

114TH CONGRESS
1ST SESSION

S. 1965

To place restrictions on the use of solitary confinement for juveniles in Federal custody.

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2015

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

A BILL

To place restrictions on the use of solitary confinement for juveniles in Federal custody.

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 “Maintaining dignity
5 and Eliminating unnecessary Restrictive Confinement of
6 Youths Act of 2015” or the “MERCY Act”.

7 **SEC. 2. JUVENILE SOLITARY CONFINEMENT.**

8 (a) IN GENERAL.—Chapter 403 of title 18, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

1 **“§ 5043. Juvenile solitary confinement**

2 “(a) DEFINITIONS.—In this section—

3 “(1) the term ‘covered juvenile’ means—

4 “(A) a juvenile who—

5 “(i) is being proceeded against under
6 this chapter for an alleged act of juvenile
7 delinquency; or

8 “(ii) has been adjudicated delinquent
9 under this chapter; or

10 “(B) a juvenile who is being proceeded
11 against as an adult in a district court of the
12 United States for an alleged criminal offense;

13 “(2) the term ‘juvenile facility’ means any facil-
14 ity where covered juveniles are—

15 “(A) committed pursuant to an adjudica-
16 tion of delinquency under this chapter; or

17 “(B) detained prior to disposition or con-
18 viction; and

19 “(3) the term ‘room confinement’ means the in-
20 voluntary placement of a covered juvenile alone in a
21 cell, room, or other area for any reason.

22 “(b) PROHIBITION ON ROOM CONFINEMENT IN JU-
23 VENILE FACILITIES.—

24 “(1) IN GENERAL.—The use of room confine-
25 ment at a juvenile facility for discipline, punishment,
26 retaliation, or any reason other than as a temporary

1 response to a covered juvenile’s behavior that poses
 2 a serious and immediate risk of physical harm to
 3 any individual, including the covered juvenile, is pro-
 4 hibited.

5 “(2) JUVENILES POSING RISK OF HARM.—

6 “(A) REQUIREMENT TO USE LEAST RE-
 7 STRICTIVE TECHNIQUES.—

8 “(i) IN GENERAL.—Before a staff
 9 member of a juvenile facility places a cov-
 10 ered juvenile in room confinement, the
 11 staff member shall attempt to use less re-
 12 strictive techniques, including—

13 “(I) talking with the covered ju-
 14 venile in an attempt to de-escalate the
 15 situation; and

16 “(II) permitting a qualified men-
 17 tal health professional to talk to the
 18 covered juvenile.

19 “(ii) EXPLANATION.—If, after at-
 20 tempting to use less restrictive techniques
 21 as required under clause (i), a staff mem-
 22 ber of a juvenile facility decides to place a
 23 covered juvenile in room confinement, the
 24 staff member shall first—

1 “(I) explain to the covered juve-
2 nile the reasons for the room confine-
3 ment; and

4 “(II) inform the covered juvenile
5 that release from room confinement
6 will occur—

7 “(aa) immediately when the
8 covered juvenile regains self-con-
9 trol, as described in subpara-
10 graph (B)(i); or

11 “(bb) not later than after
12 the expiration of the time period
13 described in subclause (I) or (II)
14 of subparagraph (B)(ii), as appli-
15 cable.

16 “(B) MAXIMUM PERIOD OF CONFINE-
17 MENT.—If a covered juvenile is placed in room
18 confinement because the covered juvenile poses
19 a serious and immediate risk of physical harm
20 to himself or herself, or to others, the covered
21 juvenile shall be released—

22 “(i) immediately when the covered ju-
23 venile has sufficiently gained control so as
24 to no longer engage in behavior that
25 threatens serious and immediate risk of

1 physical harm to himself or herself, or to
 2 others; or

3 “(ii) if a covered juvenile does not suf-
 4 ficiently gain control as described in clause
 5 (i), not later than—

6 “(I) 3 hours after being placed in
 7 room confinement, in the case of a
 8 covered juvenile who poses a serious
 9 and immediate risk of physical harm
 10 to others; or

11 “(II) 30 minutes after being
 12 placed in room confinement, in the
 13 case of a covered juvenile who poses a
 14 serious and immediate risk of physical
 15 harm only to himself or herself.

16 “(C) RISK OF HARM AFTER MAXIMUM PE-
 17 RIOD OF CONFINEMENT.—If, after the applica-
 18 ble maximum period of confinement under sub-
 19 clause (I) or (II) of subparagraph (B)(ii) has
 20 expired, a covered juvenile continues to pose a
 21 serious and immediate risk of physical harm de-
 22 scribed in that subclause—

23 “(i) the covered juvenile shall be
 24 transferred to another juvenile facility or
 25 internal location where services can be pro-

1 vided to the covered juvenile without rely-
2 ing on room confinement; or

3 “(ii) if a qualified mental health pro-
4 fessional believes the level of crisis service
5 needed is not currently available, a staff
6 member of the juvenile facility shall ini-
7 tiate a referral to a location that can meet
8 the needs of the covered juvenile.

9 “(D) SPIRIT AND PURPOSE.—The use of
10 consecutive periods of room confinement to
11 evade the spirit and purpose of this subsection
12 shall be prohibited.”.

13 (b) TECHNICAL AND CONFORMING AMENDMENT.—
14 The table of sections for chapter 403 of title 18, United
15 States Code, is amended by adding at the end the fol-
16 lowing:

“5043. Juvenile solitary confinement.”.

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