

118TH CONGRESS
2D SESSION

S. 4119

To limit the use of solitary confinement and other forms of restrictive housing
in immigration detention, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 15, 2024

Mr. DURBIN (for himself and Mr. SCHATZ) introduced the following bill; which
was read twice and referred to the Committee on the Judiciary

A BILL

To limit the use of solitary confinement and other forms
of restrictive housing in immigration detention, and for
other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Restricting Solitary Confinement in Immigration Deten-
6 tion Act of 2024”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Solitary confinement reforms.

- Sec. 4. Reassessment of detained noncitizens' mental health.
 Sec. 5. Oversight responsibilities.
 Sec. 6. Private cause of action.
 Sec. 7. Rulemaking.
 Sec. 8. Authorization of appropriations.
 Sec. 9. Effective date.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **APPROPRIATE LEVEL OF CARE.**—The term
 4 “appropriate level of care” means the appropriate
 5 treatment setting for mental health care that a de-
 6 tained noncitizen with mental illness requires, which
 7 may include outpatient care, emergency or crisis
 8 services, day treatment, supported residential hous-
 9 ing, infirmary care, or inpatient psychiatric hos-
 10 pitalization services.

11 (2) **INTELLECTUAL DISABILITY.**—The term “in-
 12 tellectual disability” means a significant mental im-
 13 pairment characterized by significant limitations in
 14 intellectual functioning and adaptive behavior.

15 (3) **LONGER-TERM SEPARATION.**—The term
 16 “longer-term separation” means a nonpunitive form
 17 of separation that removes a detained noncitizen
 18 from the general population of a detention center or
 19 other facility in which the noncitizen is being de-
 20 tained for—

21 (A) investigative, protective, or preventa-
 22 tive reasons because of a substantial and imme-

1 diate threat to the safety or security of the de-
2 tained noncitizen, other detained noncitizens,
3 staff, or the public; or

4 (B) temporary administrative reasons.

5 (4) MULTIDISCIPLINARY STAFF COMMITTEE.—

6 The term “multidisciplinary staff committee” means
7 a committee—

8 (A) composed of staff at the facility at
9 which a detained noncitizen resides who are re-
10 sponsible for reviewing the initial placement of
11 the noncitizen in longer-term separation and
12 any extensions of time in longer-term separa-
13 tion; and

14 (B) that includes—

15 (i) not fewer than 2 licensed mental
16 health professionals;

17 (ii) not fewer than 2 medical profes-
18 sionals; and

19 (iii) not fewer than 1 member of the
20 leadership of the facility.

21 (5) NONCITIZEN.—The term “noncitizen” has
22 the meaning given the term “alien” in section
23 101(a) of the Immigration and Nationality Act (8
24 U.S.C. 1101(a)).

1 (6) PROTECTION CASE.—The term “protection
2 case” means a detained noncitizen who, by the re-
3 quest of the noncitizen or through a staff determina-
4 tion, requires protection.

5 (7) SECRETARY.—The term “Secretary” means
6 the Secretary of Homeland Security.

7 (8) SERIOUS MENTAL ILLNESS.—The term “se-
8 rious mental illness” means—

9 (A) a finding by a qualified mental health
10 professional that the detained noncitizen is at
11 serious risk of substantially deteriorating men-
12 tally or emotionally while confined in solitary
13 confinement or longer-term separation, or al-
14 ready has so deteriorated while confined in soli-
15 tary confinement or longer-term separation,
16 such that diversion or removal is deemed to be
17 clinically appropriate by a qualified mental
18 health professional; or

19 (B) a current or recent diagnosis by a
20 qualified mental health professional of 1 or
21 more of the following disorders and any com-
22 parable disorders described in the most recent
23 edition of the Diagnostic and Statistical Manual
24 of Mental Disorders:

1 (i) Schizophrenia or another psychotic
2 disorder.

3 (ii) Major depressive disorder.

4 (iii) Any type of bipolar disorder.

5 (iv) A neurodevelopmental disorder,
6 dementia, or other cognitive disorder, in-
7 cluding autism spectrum disorder.

8 (v) Any disorder commonly character-
9 ized by breaks with reality or perceptions
10 of reality.

11 (vi) Any type of anxiety disorders.

12 (vii) Trauma or stressor related dis-
13 order.

14 (viii) Severe personality disorders.

15 (9) SOLITARY CONFINEMENT.—The term “solitary
16 confinement” means confinement in a cell,
17 other housing location, or other space that is not
18 shared space conducive to meaningful group inter-
19 action, whether alone or with 1 or more other de-
20 tained noncitizens.

21 (10) SUBSTANTIAL AND IMMEDIATE THREAT.—
22 The term “substantial and immediate threat” means
23 a set of circumstances that require immediate action
24 in order to combat a significant threat to the safety

1 of a detained noncitizen, other detained noncitizens,
2 staff, or the public.

3 (11) U.S. CUSTOMS AND BORDER PROTECTION
4 FACILITY.—The term “U.S. Customs and Border
5 Protection facility” means—

6 (A) a detention facility owned and adminis-
7 tered by U.S. Customs and Border Protection;
8 or

9 (B) a Federal, State, local, or private facil-
10 ity that has contracted (directly or indirectly)
11 with U.S. Customs and Border Protection to
12 detain noncitizens in Federal custody, and re-
13 gardless of any time limits that exist for the du-
14 ration of the detention in such a facility.

15 (12) U.S. IMMIGRATION AND CUSTOMS EN-
16 FORCEMENT FACILITY.—The term “U.S. Immigra-
17 tion and Customs Enforcement facility” means—

18 (A) a detention facility owned and adminis-
19 tered by U.S. Immigration and Customs En-
20 forcement; or

21 (B) a Federal, State, local, or private facil-
22 ity that has contracted (directly or indirectly)
23 with U.S. Immigration and Customs Enforce-
24 ment to detain noncitizens in Federal custody,
25 including a facility of the United States Mar-

1 shals Service that houses detained noncitizens,
2 and regardless of any time limits that exist for
3 the duration of the detention in such a facility.

4 **SEC. 3. SOLITARY CONFINEMENT REFORMS.**

5 (a) USE OF SOLITARY CONFINEMENT AND LONGER-
6 TERM SEPARATION.—

7 (1) USE OF SOLITARY CONFINEMENT.—A de-
8 tained noncitizen may not be placed in solitary con-
9 finement within a U.S. Immigration and Customs
10 Enforcement or U.S. Customs and Border Protec-
11 tion facility unless such confinement—

12 (A) is necessary to address immediate cir-
13 cumstances that pose a substantial and imme-
14 diate threat;

15 (B) is limited to the briefest term and the
16 least restrictive conditions practicable, includ-
17 ing—

18 (i) not more than 8 hours immediately
19 following an incident precipitating place-
20 ment in solitary confinement;

21 (ii) not more than 8 hours during any
22 24-hour period; and

23 (iii) not more than 16 hours during
24 any 7-day period; and

1 (C) complies with the provisions of this
2 section.

3 (2) USE OF LONGER-TERM SEPARATION.—A de-
4 tained noncitizen may not be placed in longer-term
5 separation within a U.S. Immigration and Customs
6 Enforcement or U.S. Customs and Border Protec-
7 tion facility unless such separation—

8 (A) is limited to the briefest term and the
9 least restrictive conditions practicable, including
10 not fewer than 10 hours of out-of-cell time
11 every day;

12 (B) is consistent with the rationale for
13 placement and with the progress achieved by
14 the detained noncitizen;

15 (C) allows a detained noncitizen to have
16 meaningful access to counsel and to participate
17 in meaningful out-of-cell group programming
18 opportunities in a classroom or equivalent set-
19 ting, out-of-cell group recreation, and privileges
20 that are similar to those available in the general
21 population;

22 (D) allows the detained noncitizen to have
23 as much meaningful interaction with others,
24 such as other detained noncitizens, counsel,

1 visitors, clergy, or licensed mental health pro-
2 fessionals, as people in the general population;

3 (E) is for the purposes of longer-term sep-
4 aration as detailed in the provisions of this sec-
5 tion;

6 (F) is determined to be necessary following
7 the consideration of all alternatives by facility
8 personnel, including release; and

9 (G) complies with the provisions under this
10 section.

11 (3) SPECIFIC LIMITATIONS ON LONGER-TERM
12 SEGREGATION.—The Secretary—

13 (A) shall limit longer-term separation in
14 U.S. Immigration and Customs Enforcement
15 and U.S. Customs and Border Protection facili-
16 ties—

17 (i) to situations in which such separa-
18 tion is necessary to control a substantial
19 and immediate threat that cannot be ad-
20 dressed through alternative housing; and

21 (ii) to a duration of not more than 7
22 consecutive days, and not more than 7
23 days in a 14-day period, unless the de-
24 tained noncitizen—

1 (I) is a protection case and re-
2 quests to remain in longer-term sepa-
3 ration pursuant to paragraph
4 (4)(B)(i);

5 (II) is provided with additional
6 out-of-cell time, socialization, and pro-
7 gramming opportunities; and

8 (III) is provided with not fewer
9 than 10 hours of out-of-cell time each
10 day; and

11 (B) may not permit the use of solitary con-
12 finement or longer-term separation as a form of
13 discipline.

14 (4) PROTECTIVE CUSTODY.—The Secretary—

15 (A) shall establish policies to ensure that a
16 noncitizen who is a protection case—

17 (i) upon the request of such noncit-
18 izen, is released with a care plan; or

19 (ii) if release is not practicable, is
20 transferred to the least restrictive safer al-
21 ternative available, such as—

22 (I) an alternative to detention;

23 (II) an alternative general popu-
24 lation unit in the same U.S. Immigra-
25 tion and Customs Enforcement or

1 U.S. Customs and Border Protection
2 facility; or

3 (III) an alternative U.S. Immi-
4 gration and Customs Enforcement or
5 U.S. Customs and Border Protection
6 facility; and

7 (B) may not place a detained noncitizen
8 who is a protection case in solitary confinement
9 or longer-term separation due to the status of
10 the noncitizen as a protection case unless—

11 (i) the noncitizen requests to be
12 placed in solitary confinement or longer-
13 term separation, in which case—

14 (I) at the request of such noncit-
15 izen, the noncitizen shall be released
16 with a care plan; or

17 (II) if release is not practicable,
18 the noncitizen is transferred to the
19 least restrictive safer alternative avail-
20 able, such as—

21 (aa) an alternative to deten-
22 tion;

23 (bb) an alternative general
24 population unit in the same U.S.
25 Immigration and Customs En-

1 enforcement or U.S. Customs and
2 Border Protection facility; or

3 (cc) an alternative U.S. Im-
4 migration and Customs Enforce-
5 ment or U.S. Border Protection
6 facility;

7 (ii) such confinement is limited to—

8 (I) not more than 8 hours of soli-
9 tary confinement and not more than 5
10 days of longer-term separation; and

11 (II) time to prepare the noncit-
12 izen for transfer to a safer alternative,
13 such as any of the alternatives de-
14 scribed in items (aa) through (cc) of
15 clause (i)(II); and

16 (iii) the noncitizen has been verbally
17 informed of any available alternatives; and

18 (C) not later than 90 days after the date
19 of the enactment of this Act, shall—

20 (i) initiate a plan to ensure that each
21 U.S. Immigration and Customs Enforce-
22 ment or U.S. Customs and Border Protec-
23 tion facility includes alternative general
24 population units in accordance with sub-

1 paragraphs (A)(ii)(II) and (B)(i)(II)(bb);
2 and

3 (ii) submit a report on the implemen-
4 tation of such plan to—

5 (I) the Committee on Homeland
6 Security and Governmental Affairs of
7 the Senate;

8 (II) the Committee on the Judici-
9 ary of the Senate;

10 (III) the Committee on Home-
11 land Security of the House of Rep-
12 resentatives; and

13 (IV) the Committee on the Judi-
14 ciary of the House of Representatives.

15 (5) VULNERABLE POPULATIONS.—

16 (A) IN GENERAL.—A U.S. Immigration
17 and Customs Enforcement or U.S. Customs
18 and Border Protection facility may not place a
19 detained noncitizen in solitary confinement if—

20 (i) except as provided in subparagraph

21 (B), the detained noncitizen—

22 (I) is younger than 25 years of
23 age;

24 (II) has a serious mental illness
25 or an intellectual disability;

1 (III) has a physical disability
2 that a licensed medical professional
3 determines is likely to be exacerbated
4 by placement in solitary confinement
5 or that solitary confinement is clini-
6 cally contraindicated;

7 (IV) is pregnant or is in the first
8 8 weeks of the postpartum recovery
9 period after giving birth; or

10 (V) has been determined by a li-
11 censed medical professional to be like-
12 ly to be significantly adversely af-
13 fected by placement in solitary con-
14 finement;

15 (ii) the detained noncitizen is lesbian,
16 gay, bisexual, transgender, intersex, or
17 gender nonconforming (as such terms are
18 defined in section 115.5 of title 28, Code
19 of Federal Regulations, or in any successor
20 regulation), if such placement is based (in
21 whole or in part) on such identification or
22 status;

23 (iii) the detained noncitizen is HIV
24 positive, if the placement is based (in

1 whole or in part) on such HIV positive sta-
2 tus;

3 (iv) the placement is based (in whole
4 or in part) on the detained noncitizen's
5 race, religion, or nationality; or

6 (v) if the noncitizen is not a protec-
7 tion case, the placement is based (in whole
8 or in part) on—

9 (I) the detained noncitizen's re-
10 port of an incident of abuse or mis-
11 conduct;

12 (II) the detained noncitizen's de-
13 cision to engage in a hunger strike; or

14 (III) any other form of retalia-
15 tion against the detained noncitizen.

16 (B) EXCEPTIONS.—The limitation on soli-
17 tary confinement described in subparagraph
18 (A)(i) shall not apply if—

19 (i) such confinement is a temporary
20 response to the behavior of the detained
21 noncitizen, which poses a substantial and
22 immediate threat;

23 (ii) all other options to de-escalate the
24 situation have been exhausted, including
25 less restrictive techniques such as—

1 (I) penalizing the detained non-
2 citizen through loss of privileges;

3 (II) speaking with the detained
4 noncitizen in an attempt to de-esca-
5 late the situation; and

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

9 (iii) such confinement is limited to—

10 (I) 3 hours after the detained
11 noncitizen is placed in solitary con-
12 finement, if the noncitizen poses a
13 substantial and immediate threat to
14 others; or

15 (II) 30 minutes after the de-
16 tained noncitizen is placed in solitary
17 confinement, if the noncitizen poses a
18 substantial and immediate threat only
19 to the noncitizen's self; and

20 (iv) if, after the applicable maximum
21 period of confinement under subclause (I)
22 or (II) of clause (iii) has expired, the de-
23 tained noncitizen continues to pose a sub-
24 stantial and immediate threat described in
25 the applicable subclause—

1 (I) the detained noncitizen is
2 transferred to the least restrictive
3 safer alternative available pursuant to
4 paragraph (4)(B)(i)(II); or

5 (II) if a qualified mental health
6 professional believes the level of crisis
7 service needed is not currently avail-
8 able, a staff member of the facility
9 initiates a referral to a location that
10 can meet the needs of the detained
11 noncitizen.

12 (6) ACCESS TO COUNSEL.—Noncitizens placed
13 in solitary confinement and longer-term separation
14 shall be—

15 (A) offered meaningful access to counsel to
16 the same extent that detained noncitizens in the
17 general population are offered access to counsel;
18 and

19 (B) notified in writing of their right to ac-
20 cess to counsel before being placed in solitary
21 confinement or longer-term separation.

22 (7) RIGHT TO REVIEW PLACEMENT IN LONGER-
23 TERM SEPARATION.—The Secretary shall ensure
24 that each noncitizen placed in longer-term separa-
25 tion—

1 (A) not later than 4 hours after the begin-
2 ning of such placement, has access to written
3 and verbal notice, in a language the noncitizen
4 understands, that thoroughly details the basis
5 for placement in longer-term separation, includ-
6 ing—

7 (i) thorough documentation explaining
8 why such confinement is permissible and
9 necessary; and

10 (ii) if an exception under paragraph
11 (3)(A)(ii), (4)(B), or (5)(B) is used to jus-
12 tify placement in longer-term separation,
13 thorough documentation explaining why
14 such an exception applies;

15 (B) has access to a timely, thorough, and
16 continuous review process that—

17 (i) occurs not fewer than 2 days after
18 being placed in longer-term separation, and
19 thereafter not less frequently than weekly,
20 unless more frequent reviews are otherwise
21 required under this section;

22 (ii) includes private, face-to-face inter-
23 views with a multidisciplinary staff com-
24 mittee; and

25 (iii) examines whether—

1 (I) placement in solitary confine-
2 ment was and remains necessary;

3 (II) the conditions of confinement
4 comply with the requirements under
5 this section; and

6 (III) any exception under para-
7 graph (3)(A)(ii), (4)(B), or (5)(B)
8 used to justify placement in longer-
9 term separation was and remains war-
10 ranted;

11 (C) has access to a process to appeal the
12 initial placement or continued placement of the
13 detained noncitizen in longer-term separation;

14 (D) receives prompt and timely written no-
15 tice of the appeal procedures; and

16 (E) receives copies of all documents, files,
17 and records relating to the detained noncitizen's
18 placement in longer-term separation, unless
19 such documents contain contraband, classified
20 information, or sensitive security-related infor-
21 mation.

22 (b) MENTAL HEALTH CARE FOR NONCITIZENS IN
23 LONGER-TERM SEPARATION.—

24 (1) MENTAL HEALTH SCREENING.—Not later
25 than 6 hours after a detained noncitizen is placed in

1 longer-term separation in a U.S. Immigration and
2 Customs Enforcement or U.S. Customs and Border
3 Protection facility, the noncitizen shall receive a
4 comprehensive, face-to-face mental health evaluation
5 by a licensed mental health professional in a con-
6 fidential setting.

7 (2) MENTAL HEALTH TREATMENT PROGRAM.—
8 A detained noncitizen diagnosed with a serious men-
9 tal illness after an evaluation described in paragraph
10 (1)—

11 (A) may not be placed in solitary confine-
12 ment; and

13 (B) shall receive an appropriate level of
14 care to address the detained noncitizen’s mental
15 health needs.

16 (3) CONTINUING EVALUATIONS.—After each 7-
17 day period during which a detained noncitizen is
18 held in continuous placement in longer-term separa-
19 tion—

20 (A) a licensed mental health professional
21 shall conduct a comprehensive, face-to-face, out-
22 of-cell mental health evaluation of the noncit-
23 izen in a confidential setting; and

1 (B) the Secretary shall adjust the place-
2 ment of the noncitizen in accordance with this
3 subsection.

4 (c) TRAINING FOR DETENTION CENTER STAFF.—

5 (1) TRAINING.—All employees of a U.S. Immi-
6 gration and Customs Enforcement or U.S. Customs
7 and Border Protection facility and any contracted
8 personnel working at such facility who interact with
9 noncitizens on a regular basis shall be required to
10 complete training in—

11 (A) recognizing the symptoms of mental
12 illness;

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

15 (C) the consequences of untreated mental
16 illness;

17 (D) the long- and short-term psychological
18 effects of solitary confinement;

19 (E) the harms faced by vulnerable popu-
20 lations in solitary confinement;

21 (F) the benefits of release from detention
22 for vulnerable populations;

23 (G) de-escalation and communication tech-
24 niques for safely managing individuals with
25 mental illness; and

1 (H) de-escalation and communication tech-
2 niques for diverting detained noncitizens from
3 situations that may lead to the noncitizen being
4 placed in solitary confinement or longer-term
5 separation.

6 (2) NOTIFICATION TO MEDICAL STAFF.—An
7 employee of a U.S. Immigration and Customs En-
8 forcement or U.S. Customs and Border Protection
9 facility shall immediately notify a member of such
10 facility’s medical or mental health staff if such em-
11 ployee—

12 (A) observes a detained noncitizen with
13 signs of mental illness, unless such employee
14 has knowledge that the noncitizen’s signs of
15 mental illness have previously been reported; or

16 (B) observes a detained noncitizen with
17 signs of a mental health crisis;

18 (3) SUPPLEMENTAL TRAINING.—Not later than
19 90 days after the date of the enactment of this Act,
20 all employees of U.S. Immigration and Customs En-
21 forcement or U.S. Customs and Border Protection
22 who regularly interact with detained noncitizens, su-
23 pervise detention facility personnel, or review soli-
24 tary confinement or longer-term separation place-
25 ments shall complete supplemental training in the

1 policies governing the use of solitary confinement
2 and longer-term separation required by this Act.

3 (d) REPORTING REQUIREMENTS.—

4 (1) DAILY TRACKING OF SOLITARY CONFINEMENT.—Each U.S. Immigration and Customs En-
5 forcement or U.S. Customs and Border Protection
6 facility shall submit a daily report to the Director of
7 U.S. Immigration and Customs Enforcement, the
8 Commissioner of U.S. Customs and Border Protec-
9 tion, and the Office of the Principal Legal Advisor
10 of the Department of Homeland Security that iden-
11 tifies, with respect to the applicable day—
12

13 (A) any detained noncitizens who were
14 placed in solitary confinement or longer-term
15 separation, including—

16 (i) the rationale behind each such
17 placement;

18 (ii) whether any exception listed in
19 subsection (a) was used to justify place-
20 ment in solitary confinement or increased
21 restrictive conditions in solitary confine-
22 ment was applied; and

23 (iii) any steps that were taken by fa-
24 cility personnel to seek alternatives to plac-

1 ing each individual noncitizen in solitary
2 confinement or longer-term separation;

3 (B) the continued detention of any nonciti-
4 zens in longer-term separation, including—

5 (i) the number of days such nonciti-
6 zens have been detained in longer-term
7 separation; and

8 (ii) an explanation of the application
9 of any exception listed in subsection (a)
10 that was used to justify an adjustment to
11 the noncitizen’s time or conditions in
12 longer-term separation; and

13 (C) the release of any detained noncitizens
14 from solitary confinement or longer-term sepa-
15 ration.

16 (2) PUBLICATION OF USE OF SOLITARY CON-
17 FINEMENT.—The Secretary, without revealing per-
18 sonally identifiable information, shall publish online
19 weekly updates regarding—

20 (A) the number of unique noncitizens
21 placed or remaining in solitary confinement or
22 longer-term separation at each U.S. Immigra-
23 tion and Customs Enforcement and U.S. Cus-
24 toms and Border Protection facility,
25 disaggregated by race, age, gender identity,

1 documented mental health status, documented
2 disability, pregnancy or postpartum status,
3 identification as lesbian, gay, bisexual,
4 transgender, intersex, or gender nonconforming,
5 length of time in solitary confinement, type of
6 housing unit, and length of time in such hous-
7 ing unit; and

8 (B) any instances in which facility staff
9 have placed a detained noncitizen—

10 (i) in solitary confinement for more
11 than 8 hours; or

12 (ii) in longer-term separation for more
13 than 7 days.

14 (3) INTERNAL REVIEW OF DATA.—

15 (A) WEEKLY REVIEWS.—The Director of
16 the appropriate Enforcement and Removal Op-
17 erations field office within U.S. Immigration
18 and Custom Enforcement and the Director of
19 the appropriate field office within U.S. Customs
20 and Border Protection shall—

21 (i) on a weekly basis—

22 (I) review the daily reports from
23 each U.S. Immigration and Customs
24 Enforcement and U.S. Customs and

1 Border Protection facility under the
2 Director’s jurisdiction; and

3 (II) certify, as appropriate, that
4 each such facility is in compliance
5 with this Act;

6 (ii) report any instances in which a
7 U.S. Immigration and Customs Enforce-
8 ment and U.S. Customs and Border Pro-
9 tection facility failed to comply, or is sus-
10 pected of failing to comply, with this Act
11 to the Office of Immigration Detention
12 Ombudsman; and

13 (iii) direct any U.S. Immigration and
14 Customs Enforcement and U.S. Customs
15 and Border Protection facility that failed
16 to comply, or is suspected of failing to
17 comply, with this Act to immediately ad-
18 dress any such failures to comply, includ-
19 ing by immediately removing a detained
20 noncitizen from solitary confinement or
21 longer-term separation if the noncitizen’s
22 placement or continued detention in soli-
23 tary confinement or longer term separation
24 was not in compliance with this Act.

1 (B) MONTHLY REPORTS.—The Office of
2 Immigration Detention Oversight shall—

3 (i) promptly review any reports re-
4 ceived pursuant to subparagraph (A)(ii);

5 (ii) submit monthly reports to the Di-
6 rector of U.S. Immigration and Customs
7 Enforcement and the Commissioner of
8 U.S. Customs and Border Protection that
9 identify areas of concern regarding par-
10 ticular cases or facilities that warrant fur-
11 ther examination; and

12 (iii) publish such monthly reports on a
13 publicly accessible website.

14 **SEC. 4. REASSESSMENT OF DETAINED NONCITIZENS' MEN-**
15 **TAL HEALTH.**

16 Not later than 180 days after the date of the enact-
17 ment of this Act, the Secretary shall—

18 (1) assemble a team of licensed mental health
19 professionals, which shall include licensed mental
20 health professionals who are not employed by the
21 Department of Homeland Security, to conduct a
22 comprehensive mental health reevaluation for each
23 noncitizen held in longer-term separation for more
24 than 7 days (as of the date of enactment of this
25 Act), including a confidential, face-to-face, out-of-cell

1 interview by a licensed mental health professional;
2 and

3 (2) adjust the placement of each noncitizen
4 based on the results of such interview, in accordance
5 with this Act.

6 **SEC. 5. OVERSIGHT RESPONSIBILITIES.**

7 (a) IN GENERAL.—Section 705 of the Homeland Se-
8 curity Act of 2002 (6 U.S.C. 345) is amended by adding
9 at the end the following:

10 “(c) IMMIGRATION DETENTION.—

11 “(1) DEFINED TERMS.—In this subsection, the
12 terms ‘U.S. Immigration and Customs Enforcement
13 facility’ and ‘U.S. Customs and Border Protection
14 facility’ have the meaning given such terms in sec-
15 tion 2 of the Restricting Solitary Confinement in
16 Immigration Detention Act of 2024.

17 “(2) INTERNAL REPORTING.—The Secretary
18 shall ensure that each U.S. Immigration and Cus-
19 toms Enforcement and U.S. Customs and Border
20 Protection facility provides multiple internal ways
21 for noncitizens and others to promptly report viola-
22 tions of section 3 of the Restricting Solitary Con-
23 finement in Immigration Detention Act of 2024 to
24 the Office of Immigration Detention Oversight and
25 the Officer for Civil Rights and Civil Liberties, in-

1 cluding not less than 2 procedures for noncitizens
2 and others to report violations of section 3 of such
3 Act to—

4 “(A) an entity or office that—

5 “(i) is not part of the facility; and

6 “(ii) is able to receive and imme-
7 diately forward reports to the Office of Im-
8 migration Detention Oversight and the Of-
9 ficer for Civil Rights and Civil Liberties,
10 allowing the noncitizen to remain anony-
11 mous upon request; and

12 “(B) the Office of Immigration Detention
13 Oversight and the Officer for Civil Rights and
14 Civil Liberties in a confidential manner, allow-
15 ing the noncitizen to remain anonymous upon
16 request.

17 “(3) NOTICE TO DETAINED INDIVIDUALS.—The
18 Secretary shall ensure that each U.S. Immigration
19 and Customs Enforcement and U.S. Customs and
20 Border Protection facility provides noncitizens
21 with—

22 “(A) notice of how to report violations of
23 section 4 of the Restricting Solitary Confine-
24 ment in Immigration Detention Act of 2024 in
25 accordance with paragraph (2), including—

1 “(i) notice prominently posted in the
2 living and common areas of each such fa-
3 cility;

4 “(ii) individual notice to noncitizens
5 at initial intake into a U.S. Immigration
6 and Customs Enforcement and U.S. Cus-
7 toms and Border Protection facility, when
8 transferred to a new facility, and when
9 placed in solitary confinement and longer-
10 term separation;

11 “(iii) notice to noncitizens with dis-
12 abilities in accessible formats; and

13 “(iv) written or verbal notice in a lan-
14 guage the noncitizen understands; and

15 “(B) notice of permissible practices related
16 to solitary confinement in U.S. Immigration
17 and Customs Enforcement and U.S. Customs
18 and Border Protection facilities, including the
19 requirements under section 3 of such Act.

20 “(4) NOTICE TO OVERSIGHT OFFICES.—Not
21 later than 24 hours after the placement of a de-
22 tained individual in solitary confinement or longer-
23 term separation, the Secretary shall ensure that
24 each U.S. Immigration and Customs Enforcement
25 and U.S. Customs and Border Protection facility no-

1 tifies the Office of the Immigration Detention Om-
2 budsman and the Officer for Civil Rights and Civil
3 Liberties of such placement.

4 “(5) ACCESS.—The Secretary shall ensure that
5 the Officer for Civil Rights and Civil Liberties—

6 “(A) has unrestricted access to U.S. Immi-
7 gration and Customs Enforcement or U.S. Cus-
8 toms and Border Protection facilities; and

9 “(B) is able to review documents, request
10 and review information, and speak privately
11 with noncitizens, contractors, volunteers, U.S.
12 Immigration and Customs Enforcement facility
13 staff, and U.S. Customs and Border Protection
14 facility staff.

15 “(6) ASSESSMENT OF SOLITARY CONFINEMENT
16 AND LONGER-TERM SEPARATION IN IMMIGRATION
17 DETENTION.—

18 “(A) ANNUAL ASSESSMENT.—Not later
19 than 90 days after the last day of each fiscal
20 year, the Officer for Civil Rights and Civil Lib-
21 erties and the Office of Immigration Detention
22 Ombudsman shall—

23 “(i) analyze the use of solitary con-
24 finement and longer term separation in
25 U.S. Immigration and Customs Enforce-

1 ment and U.S. Customs and Border Pro-
2 tection facilities during such fiscal year;

3 “(ii) submit a joint assessment con-
4 taining the results of such analysis to the
5 Committee on the Judiciary of the Senate,
6 the Committee on Homeland Security and
7 Governmental Affairs of the Senate, the
8 Committee on the Judiciary of the House
9 of Representatives, and the Committee on
10 Homeland Security of the House of Rep-
11 resentatives; and

12 “(iii) publish such assessment on a
13 publicly accessible website.

14 “(B) DATA.—Each assessment submitted
15 pursuant to subparagraph (A)(ii) shall include
16 aggregated and disaggregated data reported by
17 U.S. Immigration and Customs Enforcement
18 and U.S. Customs and Border Protection facili-
19 ties, to be provided by U.S. Immigration and
20 Customs Enforcement and U.S. Customs and
21 Border Protection to the Officer for Civil
22 Rights and Civil Liberties not later than 30
23 days after the last day of each fiscal year, in-
24 cluding—

1 “(i) the policies and regulations of
2 U.S. Immigration and Customs Enforce-
3 ment and U.S. Customs and Border Pro-
4 tection, including—

5 “(I) any changes in policies and
6 regulations, for determining which
7 noncitizens are placed in solitary con-
8 finement or longer-term separation;
9 and

10 “(II) a detailed description of the
11 conditions and restrictions of solitary
12 confinement and longer-term separa-
13 tion;

14 “(ii) the number of noncitizens in
15 U.S. Immigration and Customs Enforce-
16 ment and U.S. Customs and Border Pro-
17 tection facilities who were housed in soli-
18 tary confinement or longer-term separation
19 for any period;

20 “(iii) the percentage of all noncitizens
21 who spent any time in solitary confinement
22 or longer-term separation during the re-
23 porting period;

24 “(iv) the demographics of all nonciti-
25 zens housed in solitary confinement or

1 longer-term separation, including race, eth-
2 nicity, religion, age, and gender;

3 “(v) the policies and regulations of
4 U.S. Immigration and Customs Enforce-
5 ment and U.S. Customs and Border Pro-
6 tection facilities, including any updates in
7 policies and regulations, for subsequent re-
8 views or appeals of the placement of a de-
9 tained noncitizen into or out of solitary
10 confinement or longer-term separation;

11 “(vi) the number of reviews of and
12 challenges to the placement of a detained
13 noncitizen in solitary confinement or
14 longer-term separation during the report-
15 ing period and the number of such reviews
16 or appeals that directly resulted in a
17 change of placement;

18 “(vii) a detailed description of the
19 conditions and restrictions for solitary con-
20 finement and longer-term separation, in-
21 cluding—

22 “(I) the number of hours spent
23 in isolation; and

24 “(II) the percentage of time such
25 conditions involved 2 noncitizens who

1 were placed together in solitary con-
2 finement;

3 “(viii) the mean and median length of
4 stay in solitary confinement or longer-term
5 separation, based on all individuals re-
6 leased from solitary confinement or longer-
7 term separation during the reporting pe-
8 riod, and any maximum length of stay dur-
9 ing the reporting period;

10 “(ix) the cost of each form of solitary
11 confinement and longer-term separation
12 described in subparagraph (A) in use dur-
13 ing the reporting period, including a com-
14 parison with the average daily cost of
15 housing a detained noncitizen in the gen-
16 eral population;

17 “(x) the policies for mental health
18 screening, mental health treatment, and
19 subsequent mental health reviews for all
20 detained noncitizens, including—

21 “(I) any update to such policies;

22 and

23 “(II) any additional screening,
24 treatment, and monitoring for de-

1 tained noncitizens in solitary confine-
2 ment or longer-term separation;

3 “(xi) a statement of the types of men-
4 tal health staff that conducted mental
5 health assessments for U.S. Immigration
6 and Customs Enforcement and U.S. Cus-
7 toms and Border Protection facilities dur-
8 ing the reporting period;

9 “(xii) a description of the different
10 positions in the mental health staff of U.S.
11 Immigration and Customs Enforcement
12 and U.S. Customs and Border Protection
13 facilities;

14 “(xiii) the number of part- and full-
15 time psychologists and psychiatrists em-
16 ployed by U.S. Immigration and Customs
17 Enforcement and U.S. Customs and Bor-
18 der Protection facilities during the report-
19 ing period;

20 “(xiv) data on mental health and med-
21 ical indicators for all detained noncitizens
22 in solitary confinement or longer-term sep-
23 aration including—

1 “(I) the number of noncitizens
2 requiring medication for mental
3 health conditions;

4 “(II) the number diagnosed with
5 an intellectual disability;

6 “(III) the number diagnosed with
7 serious mental illness;

8 “(IV) the number of suicides;

9 “(V) the number of deaths;

10 “(VI) the number of attempted
11 suicides by unique noncitizens and the
12 number of unique noncitizens placed
13 on suicide watch;

14 “(VII) the number of instances
15 of self-harm committed by unique
16 noncitizens;

17 “(VIII) the number of nonciti-
18 zens with physical disabilities, includ-
19 ing blind, deaf, and mobility-impaired
20 noncitizens; and

21 “(IX) the number of instances of
22 forced feeding of noncitizens;

23 “(xv) any instances in which the Di-
24 rector of an Enforcement and Removal Op-
25 erations field office reported that a U.S.

1 Immigration and Customs Enforcement fa-
2 cility in their jurisdiction failed to comply
3 with, or was suspected of failing to comply
4 with, any provision of the Restricting Soli-
5 tary Confinement in Immigration Deten-
6 tion Act of 2024 or a Director of an Office
7 of Field Operations reported that a U.S.
8 Customs and Border Protection facility in
9 their jurisdiction failed to comply with, or
10 was suspected of failing to comply with,
11 the Restricting Solitary Confinement in
12 Immigration Detention Act of 2024; and

13 “(xvi) any other relevant data.

14 “(C) CONTENT.—Each assessment sub-
15 mitted pursuant to subparagraph (A)(ii) shall
16 include—

17 “(i) an analysis of the data described
18 in subparagraph (B);

19 “(ii) recommendations for reform of-
20 fered to the Director of U.S. Immigration
21 and Customs Enforcement, the Commis-
22 sioner of U.S. Customs and Border Protec-
23 tion, and the Secretary pursuant to para-
24 graph (6); and

1 “(iii) the response from U.S. Immi-
2 gration and Customs Enforcement, U.S.
3 Customs and Border Protection, and the
4 Department to such recommendations for
5 reform.

6 “(D) AUTHORITY ON FINAL REPORT.—
7 Each assessment submitted pursuant to sub-
8 paragraph (A)(ii) may be reviewed by U.S. Im-
9 migration and Customs Enforcement, U.S. Cust-
10 oms and Border Protection, and the Secretary
11 before submission, but the Officer for Civil
12 Rights and Civil Liberties and the Office of Im-
13 migration Detention Ombudsman has final au-
14 thority with respect to the text and the release
15 of such assessment.

16 “(7) REGULAR MEETINGS WITH THE SEC-
17 RETARY, THE DIRECTOR OF U.S. IMMIGRATION AND
18 CUSTOMS ENFORCEMENT, AND THE COMMISSIONER
19 OF U.S. CUSTOMS AND BORDER PROTECTION.—The
20 Officer for Civil Rights and Civil Liberties and the
21 Office of Immigration Detention Ombudsman shall
22 meet regularly with the Secretary and the Director
23 of U.S. Immigration and Customs Enforcement and
24 the Commissioner of U.S. Customs and Border Pro-
25 tection—

1 “(A) to identify problems with the solitary
2 confinement and longer-term separation policies
3 and practices in U.S. Immigration and Customs
4 Enforcement and U.S. Customs and Border
5 Protection facilities, including the overuse of
6 solitary confinement and longer-term separa-
7 tion; and

8 “(B) to present recommendations for such
9 administrative action as may be appropriate to
10 resolve problems relating to solitary confine-
11 ment and longer-term separation policies and
12 practices in U.S. Immigration and Customs En-
13 forcement and U.S. Customs and Border Pro-
14 tection facilities.”.

15 (b) ANNUAL REPORT.—Not later than December 31
16 of each year, the Inspector General of the Department of
17 Homeland Security shall post a report on a publicly acces-
18 sible website that analyzes—

19 (1) the use of solitary confinement and longer-
20 term separation in U.S. Immigration and Customs
21 Enforcement and U.S. Customs and Border Protec-
22 tion facilities; and

23 (2) the Department’s compliance with this Act
24 and the amendments made by this Act.

1 **SEC. 6. PRIVATE CAUSE OF ACTION.**

2 (a) CIVIL ACTION FOR INJURY.—Any person who is
3 injured by a violation of section 3 may bring a civil action
4 in the appropriate United States district court against any
5 person, entity, or other relevant party who violated such
6 section for—

7 (1) declaratory and injunctive relief, including
8 directing the closure of the facility, building, or unit
9 where the violation took place if such facility, build-
10 ing, or unit is in repeated and systemic noncompli-
11 ance with such section; and

12 (2) such money damages as the court deter-
13 mines appropriate, including damages for emotional
14 pain and suffering.

15 (b) ADDITIONAL AWARDS.—In a civil action brought
16 pursuant to subsection (a), the court, in addition to any
17 other relief awarded under such subsection, may award
18 reasonable attorney’s fees and costs of the action to the
19 prevailing plaintiff.

20 (c) CIVIL ACTION FOR CONSTITUTIONAL VIOLA-
21 TION.—

22 (1) IN GENERAL.—Any person who is injured
23 by any action by a Federal official or a person con-
24 tracting with a Federal agency in a Federal facility,
25 in violation of the Constitution of the United States,
26 may bring a civil action in the appropriate United

1 States district court against such official, person, or
2 agency for—

3 (A) declaratory and injunctive relief, in-
4 cluding directing the closure of the facility,
5 building, or unit where the violation took place;
6 and

7 (B) such money damages as the court de-
8 termines appropriate, including damages for
9 emotional pain and suffering.

10 (2) **ADDITIONAL AWARDS.**—In an action filed
11 pursuant to paragraph (1), the court, in addition to
12 any other relief awarded under such paragraph, may
13 award reasonable attorney’s fees and costs of the ac-
14 tion to the prevailing plaintiff.

15 **SEC. 7. RULEMAKING.**

16 The Secretary, the Director of U.S. Immigration and
17 Customs Enforcement, and the Commissioner of U.S.
18 Customs and Border Protection shall prescribe rules, in
19 accordance with section 553 of title 5, United States Code,
20 to carry out this Act and the amendments made by this
21 Act.

22 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated to the Sec-
24 retary such sums as may be necessary to carry out this
25 Act and the amendments made by this Act.

1 **SEC. 9. EFFECTIVE DATE.**

2 Except as otherwise provided, this Act and the
3 amendments made by this Act shall take effect on the date
4 that is 18 months after the date of the enactment of this
5 Act.

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