

116TH CONGRESS  
1ST SESSION

# H. R. 4488

To develop and implement national standards for the use of solitary confinement in correctional facilities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2019

Mr. RICHMOND (for himself and Mr. WALKER) introduced the following bill;  
which was referred to the Committee on the Judiciary

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## A BILL

To develop and implement national standards for the use of solitary confinement in correctional facilities, 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.**

4 This Act may be cited as the “Solitary Confinement  
5 Study and Reform Act of 2019”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are to—

8 (1) develop and implement national standards  
9 for the use of solitary confinement to ensure that it

1 is used infrequently and only under extreme cir-  
2 cumstances;

3 (2) establish a more humane and constitu-  
4 tionally sound practice of segregated detention or  
5 solitary confinement in correctional facilities;

6 (3) accelerate the development of best practices  
7 and make reforming solitary confinement a top pri-  
8 ority in each correctional facility at the Federal and  
9 State levels;

10 (4) increase the available data and information  
11 on the incidence of solitary confinement, con-  
12 sequently improving the management and adminis-  
13 tration of correctional facilities;

14 (5) standardize the definitions used for col-  
15 lecting data on the incidence of solitary confinement;

16 (6) increase the accountability of correctional  
17 facility officials who fail to design and implement  
18 humane and constitutionally sound solitary confine-  
19 ment practices;

20 (7) protect the Eighth Amendment rights of in-  
21 mates at correctional facilities; and

22 (8) reduce the costs that solitary confinement  
23 imposes on interstate commerce.

1 **SEC. 3. NATIONAL SOLITARY CONFINEMENT STUDY AND**  
2 **REFORM COMMISSION.**

3 (a) **ESTABLISHMENT.**—There is established a com-  
4 mission to be known as the National Solitary Confinement  
5 Study and Reform Commission.

6 (b) **MEMBERS.**—

7 (1) **IN GENERAL.**—The Commission shall be  
8 composed of 9 members, of whom—

9 (A) 3 shall be appointed by the President;

10 (B) 2 shall be appointed by the Speaker of  
11 the House of Representatives, unless the Speak-  
12 er is of the same party as the President, in  
13 which case 1 shall be appointed by the Speaker  
14 of the House of Representatives and 1 shall be  
15 appointed by the minority leader of the House  
16 of Representatives;

17 (C) 1 shall be appointed by the minority  
18 leader of the House of Representatives (in addi-  
19 tion to any appointment made under subpara-  
20 graph (B));

21 (D) 2 shall be appointed by the majority  
22 leader of the Senate, unless the majority leader  
23 is of the same party as the President, in which  
24 case 1 shall be appointed by the majority leader  
25 of the Senate and 1 shall be appointed by the  
26 minority leader of the Senate; and

1           (E) 1 shall be appointed by the minority  
2 leader of the Senate (in addition to any ap-  
3 pointment made under subparagraph (D)).

4           (2) PERSONS ELIGIBLE.—Each member of the  
5 Commission shall be an individual who has knowl-  
6 edge or expertise in matters to be studied by the  
7 Commission.

8           (3) CONSULTATION REQUIRED.—The President,  
9 the Speaker, and the minority leader of the House  
10 of Representatives, and the majority leader and mi-  
11 nority leader of the Senate shall consult with one an-  
12 other prior to the appointment of the members of  
13 the Commission to achieve, to the maximum extent  
14 possible, fair and equitable representation of various  
15 points of view with respect to the matters to be  
16 studied by the Commission.

17           (4) TERM.—Each member shall be appointed  
18 for the life of the Commission.

19           (5) TIME FOR INITIAL APPOINTMENTS.—The  
20 appointment of the members shall be made not later  
21 than 180 days after the date of enactment of this  
22 Act.

23           (6) VACANCIES.—A vacancy in the Commission  
24 shall be filled in the manner in which the original  
25 appointment was made, and shall be made not later

1 than 60 days after the date on which the vacancy  
2 occurred.

3 (c) OPERATION.—

4 (1) CHAIRPERSON.—Not later than 15 days  
5 after appointments of all the members are made, the  
6 President shall appoint a chairperson for the Com-  
7 mission from among its members.

8 (2) MEETINGS.—The Commission shall meet at  
9 the call of the chairperson. The initial meeting of the  
10 Commission shall take place not later than 30 days  
11 after the initial appointment of the members is com-  
12 pleted.

13 (3) QUORUM.—A majority of the members of  
14 the Commission shall constitute a quorum to con-  
15 duct business, but the Commission may establish a  
16 lesser quorum for conducting hearings scheduled by  
17 the Commission.

18 (4) RULES.—The Commission may establish by  
19 majority vote any other rules for the conduct of  
20 Commission business, if such rules are not incon-  
21 sistent with this Act or other applicable law.

22 (d) COMPREHENSIVE STUDY OF THE IMPACTS OF  
23 SOLITARY CONFINEMENT.—

24 (1) IN GENERAL.—The Commission shall carry  
25 out a comprehensive legal and factual study of the

1 penological, physical, mental, medical, social, fiscal,  
2 and economic impacts of solitary confinement in the  
3 United States on—

4 (A) Federal, State, and local governments;

5 and

6 (B) communities and social institutions  
7 generally, including individuals, families, and  
8 businesses within such communities and social  
9 institutions.

10 (2) MATTERS INCLUDED.—The study under  
11 paragraph (1) shall include—

12 (A) a review of existing Federal, State,  
13 and local government policies and practices with  
14 respect to the extent and duration of the use of  
15 solitary confinement;

16 (B) an assessment of the relationship be-  
17 tween solitary confinement and correctional fa-  
18 cility conditions, and existing monitoring, regu-  
19 latory, and enforcement practices;

20 (C) an assessment of the characteristics of  
21 prisoners and juvenile detainees most likely to  
22 be referred to solitary confinement and the ef-  
23 fectiveness of various types of treatment or pro-  
24 grams to reduce such likelihood;

1 (D) an assessment of the impacts of soli-  
2 tary confinement on individuals, families, social  
3 institutions, and the economy generally;

4 (E) an identification of additional scientific  
5 and social science research needed on the preva-  
6 lence of solitary confinement in correctional fa-  
7 cilities as well as a full assessment of existing  
8 literature;

9 (F) an assessment of the general relation-  
10 ship between solitary confinement and mental  
11 illness;

12 (G) an assessment of the relationship be-  
13 tween solitary confinement and levels of train-  
14 ing, supervision, and discipline of the staff of  
15 correctional facilities; and

16 (H) an assessment of existing Federal and  
17 State systems for collecting and reporting the  
18 number and duration of solitary confinement  
19 incidents in correctional facilities nationwide.

20 (3) REPORT.—

21 (A) DISTRIBUTION.—Not later than two  
22 years after the date of the initial meeting of the  
23 Commission, the Commission shall submit a re-  
24 port on the study carried out under this sub-  
25 section to—

- 1 (i) the President;
- 2 (ii) the Congress;
- 3 (iii) the Attorney General of the
- 4 United States;
- 5 (iv) the Secretary of Health and
- 6 Human Services;
- 7 (v) the Director of the Federal Bu-
- 8 reau of Prisons;
- 9 (vi) the Administrator of the Office of
- 10 Juvenile Justice and Delinquency Preven-
- 11 tion;
- 12 (vii) the chief executive of each State;
- 13 and
- 14 (viii) the head of the department of
- 15 corrections of each State.

16 (B) CONTENTS.—The report under sub-

17 paragraph (A) shall include—

- 18 (i) the findings and conclusions of the
- 19 Commission;
- 20 (ii) the recommended national stand-
- 21 ards for reducing the use of solitary con-
- 22 finement described in subsection (e); and
- 23 (iii) a summary of the materials relied
- 24 on by the Commission in the preparation
- 25 of the report.

1 (e) RECOMMENDATIONS.—

2 (1) IN GENERAL.—As part of the report sub-  
3 mitted under subsection (d)(3), the Commission  
4 shall provide the Attorney General and the Secretary  
5 of Health and Human Services with recommended  
6 national standards for significantly reducing the use  
7 of solitary confinement in correctional facilities.

8 (2) MATTERS INCLUDED.—The information  
9 provided under paragraph (1) shall include rec-  
10 ommended national standards relating to—

11 (A) how authorities can progress toward  
12 significantly limiting the utilization of solitary  
13 confinement so that a prisoner may be placed  
14 in solitary confinement only under extreme  
15 emergency circumstances, as a last resort, for  
16 as short a time as possible, subject to inde-  
17 pendent review, and pursuant to the authoriza-  
18 tion of a competent authority;

19 (B) methods that can be employed to en-  
20 sure that the duration of solitary confinement  
21 of a prisoner at an institution can be limited to  
22 no more than 15 consecutive days in a 60-day  
23 period, except that if the head of a correctional  
24 facility makes an individualized determination  
25 that the prisoner cannot be safely returned to

1 the general population, the head of the correc-  
2 tional facility may continue to segregate the  
3 prisoner from the general population without  
4 the use of solitary confinement and in accord-  
5 ance with the United Nations Standard Min-  
6 imum Rules on the Treatment of Prisoners;

7 (C) ensuring that prior to being classified,  
8 assigned, or subject to long-term segregation, a  
9 prisoner shall be entitled to a meaningful hear-  
10 ing on the reason for and duration of the con-  
11 finement and have access to legal counsel for  
12 such hearings;

13 (D) ensuring that indefinite sentencing of  
14 a prisoner to long-term segregation will not be  
15 allowed and that the prisoner will be afforded  
16 a meaningful review of the segregation at least  
17 once every 30 days that the prisoner remains in  
18 segregation and that correctional facility offi-  
19 cials must record and provide a transcript of  
20 the review proceedings for the prisoner under  
21 review to the prisoner or the prisoner's des-  
22 ignee;

23 (E) ensuring that correctional facility offi-  
24 cials design and implement programming that  
25 allows prisoners subject to long-term segrega-

1           tion to earn placement in less restrictive hous-  
2           ing through positive behavior;

3           (F) ensuring that protective custody and  
4           other custody designations designed to protect  
5           vulnerable prisoners, regardless of the reason  
6           for vulnerability, are not characterized by soli-  
7           tary confinement or other type of isolation con-  
8           ditions, and that prisoners placed in protective  
9           custody have access to programs, privileges,  
10          education, and work opportunities commensu-  
11          rate with general population prisoners to the  
12          extent possible;

13          (G) ensuring that correctional facility offi-  
14          cials improve access to mental health treatment  
15          for prisoners in solitary confinement;

16          (H) ensuring that correctional facility offi-  
17          cials work toward systems wherein prisoners di-  
18          agnosed by a qualified mental health profes-  
19          sional with a serious mental illness are not held  
20          in long-term solitary confinement;

21          (I) ensuring that correctional facility offi-  
22          cials do all that is feasible to make certain that  
23          prisoners are not held in solitary confinement  
24          for any duration;

1           (J) ensuring that correctional facility offi-  
2 cials develop alternative methods to manage  
3 issues with prisoners other than solitary con-  
4 finement;

5           (K) ensuring that correctional facility offi-  
6 cers do all that is feasible to make certain that  
7 prisoners with mental health, physical, or cog-  
8 nitive disabilities are not held in solitary con-  
9 finement for any duration;

10          (L) ensuring that correctional facility offi-  
11 cers do all that is feasible to make certain that  
12 pregnant and post-partum women are not held  
13 in solitary confinement for any duration;

14          (M) ensuring that correctional facility offi-  
15 cers work towards systems that limit the cir-  
16 cumstances and conditions under which juve-  
17 niles are placed in solitary confinement, in com-  
18 pliance with section 5043 of title 18, United  
19 States Code; and

20          (N) such other matters as may reasonably  
21 be related to the goal of reducing solitary con-  
22 finement in correctional facilities.

23          (3) LIMITATION.—The Commission shall not  
24 propose a recommended standard that would impose  
25 substantial additional costs compared to the costs

1       presently expended by correctional facilities, and  
2       shall seek to propose standards that reduce the costs  
3       of incarceration at such facilities.

4       (f) CONSULTATION WITH ACCREDITATION ORGANI-  
5       ZATIONS.—In developing recommended national standards  
6       for the reduction of solitary confinement under subsection  
7       (e), the Commission shall consider any standards that  
8       have already been developed, or are being developed simul-  
9       taneously to the deliberations of the Commission. The  
10       Commission shall consult with accreditation organizations  
11       responsible for the accreditation of correctional facilities  
12       that have developed or are developing standards related  
13       to solitary confinement. The Commission shall also consult  
14       with national associations representing the corrections  
15       profession, the legal profession, the medical profession, or  
16       any other pertinent professional body that has developed  
17       or is developing standards related to solitary confinement.

18       (g) HEARINGS.—

19               (1) IN GENERAL.—The Commission shall hold  
20       public hearings. The Commission may hold such  
21       hearings, sit and act at such times and places, take  
22       such testimony, and receive such evidence as the  
23       Commission considers advisable to carry out its du-  
24       ties under this section.

1           (2) WITNESS EXPENSES.—Witnesses requested  
2           to appear before the Commission shall be paid the  
3           same fees as are paid to witnesses under section  
4           1821 of title 28, United States Code. The per diem  
5           and mileage allowances for witnesses shall be paid  
6           from funds appropriated to the Commission.

7           (h) INFORMATION FROM FEDERAL OR STATE AGEN-  
8           CIES.—The Commission may secure directly from any  
9           Federal department or agency such information as the  
10          Commission considers necessary to carry out its duties  
11          under this section. The Commission may request the head  
12          of any State or local department or agency to furnish such  
13          information to the Commission.

14          (i) PERSONNEL MATTERS.—

15                 (1) TRAVEL EXPENSES.—The members of the  
16                 Commission shall be allowed travel expenses, includ-  
17                 ing per diem in lieu of subsistence, at rates author-  
18                 ized for employees of agencies under subchapter I of  
19                 chapter 57 of title 5, United States Code, while  
20                 away from their homes or regular places of business  
21                 in the performance of service for the Commission.

22                 (2) DETAIL OF FEDERAL EMPLOYEES.—With  
23                 the affirmative vote of  $\frac{2}{3}$  of the Commission, any  
24                 Federal Government employee, with the approval of  
25                 the head of the appropriate Federal agency, may be

1 detailed to the Commission without reimbursement,  
2 and such detail shall be without interruption or loss  
3 of civil service status, benefits, or privileges.

4 (3) PROCUREMENT OF TEMPORARY AND INTER-  
5 MITTENT SERVICES.—Upon the request of the Com-  
6 mission, the Attorney General shall provide reason-  
7 able and appropriate office space, supplies, and ad-  
8 ministrative assistance.

9 (j) CONTRACTS FOR RESEARCH.—

10 (1) NATIONAL INSTITUTE OF JUSTICE.—With a  
11  $\frac{2}{3}$  affirmative vote, the Commission may select non-  
12 governmental researchers and experts to assist the  
13 Commission in carrying out its duties under this  
14 Act. The National Institute of Justice shall contract  
15 with the researchers and experts selected by the  
16 Commission to provide funding in exchange for their  
17 services.

18 (2) OTHER ORGANIZATIONS.—Nothing in this  
19 subsection shall be construed to limit the ability of  
20 the Commission to enter into contracts with other  
21 entities or organizations for research necessary to  
22 carry out the duties of the Commission under this  
23 section.

1 (k) TERMINATION.—The Commission shall terminate  
2 on the date that is 60 days after the date on which the  
3 Commission submits the reports required by this section.

4 (l) EXEMPTION.—The Commission shall be exempt  
5 from the Federal Advisory Committee Act.

6 **SEC. 4. ADOPTION AND EFFECT OF NATIONAL STANDARDS.**

7 (a) PUBLICATION OF STANDARDS.—

8 (1) FINAL RULE.—Not later than two years  
9 after receiving the report specified in section  
10 (3)(d)(3), the Attorney General shall publish a final  
11 rule adopting national standards for the reduction of  
12 solitary confinement in correctional facilities.

13 (2) INDEPENDENT JUDGMENT.—The standards  
14 referred to in paragraph (1) shall be based upon the  
15 independent judgment of the Attorney General, after  
16 giving consideration to the recommended national  
17 standards provided by the Commission under section  
18 3(e), and being informed by such data, opinions, and  
19 proposals that the Attorney General determines to  
20 be appropriate to consider.

21 (3) LIMITATION.—The Attorney General shall  
22 not establish a national standard under this section  
23 that would impose substantial additional costs com-  
24 pared to the costs presently expended by Federal  
25 and State correctional systems. The Attorney Gen-

1       eral may, however, provide a list of improvements  
2       for consideration by correctional facilities.

3           (4) TRANSMISSION TO STATES.—Not later than  
4       90 days after publishing the final rule under para-  
5       graph (1), the Attorney General shall transmit the  
6       national standards adopted under that paragraph to  
7       the chief executive of each State, the head of the de-  
8       partment of corrections of each State, the head of  
9       the department of juvenile justice of each State, and  
10      to the appropriate authorities in those units of local  
11      government who oversee operations in one or more  
12      correctional facilities.

13      (b) APPLICABILITY TO FEDERAL BUREAU OF PRIS-  
14      ONS.—The national standards referred to in subsection  
15      (a) shall apply to the Federal Bureau of Prisons imme-  
16      diately upon adoption of the final rule under subsection  
17      (a)(1).

18      (c) EDWARD BYRNE MEMORIAL JUSTICE ASSIST-  
19      ANCE GRANT PROGRAM FUNDING REDUCTION.—Begin-  
20      ning in the second fiscal year that begins after the date  
21      on which the Attorney General issues the final rule under  
22      subsection (a)(1), in the case of a State or unit of local  
23      government that is not in compliance with the national  
24      standards described in subsection (a)(1), the Attorney  
25      General shall reduce by 5 percent the amount that such

1 State or unit of local government would otherwise receive  
2 under subpart 1 of part E of the Omnibus Crime and Safe  
3 Streets Act of 1968 (34 U.S.C. 10151 et seq.).

4 **SEC. 5. DEFINITIONS.**

5 For purposes of this Act, the following definitions  
6 shall apply:

7 (1) ATTORNEY GENERAL.—The term “Attorney  
8 General” means the Attorney General of the United  
9 States.

10 (2) COMMISSION.—The term “Commission”  
11 means the National Solitary Confinement Study and  
12 Reform Commission established under section 3 of  
13 this Act.

14 (3) LONG-TERM.—The term “long-term” means  
15 any period lasting more than 15 consecutive days in  
16 a 60-day period.

17 (4) QUALIFIED MENTAL HEALTH PROFES-  
18 SIONAL.—The term “qualified mental health profes-  
19 sional” means a psychiatrist, psychologist, psy-  
20 chiatric social worker, licensed professional coun-  
21 selor, psychiatric nurse, or another individual who,  
22 by virtue of education, credentials, and experience, is  
23 permitted by law to evaluate and provide mental  
24 health care.

1           (5) SERIOUS MENTAL ILLNESS.—The term “se-  
2           rious mental illness” means a substantial disorder  
3           that—

4                   (A) significantly impairs judgment, behav-  
5                   ior, or capacity to recognize reality or cope with  
6                   the ordinary demands of life; and

7                   (B) is manifested by substantial pain or  
8                   disability, the status of being actively suicidal,  
9                   a severe cognitive disorder that results in sig-  
10                  nificant functional impairment, or a severe per-  
11                  sonality disorder that results in significant  
12                  functional impairment.

13           (6) SOLITARY CONFINEMENT.—The term “soli-  
14           tary confinement” means confinement of a prisoner  
15           or juvenile detainee in a cell or other place, alone or  
16           with other persons, for approximately 22 hours or  
17           more per day with severely restricted activity, move-  
18           ment, and social interaction, which is separate from  
19           the general population of that correctional facility.

20           (7) SEGREGATION.—The term “segregation”  
21           means housing of a prisoner separate from the gen-  
22           eral population of a correctional facility in which  
23           movement, activity, and social interaction may be re-  
24           stricted.

1           (8) CORRECTIONAL FACILITY.—The term “cor-  
2           rectional facility” means a Federal, State, local, or  
3           privately run prison, jail, or juvenile detention facil-  
4           ity.

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