

118TH CONGRESS  
1ST SESSION

# H. R. 4972

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

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## IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2023

Ms. BUSH (for herself, Mr. BOWMAN, Mr. ESPAILLAT, Ms. TLAIB, Mrs. WATSON COLEMAN, Ms. KAMLAGER-DOVE, Ms. NORTON, Ms. OCASIO-CORTEZ, Mrs. RAMIREZ, Ms. BARRAGÁN, Mr. CLEAVER, Ms. VELÁZQUEZ, Ms. PRESSLEY, and Ms. LEE of Pennsylvania) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

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

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 vi-  
23 olence 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 its 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 its elimination would save taxpayers billions of  
16          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), place-  
13 ment of a person incarcerated in a Federal facility  
14 in solitary confinement shall be prohibited.

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 subparagraphs  
19 (B)(iii), (B)(iv), and (B)(v), all persons incar-  
20 cerated in a Federal facility, regardless of hous-  
21 ing unit or detention status, shall have access  
22 to at least 14 hours per day of out-of-cell con-  
23 gregate interaction in a shared space, without  
24 physical barriers, that is conducive to meaning-  
25 ful group interaction, including access to—

1           “(i) at least 7 hours daily of struc-  
2           tured out-of-cell, congregate programming  
3           led by a staff member, incarcerated person,  
4           or community member, including access to  
5           educational, vocational, volunteer, mental  
6           health, violence prevention, alcohol and  
7           substance use treatment, financial, reli-  
8           gious, and reentry programming;

9           “(ii) at least 1 hour daily of out-of-cell  
10          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 shall not be placed in solitary confinement  
20          unless such placement is necessary—

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

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

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

4 “(iii) for purposes of medical quar-  
5 antine or medical isolation, only if done in  
6 a medical unit overseen by health care  
7 staff, for as limited a time as medically  
8 necessary as determined by health care  
9 staff, and with comparable access as indi-  
10 viduals incarcerated in the general popu-  
11 lation to phone calls, emails, and program-  
12 ming at a physical distance determined ap-  
13 propriate by health care staff;

14 “(iv) in an emergency situation as a  
15 last resort, only if necessary to deescalate  
16 immediate circumstances that pose a spe-  
17 cific and significant risk of imminent seri-  
18 ous physical injury to an individual, staff,  
19 or other incarcerated persons, and for as  
20 short a time as necessary to deescalate  
21 such circumstances, not to exceed 4 hours  
22 total immediately following such emergency  
23 situation, 4 hours total in any 24-hour pe-  
24 riod, or 12 hours total in any 7-day period,

1 and subject to subparagraphs (C) and (D);  
2 or

3 “(v) as part of a Federal agency-wide,  
4 facility-wide, or partial facility-wide  
5 lockdown, only if a head of a facility or  
6 agency has determined such lockdown is  
7 necessary to deescalate an emergency that  
8 involves several incarcerated persons and  
9 poses a specific and significant risk of im-  
10 minent serious physical injury to the staff  
11 or incarcerated persons, only when there  
12 are no less restrictive means to address an  
13 emergency, as a last resort after exhaust-  
14 ing less restrictive measures, confined to as  
15 narrow an area as possible and to as lim-  
16 ited number of people as possible, reviewed  
17 every hour by the head of the facility or  
18 agency, with notification provided to the  
19 agency regional or field office, or equiva-  
20 lent office responsible for oversight of the  
21 facility, beginning at the time the lockdown  
22 reaches 2 hours, and lifted as quickly as  
23 possible, not to exceed 4 hours total from  
24 the start of the lockdown, 4 hours total in

1           any 24-hour period, or 12 hours total in  
2           any 7-day period.

3           “(C) DEESCALATION.—For placements  
4           pursuant to subparagraph (B)(iv), facility staff  
5           shall meet with the person at least once an hour  
6           to attempt deescalation, work toward their re-  
7           lease from such confinement, and determine  
8           whether it is necessary to continue to hold the  
9           person in such confinement, and for all place-  
10          ments pursuant to subparagraphs (B)(iv) and  
11          (B)(v), health care staff must conduct a thor-  
12          ough medical, mental health, social, and behav-  
13          ioral assessment upon admission to such place-  
14          ment, conduct meaningful check-ins every 15  
15          minutes to engage with the person in custody,  
16          evaluate and treat any urgent health needs, and  
17          attempt any deescalation. If health care staff  
18          determines the person should be removed from  
19          such confinement for assessment or treatment  
20          purposes, or because of a negative impact of  
21          such confinement, the person shall be removed  
22          to an appropriate setting as determined by  
23          health care staff.

24          “(D) PROHIBITION ON INVOLUNTARY CON-  
25          FINEMENT.—No person may be involuntarily



1 confined in their cell under subparagraph  
2 (B)(iv) who—

3 “(i) is aged 25 or younger;

4 “(ii) is aged 55 or older;

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

8 “(iv) has any diagnosed mental health  
9 need;

10 “(v) is pregnant, in the first 8 weeks  
11 of the postpartum recovery period, or car-  
12 ing for a child in a facility program; or

13 “(vi) has identified as or is known or  
14 perceived by any facility staff to be lesbian,  
15 gay, bisexual, transgender, intersex, or  
16 gender nonconforming.

17 “(E) REQUIREMENTS FOR SEPARATION.—

18 If a Federal facility determines that an indi-  
19 vidual must be separated from the general facil-  
20 ity population, including any placement in pro-  
21 tective custody, for any reasons other than, or  
22 in a manner other than as provided under sub-  
23 paragraphs (B)(iii), (B)(iv), and (B)(v) of this  
24 section, such separation in an alternative unit  
25 must—

1           “(i) comply with subparagraphs (A)  
2           and (F) of this paragraph, and paragraphs  
3           (3), (4), and (5) of this subsection; and

4           “(ii) provide access to out-of-cell, con-  
5           gregate, trauma-informed, therapeutic pro-  
6           gramming aimed at promoting personal de-  
7           velopment, addressing underlying causes of  
8           problematic behavior resulting in the alter-  
9           native unit placement, and helping prepare  
10          for discharge from the unit to the general  
11          population and to the community.

12          “(F) PROHIBITION ON LIMITATION OF  
13          SERVICES.—In all Federal facilities, no limita-  
14          tion on services, programming, treatment, con-  
15          tact visitation, phone calls, email, mail, or basic  
16          needs such as clothing, food, or bedding shall be  
17          imposed as a form of punishment, discipline, or  
18          for any other reason. No involuntary restricted  
19          diets or any other involuntary change in diet  
20          shall be imposed as a form of punishment, dis-  
21          cipline, or for any other reason. Nor shall ap-  
22          proved personal property be confiscated as a  
23          form of punishment, discipline, or for any other  
24          reason.

25          “(3) DUE PROCESS REQUIREMENTS.—

1           “(A) HEARING REGULATIONS.—The rea-  
2           sons and procedures for placement in protective  
3           custody shall be subject to the regulations,  
4           rules, standards, and procedures (or any succes-  
5           sors thereof) applicable to each Federal agency.  
6           All hearings under such regulations shall com-  
7           ply with paragraph (4). The conditions for all  
8           people in protective custody shall comply with  
9           subparagraphs (A), (E), and (F) of paragraph  
10          (2), and paragraph (5).

11          “(B) REVIEW OF PLACEMENT.—The place-  
12          ment of an incarcerated individual in an alter-  
13          native unit shall be meaningfully reviewed at  
14          least within the first 15 days after placement  
15          and at least every 15 days thereafter by a mul-  
16          tidisciplinary team, including program and  
17          health care staff, to determine whether the in-  
18          carcerated person’s release to the general facil-  
19          ity population continues to present a specific  
20          and significant risk of imminent serious phys-  
21          ical injury to the individual, staff, or other in-  
22          carcerated persons. If a person is not dis-  
23          charged from such housing at such a review,  
24          they shall promptly receive in writing the rea-  
25          sons for the determination and the program,

1 treatment, service, or corrective action required  
2 before discharge. The incarcerated person shall  
3 be given access to the programs, treatment, and  
4 services specified, and shall be permitted to be  
5 discharged from such housing if the person so  
6 chooses and does not engage in behavior that  
7 presents a specific and significant risk of immi-  
8 nent serious physical injury to the individual,  
9 staff, or other incarcerated persons during the  
10 subsequent 15 days. Other than for purposes of  
11 protective custody, or upon the individual's  
12 written request, no person may be held in an al-  
13 ternative unit for more than 60 days in any 6-  
14 month period.

15 “(C) NO PLACEMENT BASED ON PREVIOUS  
16 INCIDENT.—No person may be placed in an al-  
17 ternative unit for an act or incident for which  
18 they were previously placed in such unit.

19 “(4) PLACEMENT HEARINGS.—

20 “(A) PLACEMENT IN ALTERNATIVE  
21 UNIT.—Other than separation of individuals in  
22 protective custody or for purposes of confine-  
23 ment under paragraphs (2)(B)(iii), (2)(B)(iv),  
24 and (2)(B)(v), no person incarcerated in a Fed-  
25 eral facility may be placed in an alternative unit

1 unless and until it is determined in writing fol-  
2 lowing a placement hearing that clear and con-  
3 vincing evidence shows the person committed  
4 one of the following acts at the time placement  
5 is sought, and the specific circumstances of the  
6 acts were so heinous or destructive that place-  
7 ment of the individual in general facility hous-  
8 ing creates a specific and significant risk of im-  
9 minent serious physical injury to staff or other  
10 incarcerated persons:

11 “(i) Causing or attempting to cause  
12 serious physical injury or death to another  
13 person.

14 “(ii) Compelling or attempting to  
15 compel another person, by force or threat  
16 of force, to engage in a sexual act.

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

23 “(iv) Escaping, attempting to escape  
24 or facilitating an escape from a facility or  
25 escaping, attempting to escape or facili-

1           tating an escape while under supervision  
2           outside such facility.

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

6           “(C) DEPARTMENT OF JUSTICE.—For all  
7           placement hearings involving placement in Fed-  
8           eral Bureau of Prisons facilities or facilities  
9           contracting with the Federal Bureau of Prisons  
10          or United States Marshals Service for incarcer-  
11          ating people in their care or custody, the neu-  
12          tral decision maker shall be appointed by the  
13          Assistant Attorney General for Civil Rights,  
14          employed by the Department of Justice but  
15          independent of any division or unit within the  
16          Department of Justice that has people in its  
17          care or custody or engages in any prosecuting  
18          activities, any other Federal agency, and any  
19          prosecuting entity.

20          “(D) DEPARTMENT OF HOMELAND SECUR-  
21          ITY.—For all placement hearings involving  
22          placement in U.S. Immigration and Customs  
23          Enforcement, Department of Homeland Secu-  
24          rity, or U.S. Customs and Border Protection fa-  
25          cilities, or facilities contracting with U.S. Immi-

1           gration and Customs Enforcement, the Depart-  
2           ment of Homeland Security, or U.S. Customs  
3           and Border Protection for incarcerating people  
4           in their care or custody, the neutral decision  
5           maker shall be appointed by the Officer for  
6           Civil Rights and Civil Liberties, employed by  
7           the Department of Homeland Security but inde-  
8           pendent of the Office for Civil Rights and Civil  
9           Liberties, any division or unit within the De-  
10          partment of Homeland Security that has people  
11          in its care or custody or engages in any pros-  
12          ecuting activities, any other Federal agency,  
13          and any prosecuting entity.

14                 “(E) DEPARTMENT OF HEALTH AND  
15                 HUMAN SERVICES.—For all placement hearings  
16                 involving placement in Department of Health  
17                 and Human Services facilities or facilities con-  
18                 tracting with the Department of Health and  
19                 Human Services for incarcerating people in  
20                 their care or custody, the neutral decision  
21                 maker shall be appointed by the Director of the  
22                 Office for Civil Rights, employed by the Depart-  
23                 ment of Health and Human Services but inde-  
24                 pendent of the Office for Civil Rights, any divi-  
25                 sion or unit within the Department of Health

1 and Human Services that has people in its care  
2 or custody, any other Federal agency, and any  
3 prosecuting entity.

4 “(F) EVIDENCE PRESENTED.—At any  
5 placement hearing, the incarcerated person  
6 shall be permitted to offer documentary and  
7 testimonial evidence, cross-examine witnesses,  
8 and present any mitigating evidence, justifica-  
9 tion evidence, or other relevant evidence helpful  
10 in aiding the incarcerated person’s defense.

11 “(G) REPRESENTATION.—At such a hear-  
12 ing, the incarcerated person shall be permitted  
13 to represent themselves or be represented by  
14 any attorney, law student, paralegal, commu-  
15 nity advocate, or other incarcerated person of  
16 their choosing. If a person does not have their  
17 own representative, they shall be offered the as-  
18 sistance of a representative as follows:

19 “(i) For all placement hearings de-  
20 scribed in subparagraph (C), if an incar-  
21 cerated person does not select their own  
22 representative, an appointed representative  
23 shall be selected by the Assistant Attorney  
24 General for Civil Rights, employed by the  
25 Department of Justice, and independent of



1 any division or unit within the Department  
2 of Justice that has people in its care or  
3 custody or engages in any prosecuting ac-  
4 tivities, any other Federal agency, and any  
5 prosecuting entity.

6 “(ii) For all placement hearings de-  
7 scribed in subparagraph (D), if an incar-  
8 cerated person does not select their own  
9 representative, an appointed representative  
10 shall be selected by the Officer for Civil  
11 Rights and Civil Liberties, employed by the  
12 Department of Homeland Security, and  
13 independent of the Office for Civil Rights  
14 and Civil Liberties, any division or unit  
15 within the Department of Homeland Secu-  
16 rity that has people in its care or custody  
17 or engages in any prosecuting activities,  
18 any other Federal agency, and any pros-  
19 ecuting entity.

20 “(iii) For all placement hearings de-  
21 scribed in subparagraph (E), if an incar-  
22 cerated person does not select their own  
23 representative, any appointed representa-  
24 tive shall be selected by the Director of the  
25 Office for Civil Rights, employed by the

1 Department of Health and Human Serv-  
2 ices, and independent of the Office for  
3 Civil Rights, any division or unit within  
4 the Department of Health and Human  
5 Services that has people in its care or cus-  
6 tody, any other Federal agency, and any  
7 prosecuting entity.

8 “(H) NOTICE.—Not less than 2 days prior  
9 to any placement hearing, both the incarcerated  
10 person and their chosen representative shall be  
11 provided detailed written notice of the reason  
12 for proposed placement in an alternative unit  
13 including all relevant evidence, during which  
14 time the person shall not, other than for pur-  
15 poses of protective custody, be placed in such  
16 alternative unit. The individual and their cho-  
17 sen representative shall be provided adequate  
18 time to prepare for such hearings and afforded  
19 adjournments as appropriate. Any refusal by an  
20 incarcerated person to attend such hearings  
21 shall be videotaped and made part of the evi-  
22 dentiary record that shall be maintained by the  
23 relevant federal agency. Failure to provide the  
24 notice described herein or to enter into the  
25 record videotaped evidence of an alleged refusal

1 to attend by an incarcerated person shall con-  
2 stitute a basis for resolving the hearing in that  
3 person's favor.

4 “(I) WRITTEN DETERMINATION.—The  
5 neutral decision maker shall issue a written de-  
6 termination within 5 business days of the con-  
7 clusion of the placement hearing. Any finding  
8 that an incarcerated person meets the criteria  
9 of placement in an alternative unit in subpara-  
10 graph (A) shall be supported by clear and con-  
11 vincing evidence. The determination shall speci-  
12 fy the finding, a summary of each witness's tes-  
13 timony and an explanation of whether their tes-  
14 timony was credited or rejected, the evidence  
15 relied upon in reaching the finding, and the  
16 placement imposed, if any. A copy of the deter-  
17 mination shall be provided to the incarcerated  
18 person and their chosen representative within  
19 24 hours of the issuance of the determination.

20 “(5) USE OF RESTRAINTS.—

21 “(A) IN GENERAL.—No person incarcer-  
22 ated in a Federal facility shall be placed in re-  
23 straints unless subject to the following provi-  
24 sions:

1           “(B) EXCEPTIONS.—Subparagraph (A)  
2 shall not apply if facility staff make an individ-  
3 ualized determination at the time of, or imme-  
4 diately following, an incident precipitating  
5 placement in restraints that such restraints are  
6 necessary to prevent a specific and significant  
7 risk of imminent serious physical injury to the  
8 individual, other incarcerated persons, or staff  
9 based on concrete evidence of such risk.

10           “(C) LEAST RESTRICTIVE FORM.—The  
11 least restrictive form of restraints shall be used  
12 for no longer than necessary to abate such spe-  
13 cific and significant risk of imminent serious  
14 physical injury, and in no circumstances shall  
15 continue beyond 4 hours unless a supervisory  
16 medical provider determines that such re-  
17 straints are necessary to prevent such risk.

18           “(D) PLACEMENT HEARING REQUIRED.—  
19 Restraints shall not be used on the same indi-  
20 vidual on consecutive days unless a placement  
21 hearing with protections established under  
22 paragraphs (3) and (4) establishes such re-  
23 straints are necessary to prevent a specific and  
24 significant risk of imminent serious physical in-  
25 jury to the individual, other incarcerated per-

1           sons, or staff based on concrete evidence of  
2           such risk, and subject to the same limitations  
3           each day as set forth in this paragraph. Any re-  
4           peated use of restraints approved at such a due  
5           process hearing shall be no longer than 3 days,  
6           subject to the same limitations each day as set  
7           forth in this paragraph, meaningfully reviewed  
8           by a supervisory medical provider at least daily,  
9           and discontinued once restraints are no longer  
10          necessary to prevent a specific and significant  
11          risk of imminent serious physical injury to the  
12          individual, other incarcerated persons, or staff.

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

19                 “(6) SPECIAL ADMINISTRATIVE MEASURES.—  
20          Special administrative measures shall be prohibited  
21          in all Federal facilities.

22                 “(b) REPORT REQUIRED.—Within 15 days of the end  
23          of each quarter of the fiscal year, each Federal agency  
24          shall report on the website of such Federal agency the fol-  
25          lowing:

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

12           “(2) The total number of placements at each  
13          facility during the preceding quarter, separately list-  
14          ed, in confinement under subsections (a)(2)(B)(iii),  
15          (a)(2)(B)(iv), and (a)(2)(B)(v), in protective custody  
16          under subsection (a)(2)(E), and in any other alter-  
17          native units under subsection (a)(2)(E) during that  
18          quarter.

19           “(3) The total number of people at each facility  
20          on the last day of each quarter, separately listed, in  
21          confinement under subsections (a)(2)(B)(iii),  
22          (a)(2)(B)(iv), and (a)(2)(B)(v), in protective custody  
23          under subsection (a)(2)(E), and in any other alter-  
24          native units under (a)(2)(E), disaggregated by race,  
25          age, gender identity, documented mental health sta-

1       tus, documented disability, pregnancy or postpartum  
2       status, identification as lesbian, gay, bisexual,  
3       transgender, intersex, or gender nonconforming, and  
4       reason for placement.

5               “(4) The total number of placements at each  
6       facility during the preceding quarter, separately list-  
7       ed, for which confinement under subsections  
8       (a)(2)(B)(iv) and (a)(2)(B)(v) lasted for less than 1  
9       hour, between 1 and 2 hours, between 2 and 3  
10       hours, between 3 and 4 hours, and for longer than  
11       4 hours, with a listing of the length of time of each  
12       placement that exceeded 4 hours.

13               “(5) The total number of people at each facility  
14       who had reached a total period of time during the  
15       preceding quarter, separately listed, in confinement  
16       under (a)(2)(B)(iii), in protective custody under sub-  
17       section (a)(2)(E), and in any other alternative units  
18       under (a)(2)(E) of less than 7 days, between 8 days  
19       and 15 days, between 16 days and 30 days, between  
20       31 days and 45 days, between 46 days and 60 days,  
21       and for longer than 60 days, with a listing of the  
22       length of time of each person who had reached a pe-  
23       riod of time during the preceding quarter that ex-  
24       ceeded a total of 60 days in such confinement or  
25       housing.

1 “(c) PRIVATE CAUSE OF ACTION.—

2 “(1) IN GENERAL.—Any person who is injured  
3 by a violation of subsection (a) may bring a civil ac-  
4 tion in the appropriate United States district court  
5 against any person, entity, or any other relevant  
6 party who violated such subsection for declaratory  
7 and injunctive relief, including directing the closure  
8 of the facility, building, or unit where the violation  
9 took place if that facility, building, or unit is in re-  
10 peated and systemic noncompliance with this Act,  
11 and for such money damages as the court deter-  
12 mines appropriate, including for emotional pain and  
13 suffering. The court may, in addition, award reason-  
14 able attorney’s fees and costs of the action to a pre-  
15 vailing plaintiff.

16 “(2) NO LIABILITY FOR CERTAIN  
17 LOCKDOWNS.—No Federal agency shall be liable for  
18 a Federal agency-wide, facility-wide, or partial facil-  
19 ity-wide lockdown that exceeded the 4-hour limit in  
20 subsection (a)(2)(B)(v) if the agency can dem-  
21 onstrate that—

22 “(A) the lockdown, and the length of the  
23 time of the lockdown, was necessary to address  
24 unexpected, extraordinary circumstances involv-  
25 ing the detonation of an explosive device, an



1 acute mass contamination or contagion situa-  
2 tion, a violent riot, revolt, or insurrection in-  
3 volving a large number of people that resulted  
4 in the taking of a hostage, major property dam-  
5 age, or serious physical harm to a person, or  
6 other similar emergency of the same magnitude  
7 involving a large group of people;

8 “(B) the head of facility who authorized  
9 the lockdown complied with all notification re-  
10 quirements, and received approval from the  
11 agency regional or field office, or equivalent of-  
12 fice responsible for oversight of the facility, at  
13 the time the lockdown lasted longer than 4  
14 hours;

15 “(C) the head of the applicable Federal  
16 agency approved of the lockdown if the  
17 lockdown exceeded 8 hours and the approval oc-  
18 curred at that time;

19 “(D) the lockdown was ended as quickly as  
20 possible, did not last longer than necessary to  
21 address the unexpected, extraordinary cir-  
22 cumstances, and did not exceed 24 hours; and

23 “(E) the lockdown was not used as a sub-  
24 stitute for medical isolation or quarantine nor  
25 individual lock-ins pursuant to subsections

1 (a)(2)(B)(iii) and (a)(2)(B)(iv), nor as a way to  
2 circumvent the time limits or protections for  
3 people held under those subsections.

4 “(3) Any person who is injured by a violation  
5 of the U.S. Constitution by a Federal official or per-  
6 son contracting with a Federal agency in a Federal  
7 facility may bring a civil action in the appropriate  
8 United States district court against any person, enti-  
9 ty, or relevant party who violated such constitutional  
10 provision for declaratory and injunctive relief, in-  
11 cluding directing the closure of the facility, building,  
12 or unit where the violation took place, and for such  
13 money damages as the court determines appropriate,  
14 including for emotional pain and suffering. The  
15 court may, in addition, award reasonable attorney’s  
16 fees and costs of the action to a prevailing plain-  
17 tiff.”.

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

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

22 **SEC. 4. OVERSIGHT.**

23 (a) IN GENERAL.—Chapter 301 of title 18, United  
24 States Code, is further amended by adding at the end the  
25 following:

1 **“§ 4016. Oversight**

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

13       “(b) APPOINTMENT.—The Attorney General, in con-  
14 sultation with the Assistant Attorney General for Civil  
15 Rights at the Department of Justice, Officer for Civil  
16 Rights and Civil Liberties at the Department of Homeland  
17 Security, and Director of the Office for Civil Rights at  
18 the Department of Health and Human Services, and after  
19 obtaining input and recommendations from community or-  
20 ganizations that provide educational services and legal  
21 support to incarcerated persons or otherwise advocate for  
22 the rights of incarcerated people and an end to solitary  
23 confinement, shall appoint no less than 15 people to serve  
24 as members of the community monitoring body.

25       “(c) MEMBERSHIP.—Each member of the community  
26 monitoring body shall be a person who has survived soli-

1 tary confinement, has had loved ones in solitary confine-  
2 ment or lost loved ones because of solitary confinement,  
3 is a faith leader, medical or mental health professional,  
4 or is a civil rights or human rights advocate. All members  
5 shall have had some experience engaging in advocacy,  
6 service provision, or program operation aimed at enhanc-  
7 ing the rights and treatment of people incarcerated. No  
8 less than half of all members shall be people who have  
9 been incarcerated or have had family members incarcer-  
10 ated.

11       “(d) MEMBERSHIP TERM.—Members of the commu-  
12 nity monitoring body shall be appointed for a term of 5  
13 years, with the possibility of 1 reappointment by the Attor-  
14 ney General for a total of 10 years. Each member shall  
15 be reimbursed by the Department of Justice for their per  
16 diem expenses in connection with service on the commu-  
17 nity monitoring body.

18       “(e) ASSISTANCE.—The community monitoring body  
19 shall have the ability to designate any person to assist the  
20 work of the community monitoring body.

21       “(f) ACCESS.—Notwithstanding any other provision  
22 of law, the community monitoring body and its designees  
23 shall have the ability to make unannounced visits to Fed-  
24 eral agencies and Federal facilities, and have access to

1 every area of every Federal facility and all nonclassified,  
2 nonprivileged data from every Federal agency.

3 “(g) IN-PERSON INTERVIEWS.—The community  
4 monitoring body and its designees shall have the ability  
5 to conduct in-person interviews and correspond and com-  
6 municate with incarcerated persons and Federal agency  
7 and Federal facility staff freely, privately, and confiden-  
8 tially, upon consent of the incarcerated person or staff.

9 “(h) MEETINGS.—Administrators of each Federal  
10 agency and facility shall meet privately with the commu-  
11 nity monitoring body or its designees upon request.

12 “(i) CONFIDENTIAL COMMUNICATIONS.—(1) All peo-  
13 ple incarcerated in Federal facilities shall have the right  
14 and access to confidentially communicate with the commu-  
15 nity monitoring body and its designees, including while the  
16 community monitoring body or its designees are at a Fed-  
17 eral facility and through free phone calls, free mail cor-  
18 respondence, and free email correspondence. These com-  
19 munications shall be afforded the same levels of protec-  
20 tion, confidentiality, and privilege as attorney-client cor-  
21 respondence.

22 “(2) No person shall face any form of retaliation or  
23 adverse impact for having contact with, or being perceived  
24 to have had contact with, the community monitoring body  
25 or its designees.

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

5           “(j) 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           “(k) ACCESS TO CERTAIN INFORMATION.—(1) The  
13 community monitoring body and its designees shall have  
14 the right to receive, access, inspect, and copy all relevant  
15 non-classified, non-privileged information, records, and  
16 documents in the possession or control of any Federal fa-  
17 cility, Federal agency, or employee of any Federal facility  
18 or Federal agency.

19           “(2) The community monitoring body and its des-  
20 ignees shall receive any such records within 7 days of a  
21 request to the head of a Federal facility or Federal agency.  
22 Where the records requested by the community monitoring  
23 body or its designees pertain to a death of an incarcerated  
24 person, threats of bodily harm including sexual or physical  
25 assaults, or the denial of necessary medical treatment, the

1 records shall be provided within 48 hours unless members  
2 of the community monitoring body or their designees con-  
3 sent to an extension of the deadline.

4       “(l) RECOMMENDATIONS.—The community moni-  
5 toring body may make periodic recommendations to any  
6 Federal agency or Federal facility, as well as to the Presi-  
7 dent, Attorney General, Secretary of Homeland Security,  
8 Secretary of Health and Human Services, House Com-  
9 mittee on the Judiciary, House Committee on Oversight  
10 and Accountability, Senate Committee on the Judiciary,  
11 Senate Committee on Homeland Security and Govern-  
12 mental Affairs, and other government entities. For any  
13 recommendations made by the community monitoring  
14 body to each Federal agency or Federal facility, such  
15 agency or facility shall report to the community moni-  
16 toring body within 90 days whether it has designed and  
17 implemented a remedial action plan to address the rec-  
18 ommendations, and transmit any such remedial action  
19 plan to the community monitoring body. The community  
20 monitoring body may publish its findings and rec-  
21 ommendations on its website.

22       “(m) ACCESS FOR CERTAIN INDIVIDUALS.—Rep-  
23 resentatives of the news media, public defenders, Legal  
24 Orientation Program representatives, elected Federal,

1 State, and local representatives, and their designees, shall  
2 have the ability to—

3 “(1) make unannounced visits to Federal agen-  
4 cies and Federal facilities and access every area of  
5 every Federal facility, except that access to enter the  
6 cell of a person incarcerated in the Federal facility  
7 shall only be granted with the consent of the person  
8 housed in that cell, and to enter a bathroom or  
9 shower area when such areas are unoccupied by peo-  
10 ple incarcerated in the Federal facility;

11 “(2) receive in a timely manner, pursuant to  
12 the Freedom of Information Act (5 U.S.C. 552), or  
13 any successor thereto, all requested data from every  
14 Federal agency that has people in its care or cus-  
15 tody; and

16 “(3) correspond with and interview, with the  
17 ability to take notes and use electronic and other re-  
18 cording devices, incarcerated persons freely, pri-  
19 vately, and confidentially upon their consent.

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



1 (b) CLERICAL AMENDMENT.—The table of contents  
2 for chapter 301 of title 18, United States Code, is amend-  
3 ed by inserting after the item relating to section 4015 as  
4 added by section 3 the following:

“4016. Oversight.”.

5 **SEC. 5. CREATING STATE INCENTIVES TO END SOLITARY**  
6 **CONFINEMENT.**

7 (a) IN GENERAL.—Chapter 301 of title 18, United  
8 States Code, is further amended by inserting after section  
9 4016, as amended in section 4, the following:

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

12 “(a) IN GENERAL.—Any State or local entity receiv-  
13 ing any Federal funds from section 500 of the Omnibus  
14 Crime Control and Safe Streets Act of 1968 (34 U.S.C.  
15 10151 et seq.) shall annually certify to the Attorney Gen-  
16 eral with comprehensive documentation that the State or  
17 local entity has in effect (or shall have in effect, not later  
18 than 6 months after the date of enactment of this Act)  
19 laws, policies, and programs that substantially comply  
20 with section 3 of this Act to fully and meaningfully end  
21 solitary confinement and ensure all people in the States’  
22 and localities’ prisons, jails, and detention centers, have  
23 access to at least 14 hours of out-of-cell congregate inter-  
24 action in a shared space, without physical barriers, that  
25 is conducive to meaningful group interaction.

1       “(b) PENALTY.—Beginning in the first fiscal year  
 2 that begins after the date of enactment of this Act, in the  
 3 case of a State or local entity that is not in substantial  
 4 compliance with section 3 of the End Solitary Confine-  
 5 ment Act, or an amendment made by such Act, the Attor-  
 6 ney General shall reduce by at least 10 percent the total  
 7 amount that such State or unit of local government would  
 8 otherwise receive from section 500 of the Omnibus Crime  
 9 Control and Safe Streets Act of 1968 (34 U.S.C. 10151  
 10 et seq.), except that funding for public defenders, commu-  
 11 nity-based mental health care, community-based drug  
 12 treatment, community-based violence interruption, and  
 13 other similar community-based non-carceral and non-po-  
 14 licing services shall be exempted from any reductions.”.

15       (b) CLERICAL AMENDMENT.—The table of contents  
 16 for chapter 301 of title 18, United States Code, is amend-  
 17 ed by inserting after the item relating to section 4016 as  
 18 added by section 4 the following:

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

19 **SEC. 6. DEFINITIONS.**

20       (a) IN GENERAL.—Chapter 301 of title 18, United  
 21 States Code, is further amended by inserting after section  
 22 401,7 as amended in section 5, the following:

23 **“§ 4018. Certain definitions.**

24       “In sections 4015, 4016, and 4017:

1           “(1) ALTERNATIVE UNIT.—The term ‘alter-  
2 native unit’ means any unit that is separate from  
3 the general facility population or is in any way more  
4 restrictive than the general facility population in  
5 terms of access to programming, services, or other  
6 aspects of daily life.

7           “(2) ATTEMPTING.—The term ‘attempting’  
8 means having the intent to carry out a particular act  
9 and completing significant steps in the advancement  
10 of the attempt. Evidence of withdrawal or abandon-  
11 ment of a plan to carry out the act shall negate a  
12 finding of intent.

13           “(3) FEDERAL AGENCY.—The term ‘Federal  
14 agency’ means the Federal Bureau of Prisons, U.S.  
15 Immigration and Customs Enforcement, Department  
16 of Homeland Security, U.S. Customs and Border  
17 Protection, Office of Refugee Resettlement, United  
18 States Marshals Service, Department of Health and  
19 Human Services, any other Federal agency that has  
20 people in its care or custody, and any Federal,  
21 State, local, or private entity that has contracted  
22 with any of these or other Federal agencies for hold-  
23 ing or providing services to people in their care or  
24 custody.

1           “(4) FEDERAL FACILITY.—The term ‘Federal  
2 facility’ means a Federal Bureau of Prisons facility,  
3 U.S. Immigration and Customs Enforcement facil-  
4 ity, Department of Homeland Security facility, U.S.  
5 Customs and Border Protection facility, Office of  
6 Refugee Resettlement facility, United States Mar-  
7 shals Service facility, Department of Health and  
8 Human Services facility, any other facility operated  
9 by a Federal agency that has people in its care or  
10 custody, and any Federal, State, local, or private fa-  
11 cility that has contracted with any Federal agencies  
12 for incarcerating people in their care or custody or  
13 providing services to incarcerated people in their  
14 care or custody.

15           “(5) HEALTH CARE STAFF.—The term ‘health  
16 care staff’ means people who are employed, con-  
17 tracted, or volunteer to provide medical, mental, and  
18 behavioral health care services at a Federal facility.

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

22           “(7) MENTAL HEALTH NEED.—The term ‘men-  
23 tal health need’ means having any current mental  
24 health diagnosis by any medical or mental health

1 professional, or having had any such mental health  
2 diagnosis in the previous two years.

3 “(8) MULTIDISCIPLINARY TEAM.—The term  
4 ‘multidisciplinary team’ means a group of staff or  
5 other people working or operating in a Federal facil-  
6 ity who have different professional backgrounds and  
7 roles in the facility, and which shall include program  
8 and health care staff.

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

13 “(10) PROTECTIVE CUSTODY.—The term ‘pro-  
14 tective custody’ means any housing of a person for  
15 their own protection.

16 “(11) REPRESENTATIVE OF THE NEWS  
17 MEDIA.—The term ‘representative of the news  
18 media’ means any person or entity that gathers in-  
19 formation of potential interest to a segment of the  
20 public, uses its editorial skills to turn the raw mate-  
21 rials into a distinct work, and distributes that work  
22 to an audience.

23 “(12) SOLITARY CONFINEMENT.—The term  
24 ‘solitary confinement’ means being confined in a cell

1 or other space without access to meaningful group  
2 interaction in a shared space.

3 “(13) SPECIAL ADMINISTRATIVE MEASURES.—  
4 The term ‘special administrative measures’ means  
5 the special administrative measures under section  
6 501.3 of title 28 of the Code of Federal Regulations,  
7 or any successor thereto.

8 “(14) SUPERVISORY MEDICAL PROVIDER.—The  
9 term ‘supervisory medical provider’ means a prac-  
10 ticing doctor, nurse practitioner, or physician assist-  
11 ant who has supervisory responsibilities over other  
12 medical staff in a Federal facility.”.

13 (b) CLERICAL AMENDMENT.—The table of contents  
14 for chapter 301 of title 18, United States Code, is amend-  
15 ed by inserting after the item relating to section 4018 as  
16 added by section 5 the following:

“4018. Certain definitions.”.

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

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

22 “(e) LIMITATION ON RECOVERY.—No Federal civil  
23 action may be brought by a prisoner confined in a jail,  
24 prison, or other correctional facility, for mental or emo-  
25 tional injury suffered while in custody without a prior

1 showing of physical injury, the commission of a sexual act  
2 (as defined in section 2246 of title 18), or placement in  
3 solitary confinement or an alternative unit (as defined in  
4 section 4015 of title 18).”.

5 **SEC. 8. REVISIONS TO STANDARD OPERATING PROCE-**  
6 **DURES AND STANDARDS.**

7 Each Federal agency shall incorporate the require-  
8 ments of this Act into the relevant standards and proce-  
9 dures governing confinement and shall monitor compliance  
10 with the requirements of this Act.

11 **SEC. 9. APPROPRIATIONS AND PROHIBITION ON USE OF**  
12 **FUNDS.**

13 No sums appropriated to carry out the provisions of  
14 this Act may be used for any—

15 (1) Buildings and Facilities Appropriations for  
16 the Bureau of Prisons;

17 (2) Procurement, Construction, and Improve-  
18 ments Appropriations for the Department of Home-  
19 land Security, including Immigration and Customs  
20 Enforcement and Customs and Border Protection;

21 (3) Constructions Appropriations for the U.S.  
22 Marshal Service; Buildings and Facilities Appropria-  
23 tions for the Department of Health and Human  
24 Services, including the Administration for Children

1 and Families and the Office of Refugee Resettle-  
2 ment;

3 (4) Federal agency to construct facilities where  
4 people will be incarcerated or to construct or ren-  
5 ovate buildings or spaces within facilities where peo-  
6 ple are or will be incarcerated; and

7 (5) Federal agency to construct, install, or in-  
8 troduce any weapons, any objects or devices or  
9 mechanisms restricting a person's or people's move-  
10 ment in any way, or any other objects or mecha-  
11 nisms that limit movement or create more restrictive  
12 environments.

13 **SEC. 10. SEVERABILITY.**

14 If any provision of this Act or the application thereof  
15 to any person or circumstance is held invalid, the remain-  
16 der of this Act, or the application of that provision to per-  
17 sons or circumstances other than those as to which it is  
18 held invalid, is not affected thereby.

19 **SEC. 11. EFFECTIVE DATE.**

20 This Act and the amendments made by this Act shall  
21 take full effect no later than 60 days after the date of  
22 enactment of this Act.

○