

End Solitary Confinement Act

Solitary confinement is a form of torture. It is linked to self-mutilation, suicide, heart disease, anxiety, depression, psychosis, mental and physical deterioration, and a significantly heightened risk of death.¹ Placement in solitary for any length of time, whether days or even hours, can cause severe harm. In spite of this harsh reality, over 11,000 people are held in solitary confinement each day in federal prisons alone.² Experts estimate that tens of thousands of people are held in solitary each day across federal and state corrections facilities, local jails, and immigration detention facilities. As with other aspects of our criminal legal system, the United States is an outlier among advanced democracies in its widespread use of solitary confinement.³

There is widespread and bipartisan public support for banning solitary confinement. Recent polling shows a majority of voters across the country and political spectrum support federal legislation ending solitary confinement entirely beyond a limit of four hours and only allowing its use following an emergency situation involving serious physical injury, including **78 percent of Democrats, 61 percent of Independents, and 51 percent of Republicans.**⁴ President Biden and Vice President Harris also pledged to end solitary confinement during the 2020 campaign.⁵

In alignment with public opinion and the President and Vice President's commitment, Congresswoman Cori Bush will be introducing new federal legislation, the End Solitary Confinement Act, to stop torture, save lives, and improve safety for everyone. Drawing from best policies, practices and expert recommendations from across the country regarding youth facilities, mental health facilities, and adult corrections facilities, this bill would:

End solitary confinement in federal prisons, jails and other detention settings with limited exceptions, including a 4 hour maximum for emergency de-escalation.

- Bans solitary confinement in federal facilities with limited exceptions at night for count or sleep, during the day for count or other required facility business, for purposes of medical quarantine or isolation, for emergency de-escalation, and as part of a necessary lockdown.
- For any instance of confinement for emergency de-escalation, requires facility staff to meet with the person at least once an hour to attempt de-escalation, work toward release from confinement, and determine the necessity of continuing to hold the person in isolation.
- Provides additional protections against placing vulnerable populations in solitary.

¹ [The Impacts of Solitary Confinement](#)

² [BOP Statistics](#)

³ [Washington Post Op-Ed](#)

⁴ [A Bipartisan Majority of Voters Support Strongly Restricting Solitary Confinement, Including Placing a Four-Hour Limit on the Practice](#)

⁵ [Joe Biden's Criminal Justice Policy](#)

Allow for longer-term separation from the general facility population while ensuring all people incarcerated in federal facilities have meaningful access to out-of-cell time and group programming.

- Requires all people incarcerated in federal facilities to have access to at least 14 hours of daily meaningful group out-of-cell time, including at least 7 hours of daily group programming.
- Allows temporary placement in alternative units and requires all people separated from the general facility population to have access to out-of-cell, congregate, trauma-informed, therapeutic programming.
- Requires programming such as educational, vocational, mental health, violence prevention, alcohol and substance use treatment, and/or reentry programming. Other out-of-cell time can include at least one hour daily of out-of-cell congregate recreation and other unstructured out-of-cell congregate activities, including religious programming, volunteer groups, time in a day room, meals, library and law library, work assignments, visits, social and legal telephone calls, contact visitation, and access to personal property and commissary.

Impose strict due process protections, including access to representation and neutral decision-makers.

- Prohibits any person incarcerated in a federal facility from being placed in an alternative unit unless and until it is determined in writing, following a placement hearing with a neutral decision-maker and access to representation, that the person engaged in grave and dangerous behavior that resulted in injury or poses severe risk to others.
- Prohibits any person from being placed in restraints except in narrow circumstances involving conduct that has resulted in injury or poses severe risk to others.
- Prohibits punitive limitations on basic needs and services.

Create oversight and enforcement mechanisms, including mandatory reporting, a private cause of action, oversight by an ombudsperson, community monitoring, and enhanced media access.

- Mandates public reporting on self-harm and suicide; use, duration and demographic breakdowns of confinement for emergency de-escalation; and alternative units.
- Establishes Ombudsperson who is required to investigate and address individual complaints and systemic issues, including by unannounced visits, in-person interviews, subpoenas and other document requests, and confidential communications with incarcerated people.
- Provides additional oversight through a private right of action, community monitoring body, and news media access to federal carceral facilities.

Incentivize states and municipalities to adopt similar bans on solitary confinement.

- Decreases certain federal funds allocated to any state or local entity receiving any federal funds related to any aspect of the criminal legal system or immigration enforcement system that does not implement similar bans on solitary confinement.

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Section-by-Section Summary

Section 1: Short Title

This section establishes the bill's short title as the "End Solitary Confinement Act."

Section 2: Findings

This section establishes that solitary confinement constitutes a form of torture and lays out important facts about this practice and its widespread use across the United States. Solitary confinement can lead to self-mutilation, suicide, heart disease, anxiety, depression, psychosis, mental and physical deterioration, and a significantly heightened risk of death. Tens of thousands of people are estimated to be in solitary confinement on any given day across federal, state, local, and immigration detention facilities.

Section 3: Ending Solitary Confinement

Prohibition on solitary confinement; minimum standards

Establishes a prohibition on the use of solitary confinement in all federal facilities with limited exceptions, including for de-escalation when circumstances pose a specific and significant risk of imminent serious physical injury to an individual, staff, or other incarcerated persons. Places a four-hour limit on such de-escalatory use of solitary confinement and prohibits such confinement for vulnerable populations. Allows for longer-term separation from the general facility population, subject to due process protections and time limits, and establishes minimum standards for such alternative units and throughout a facility, including access to 14 hours per day of out-of-cell congregate interaction, programs, and activities as well as access to key services and restrictions on the use of restraints.

Reporting requirements

Requires all federal agencies with persons in custody to publicly report each quarter on the use, duration, and demographic breakdowns in the use of solitary confinement and alternative units, as well as incidents of self-harm, suicide attempts, and deaths by suicide, disaggregated by facility.

Private cause of action

Provides for the ability of individuals who suffer harm as a result of violations of this Act to seek redress in federal district court, including money damages, an injunction, and other appropriate relief. This section also adds placement in solitary confinement to the enumerated injuries under Section 7(e) of the Civil Rights of Institutionalized Persons Act.

Oversight of facilities and appointment of Ombudsperson

Requires the Attorney General to appoint an independent Ombudsperson, with a duty to investigate individual complaints by incarcerated persons and systemic issues, inspect and report on facilities, and define minimum standards. Provides the Ombudsperson with authority to access covered facilities, including through unannounced visits, as well as the ability to interview and maintain confidential communication with incarcerated persons and staff, issue subpoenas to covered facilities as appropriate, and direct the closure of facilities that are unsafe. This section also requires federal agencies to take immediate action on substantiated complaints and to develop and carry out corrective action plans in response to systemic concerns and recommendations.

Requires the Attorney General to establish a community monitoring body – comprised of people who have survived solitary confinement, people who have had loved ones in solitary confinement, faith leaders, medical and mental health professionals, and/or civil rights and human rights advocates – with oversight authority and access to federal facilities. Expands the authority of news media to access covered facilities, request information from covered facilities, and communicate with incarcerated persons.

Incentives for state compliance

Requires the Attorney General to reduce by at least 10% per year the federal funding received under the Omnibus Crime and Safe Streets Act by state or local government recipients that are not substantially in compliance with the requirements of this Act.

Section 4: Appropriations

Provides for the appropriation of such sums as may be necessary to carry out the provisions of this Act, with prohibitions on the use of funds to construct facilities where people will be incarcerated or to construct or renovate buildings or spaces within facilities where people are or will be incarcerated.

Section 5: Severability

Ensures the enforceability of remaining provisions of the Act should any provision be invalidated.

Section 6: Effective date

Provides that the Act will take full effect 60 days after enactment.