) MEETINGS.—Administrators of each Federal
5 agency and Federal facility shall meet privately with the
6 community monitoring body or its designees upon request.

7 “(j) COMMUNICATIONS.—

8 “(1) IN GENERAL.—All persons incarcerated in
9 Federal facilities shall have the right and access to
10 confidentially communicate with the community
11 monitoring body and its designees, including while
12 the community monitoring body or its designees are
13 at a Federal facility and through free phone calls,
14 free mail correspondence, and free email correspond-
15 ence.

16 “(2) CONFIDENTIALITY.—Communications de-
17 scribed in paragraph (1) shall be afforded the same
18 levels of protection, confidentiality, and privilege as
19 attorney-client correspondence.

20 “(3) RETALIATION.—No person shall face any
21 form of retaliation or adverse impact for having con-
22 tact with, or being perceived to have had contact
23 with, the community monitoring body or its des-
24 ignees.

1 “(4) COMPLAINTS.—An incarcerated person
2 shall not be required to raise a complaint with the
3 community monitoring body before seeking other
4 remedies in connection with that complaint.

5 “(k) ELECTRONIC EQUIPMENT.—The community
6 monitoring body and its designees shall have the right to
7 bring and use electronic equipment in any Federal facility,
8 including video cameras, photographic cameras, audio re-
9 cording devices, mobile telephones, computers, and tablets,
10 for the purposes of recording, documentation, administra-
11 tion of surveys, and other related purposes.

12 “(l) ACCESS TO CERTAIN INFORMATION.—

13 “(1) IN GENERAL.—The community monitoring
14 body and its designees shall have the right to re-
15 ceive, access, inspect, and copy all relevant non-clas-
16 sified, non-privileged information, records, and docu-
17 ments in the possession or control of any Federal fa-
18 cility, Federal agency, or employee of any Federal
19 facility or Federal agency.

20 “(2) REQUIRED DELIVERY DATE.—

21 “(A) GENERAL DELIVERY DATE.—The
22 community monitoring body and its designees
23 shall receive any records requested under para-
24 graph (1) not later than 7 days after the date

1 of request to the head of a Federal facility or
2 Federal agency.

3 “(B) EXPEDITED DELIVERY.—In a situa-
4 tion in which the records requested under para-
5 graph (1) by the community monitoring body or
6 its designees pertain to a death of an incarcer-
7 ated person, threats of bodily harm including
8 sexual or physical assaults, or the denial of nec-
9 essary medical treatment, the records shall be
10 provided not later than 48 hours after the date
11 of the request unless members of the commu-
12 nity monitoring body or their designees consent
13 to an extension of the deadline.

14 “(m) RECOMMENDATIONS.—

15 “(1) IN GENERAL.—The community monitoring
16 body may make periodic recommendations to any
17 Federal agency or Federal facility, as well as to the
18 President, Attorney General, Secretary of Homeland
19 Security, Secretary of Health and Human Services,
20 Committee on the Judiciary of the House of Rep-
21 resentatives, Committee on Oversight and Govern-
22 ment Reform of the House of Representatives, Com-
23 mittee on the Judiciary of the Senate, Committee on
24 Homeland Security and Governmental Affairs of the
25 Senate, and other Government entities.

1 “(2) REMEDIAL ACTION PLANS.—For any rec-
2 ommendations made by the community monitoring
3 body to each Federal agency or Federal facility, such
4 agency or facility shall—

5 “(A) report to the community monitoring
6 body not later than 90 days after receipt of the
7 recommendations as to whether the agency or
8 facility has designed and implemented a reme-
9 dial action plan to address the recommenda-
10 tions; and

11 “(B) transmit any such remedial action
12 plan to the community monitoring body.

13 “(3) PUBLICATION.—The community moni-
14 toring body may publish its findings and rec-
15 ommendations on its website that the community
16 monitoring body shall establish.

17 “(n) ACCESS FOR CERTAIN PERSONS.—Representa-
18 tives of the news media, public defenders, representatives
19 of the Legal Orientation Program of the Department of
20 Justice, elected Federal, State, and local representatives,
21 and their designees, shall have the ability to—

22 “(1) make unannounced visits to Federal agen-
23 cies and Federal facilities and access every area of
24 every Federal facility, except that—

1 “(A) access to enter the cell of a person in-
2 carcerated in the Federal facility shall only be
3 granted with the consent of the person housed
4 in that cell; and

5 “(B) access to enter a bathroom or shower
6 area shall only be allowed when such area is un-
7 occupied by persons incarcerated in the Federal
8 facility;

9 “(2) receive in a timely manner, pursuant to
10 section 552 of title 5, or any successor thereto, all
11 requested data from every Federal agency that has
12 persons in its care or custody; and

13 “(3) correspond with and interview, with the
14 ability to take notes and use electronic and other re-
15 cording devices, incarcerated persons freely, pri-
16 vately, and confidentially upon the consent of the in-
17 carcerated persons.

18 “(o) INSPECTORS GENERAL.—Nothing in this section
19 shall be construed to modify, supersede, or otherwise af-
20 fect the authority of any Inspector General to access all
21 records, reports, audits, reviews, documents, papers, rec-
22 ommendations, or other materials, as authorized by law.”.

23 (2) CLERICAL AMENDMENT.—The table of con-
24 tents for chapter 301 of title 18, United States
25 Code, is amended by inserting after the item relating

1 to section 4015, as added by section 3 of this Act,
2 the following:

“4016. Oversight.”.

3 (b) INSPECTOR GENERAL.—

4 (1) ADVISORY BODY.—Section 413 of title 5,
5 United States Code, as amended by section 2 of the
6 Federal Prison Oversight Act (Pub. L. 118–71; 138
7 Stat. 1492), is amended by adding at the end the
8 following:

9 “(f) ADVISORY BODY ON ENDING SOLITARY CON-
10 FINEMENT.—

11 “(1) DEFINITIONS.—In this subsection, the
12 terms ‘appropriate congressional committees’ and
13 ‘Inspector General’ have the meanings given those
14 terms in subsection (e).

15 “(2) ADVISORY BODY.—

16 “(A) IN GENERAL.—The Inspector General
17 shall—

18 “(i) establish an advisory body of
19 stakeholders focused on overseeing imple-
20 mentation of section 4015 of title 18; and

21 “(ii) consult the advisory body for
22 purposes of developing the inspection re-
23 gime for overseeing such implementation
24 and developing the recommendations in-

1 cluded in the annual report of the Inspec-
2 tor General required under paragraph (3).

3 “(B) MEMBERSHIP.—The advisory body
4 established under subparagraph (A) shall con-
5 sist solely of individuals who—

6 “(i) have survived solitary confine-
7 ment;

8 “(ii) have had loved ones in solitary
9 confinement or have lost loved ones due to
10 exposure to solitary confinement; or

11 “(iii) are faith leaders, medical or
12 mental healthcare professionals, or civil
13 rights or human rights advocates with ex-
14 perience engaging in advocacy or program
15 operation related to reducing or ending the
16 use of solitary confinement.

17 “(C) CONSULTATION.—

18 “(i) IN GENERAL.—The Inspector
19 General shall consult with the advisory
20 body established under subparagraph (A)
21 regarding all aspects of overseeing imple-
22 mentation of section 4015 of title 18.

23 “(ii) MENTAL HEALTH CARE.—For all
24 aspects of oversight of all provisions of sec-
25 tion 4015 of title 18 involving the provi-

1 sion of mental health care, the Inspector
2 General shall consult with members of the
3 advisory body who are mental healthcare
4 professionals, as well as individuals who
5 have survived solitary confinement or have
6 had loved ones in solitary confinement or
7 have lost loved ones due to exposure to sol-
8 itary confinement.

9 “(3) ANNUAL REPORT RELATING TO SECTION
10 4015 OF TITLE 18.—Not later than 1 year after the
11 date of enactment of the End Solitary Confinement
12 Act, and each year thereafter, the Inspector General
13 shall submit to the Attorney General, the appro-
14 priate congressional committees, and the public an
15 annual report in accordance with the requirements
16 of clauses (i) and (ii) of subsection (e)(2)(D) assess-
17 ing the implementation of all components of section
18 4015 of title 18.”.

19 (2) EFFECTIVE DATE.—The amendments made
20 by paragraph (1) shall take effect on the date that
21 is 90 days after the date on which appropriations
22 are made available to the Inspector General of the
23 Department of Justice and the Department of Jus-
24 tice for the specific purpose of carrying out the Fed-

1 eral Prison Oversight Act (Pub. L. 118–71; 138
2 Stat. 1492).

3 **SEC. 5. CREATING STATE INCENTIVES TO END SOLITARY**
4 **CONFINEMENT.**

5 (a) IN GENERAL.—Chapter 301 of title 18, United
6 States Code, as amended by sections 3 and 4 of this Act,
7 is further amended by inserting after section 4016, as
8 added by section 4 of this Act, the following:

9 **“§ 4017. Creating State incentives to end solitary con-**
10 **finement**

11 “(a) IN GENERAL.—Each State or local entity that
12 receives any Federal funds under subpart 1 of part E of
13 title I of the Omnibus Crime Control and Safe Streets Act
14 of 1968 (34 U.S.C. 10151 et seq.) (commonly known as
15 the ‘Edward Byrne Memorial Justice Assistance Grant
16 Program’) shall annually certify to the Attorney General
17 with comprehensive documentation that the State or local
18 entity has in effect (or shall have in effect, not later than
19 180 days after the date of enactment of this section) laws,
20 policies, and programs that substantially comply with sec-
21 tion 4015 to fully and meaningfully end solitary confine-
22 ment and ensure all people in the prisons, jails, and deten-
23 tion centers of the State or locality have access to not less
24 than 14 hours of out-of-cell congregate interaction in a

1 shared space, without physical barriers, that is conducive
2 to meaningful group interaction.

3 “(b) PENALTY.—Beginning in the first fiscal year
4 that begins after the date of enactment of this section,
5 in the case of a State or local entity that is not in substan-
6 tial compliance with section 4015, or an amendment made
7 by the End Solitary Confinement Act, the Attorney Gen-
8 eral shall reduce by not less than 10 percent the total
9 amount that such State or unit of local government would
10 otherwise receive under subpart 1 of part E of title I of
11 the Omnibus Crime Control and Safe Streets Act of 1968
12 (34 U.S.C. 10151 et seq.) (commonly known as the ‘Ed-
13 ward Byrne Memorial Justice Assistance Grant Pro-
14 gram’), except that funding for public defenders, commu-
15 nity-based mental health care, community-based drug
16 treatment, community-based violence interruption, and
17 other similar community-based non-carceral and non-po-
18 licing services shall be exempted from any reductions.”.

19 (b) CLERICAL AMENDMENT.—The table of contents
20 for chapter 301 of title 18, United States Code, as amend-
21 ed by sections 3 and 4 of this Act, is amended by inserting
22 after the item relating to section 4016, as added by section
23 4 of this Act, the following:

“4017. Creating State incentives to end solitary confinement.”.

1 **SEC. 6. DEFINITIONS.**

2 (a) IN GENERAL.—Chapter 301 of title 18, United
3 States Code, as amended by sections 3, 4, and 5 of this
4 Act, is further amended by inserting after section 4017,
5 as added by section 5 of this Act, the following:

6 **“§ 4018. Certain definitions.**

7 “In sections 4015, 4016, and 4017:

8 “(1) ACUTE PSYCHIATRIC CRISIS.—The term
9 ‘acute psychiatric crisis’ means a psychiatric emer-
10 gency that involves a sudden onset of psychotic
11 symptoms, such as hallucinations, delusions, suicidal
12 ideation, or extreme panic.

13 “(2) ALTERNATIVE UNIT.—The term ‘alter-
14 native unit’ means any unit that is separate from
15 the general facility population or is in any way more
16 restrictive than the general facility population in
17 terms of access to programming, services, or other
18 aspects of daily life.

19 “(3) ATTEMPTING.—

20 “(A) IN GENERAL.—The term ‘attempting’
21 means having the intent to carry out a par-
22 ticular act and completing significant steps in
23 the advancement of the attempt.

24 “(B) WITHDRAWAL OR ABANDONMENT.—
25 Evidence of withdrawal or abandonment of a

1 plan to carry out a particular act shall negate
2 a finding of intent.

3 “(4) COMMUNITY MONITORING BODY.—The
4 term ‘community monitoring body’ means the com-
5 munity monitoring body established under section
6 4016(a).

7 “(5) FEDERAL AGENCY.—The term ‘Federal
8 agency’ means—

9 “(A) the Federal Bureau of Prisons;

10 “(B) U.S. Immigration and Customs En-
11 forcement;

12 “(C) the Department of Homeland Secu-
13 rity;

14 “(D) U.S. Customs and Border Protection;

15 “(E) the Office of Refugee Resettlement;

16 “(F) the United States Marshals Service;

17 “(G) the Department of Health and
18 Human Services;

19 “(H) any other Federal agency that has
20 persons in its care or custody; and

21 “(I) any Federal, State, local, or private
22 entity that has contracted with any of the enti-
23 ties listed in subparagraphs (A) through (H) or
24 with any other Federal agency for holding or

1 providing services to people in their care or cus-
2 tody.

3 “(6) FEDERAL FACILITY.—The term ‘Federal
4 facility’ means—

5 “(A) a Federal Bureau of Prisons facility;

6 “(B) a U.S. Immigration and Customs En-
7 forcement facility;

8 “(C) a Department of Homeland Security
9 facility;

10 “(D) a U.S. Customs and Border Protec-
11 tion facility;

12 “(E) an Office of Refugee Resettlement fa-
13 cility;

14 “(F) a United States Marshals Service fa-
15 cility;

16 “(G) a Department of Health and Human
17 Services facility;

18 “(H) any other facility operated by a Fed-
19 eral agency that has persons in its care or cus-
20 tody; and

21 “(I) any Federal, State, local, or private
22 facility that has contracted with any Federal
23 agency for incarcerating people in their care or
24 custody or providing services to incarcerated
25 people in their care or custody.

1 “(7) HEALTH CARE STAFF.—The term ‘health
2 care staff’ means individuals who are employed, con-
3 tracted, or volunteer to provide medical, mental, and
4 behavioral health care services at a Federal facility.

5 “(8) INCARCERATED.—The term ‘incarcerated’
6 means being held in a Federal facility for any rea-
7 son.

8 “(9) MENTAL HEALTH NEED.—The term ‘men-
9 tal health need’ means having any current mental
10 health diagnosis by any medical or mental health
11 professional, or having had any such mental health
12 diagnosis during the previous 2 years.

13 “(10) MULTIDISCIPLINARY TEAM.—The term
14 ‘multidisciplinary team’—

15 “(A) means a group of staff or other peo-
16 ple working or operating in a Federal facility
17 who have different professional backgrounds
18 and roles in the facility; and

19 “(B) includes program and health care
20 staff.

21 “(11) PLACEMENT HEARING.—The term ‘place-
22 ment hearing’ means an administrative hearing to
23 determine whether a person may be placed in an al-
24 ternative unit in a Federal facility.

1 “(12) PROTECTIVE CUSTODY.—The term ‘pro-
2 tective custody’ means any housing of a person for
3 their own protection.

4 “(13) REPRESENTATIVE OF THE NEWS
5 MEDIA.—The term ‘representative of the news
6 media’ means any individual or entity that—

7 “(A) gathers information of potential inter-
8 est to a segment of the public;

9 “(B) uses its editorial skills to turn the
10 raw materials into a distinct work; and

11 “(C) distributes that work to an audience.

12 “(14) SOLITARY CONFINEMENT.—The term
13 ‘solitary confinement’ means being confined in a cell
14 or other space without access to meaningful group
15 interaction in a shared space.

16 “(15) SPECIAL ADMINISTRATIVE MEASURES.—
17 The term ‘special administrative measures’ means
18 the special administrative measures under section
19 501.3 of title 28, Code of Federal Regulations, or
20 any successor thereto.

21 “(16) SUPERVISORY MEDICAL PROVIDER.—The
22 term ‘supervisory medical provider’ means a prac-
23 ticing doctor, nurse practitioner, or physician assist-
24 ant who has supervisory responsibilities over other
25 medical staff in a Federal facility.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 for chapter 301 of title 18, United States Code, as amend-
3 ed by sections 3, 4, and 5 of this Act, is amended by in-
4 serting after the item relating to section 4017, as added
5 by section 5 of this Act, the following:

“4018. Certain definitions.”.

6 **SEC. 7. REMOVAL OF LIMITATION ON RECOVERY ON CER-**
7 **TAIN SUITS BY INCARCERATED PEOPLE.**

8 Section 7(e) of the Civil Rights of Institutionalized
9 Persons Act (42 U.S.C. 1997e(e)) is amended to read as
10 follows:

11 “(e) LIMITATION ON RECOVERY.—No Federal civil
12 action may be brought by a prisoner confined in a jail,
13 prison, or other correctional facility, for mental or emo-
14 tional injury suffered while in custody without a prior
15 showing of physical injury, the commission of a sexual act
16 (as defined in section 2246 of title 18, United States
17 Code), or placement in solitary confinement or an alter-
18 native unit (as defined in section 4018 of title 18, United
19 States Code).”.

20 **SEC. 8. REVISIONS TO STANDARD OPERATING PROCE-**
21 **DURES AND STANDARDS.**

22 Each Federal agency, as defined in section 4018 of
23 title 18, United States Code, as added by this Act, shall—

24 (1) incorporate the requirements of this Act
25 and the amendments made by this Act into the rel-

1 evant standards and procedures governing confine-
2 ment; and

3 (2) monitor compliance with the requirements
4 of this Act and the amendments made by this Act.

5 **SEC. 9. APPROPRIATIONS AND PROHIBITION ON USE OF**
6 **FUNDS.**

7 (a) IN GENERAL.—Congress shall appropriate such
8 sums as may be necessary to implement the provisions of
9 this Act.

10 (b) LIMITATIONS.—No sums appropriated to carry
11 out the provisions of this Act may be used for any—

12 (1) buildings and facilities appropriations for
13 the Bureau of Prisons;

14 (2) procurement, construction, and improve-
15 ments appropriations for the Department of Home-
16 land Security, including Immigration and Customs
17 Enforcement and Customs and Border Protection;

18 (3) constructions appropriations for the United
19 States Marshals Service;

20 (4) buildings and facilities appropriations for
21 the Department of Health and Human Services, in-
22 cluding the Administration for Children and Fami-
23 lies and the Office of Refugee Resettlement;

24 (5) Federal agency to—

1 (A) construct facilities where persons will
2 be incarcerated; or

3 (B) to construct or renovate buildings or
4 spaces within facilities where persons are or will
5 be incarcerated; or

6 (6) Federal agency to construct, install, or in-
7 troduce any weapons, any objects or devices or
8 mechanisms restricting the movement of a person or
9 persons in any way, or any other objects or mecha-
10 nisms that limit movement or create more restrictive
11 environments.

12 **SEC. 10. SEVERABILITY.**

13 If any provision of this Act, or an amendment made
14 by this Act, or the application thereof to any person or
15 circumstance is held invalid, the remainder of this Act,
16 and other amendments made by this Act, or the applica-
17 tion of that provision to persons or circumstances other
18 than those as to which it is held invalid, is not affected
19 thereby.

20 **SEC. 11. EFFECTIVE DATE.**

21 This Act and the amendments made by this Act shall
22 take effect not later than 60 days after the date of enact-
23 ment of this Act.