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**SENATE BILL 5413**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senators Wilson, C., Darneille, Das, Dhingra, Frockt, Hunt, Kuderer, Lias, Lovelett, Nguyen, and Saldaña

Read first time 02/03/21. Referred to Committee on Human Services, Reentry & Rehabilitation.

1 AN ACT Relating to solitary confinement; amending RCW 72.09.015;  
2 adding a new section to chapter 72.09 RCW; adding a new section to  
3 chapter 70.48 RCW; adding a new section to chapter 36.28A RCW;  
4 creating new sections; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** This act may be known and cited as the  
7 "Solitary Confinement Restriction Act."

8 NEW SECTION. **Sec. 2.** The Legislature finds and declares that:  
9 (1) The use of solitary confinement in Washington state's  
10 correctional facilities should be restricted to ensure the safe and  
11 humane operation of these facilities, consistent with the state and  
12 federal Constitution, the laws and public policies of this state, the  
13 mission of the correctional system, evolving medical knowledge, and  
14 the human rights standards of decency.

15 (2) Solitary confinement should only be used when necessary, and  
16 should not be used against vulnerable populations or under conditions  
17 or for time periods that foster psychological trauma, psychiatric  
18 disorders, or serious, long-term damage to a person's brain.

19 (3) The standards established in this act should apply to all  
20 incarcerated persons in the custody of the department of corrections.

1 (4) In 2020, the Washington state attorney general's office  
2 proposed legislation to ban the use of solitary confinement for  
3 juveniles; the bill passed with bipartisan support.

4 (5) More than 800 adults continue to be held in solitary  
5 confinement in Washington's prisons; solitary confinement is  
6 disproportionately imposed upon Black, indigenous, and Hispanic  
7 people in the state's prisons.

8 (6) In addition to the devastating and lasting psychological  
9 consequences of solitary confinement, recent studies have shown that  
10 people in these restrictive settings also have higher rates of  
11 medical concerns and have a shorter life expectancy once released to  
12 the community. Studies have also shown that people released to the  
13 community directly from solitary confinement also have higher  
14 recidivism rates.

15 **Sec. 3.** RCW 72.09.015 and 2020 c 319 s 2 are each amended to  
16 read as follows:

17 The definitions in this section apply throughout this chapter.

18 (1) "Adult basic education" means education or instruction  
19 designed to achieve general competence of skills in reading, writing,  
20 and oral communication, including English as a second language and  
21 preparation and testing services for obtaining a high school diploma  
22 or a high school equivalency certificate as provided in RCW  
23 28B.50.536.

24 (2) "Base level of correctional services" means the minimum level  
25 of field services the department of corrections is required by  
26 statute to provide for the supervision and monitoring of offenders.

27 (3) "Civil judgment for assault" means a civil judgment for  
28 monetary damages awarded to a correctional officer or department  
29 employee entered by a court of competent jurisdiction against an  
30 inmate that is based on, or arises from, injury to the correctional  
31 officer or department employee caused by the inmate while the  
32 correctional officer or department employee was acting in the course  
33 and scope of his or her employment.

34 (4) "Community custody" has the same meaning as that provided in  
35 RCW 9.94A.030 and also includes community placement and community  
36 supervision as defined in RCW 9.94B.020.

37 (5) "Contraband" means any object or communication the secretary  
38 determines shall not be allowed to be: (a) Brought into; (b)

1 possessed while on the grounds of; or (c) sent from any institution  
2 under the control of the secretary.

3 (6) "Correctional facility" means a facility or institution  
4 operated directly or by contract by the secretary for the purposes of  
5 incarcerating adults in total or partial confinement, as defined in  
6 RCW 9.94A.030.

7 (7) "County" means a county or combination of counties.

8 (8) "Department" means the department of corrections.

9 (9) "Earned early release" means earned release as authorized by  
10 RCW 9.94A.729.

11 (10) "Emergency confinement" means the solitary confinement of an  
12 incarcerated person in a correctional facility when there is  
13 reasonable cause to believe that this confinement is necessary for  
14 reducing a substantial risk of imminent serious harm to the  
15 incarcerated person or others, as evidenced by recent conduct.

16 (11) "Evidence-based" means a program or practice that has had  
17 multiple-site random controlled trials across heterogeneous  
18 populations demonstrating that the program or practice is effective  
19 in reducing recidivism for the population.

20 ((+11+)) (12) "Extended family visit" means an authorized visit  
21 between an inmate and a member of his or her immediate family that  
22 occurs in a private visiting unit located at the correctional  
23 facility where the inmate is confined.

24 ((+12+)) (13) "Good conduct" means compliance with department  
25 rules and policies.

26 ((+13+)) (14) "Good performance" means successful completion of a  
27 program required by the department, including an education, work, or  
28 other program.

29 ((+14+)) (15) "Immediate family" means the inmate's children,  
30 stepchildren, grandchildren, great grandchildren, parents,  
31 stepparents, grandparents, great grandparents, siblings, aunts,  
32 uncles, and a person legally married to or in a state registered  
33 domestic partnership with an inmate. "Immediate family" includes the  
34 immediate family of an inmate who was adopted as a child or an adult,  
35 but does not include an inmate adopted by another inmate.

36 ((+15+)) (16) "Incarcerated person" means a person in the custody  
37 of the department including, but not limited to, persons residing in  
38 a correctional institution or facility and persons released from such  
39 facility on furlough, work release, or community custody, and persons

1 received from another state, state agency, county, or federal  
2 jurisdiction.

3 (17) "Indigent inmate," "indigent," and "indigency" mean an  
4 inmate who has less than a twenty-five dollar balance of disposable  
5 income in his or her institutional account on the day a request is  
6 made to utilize funds and during the thirty days previous to the  
7 request.

8 ~~((16))~~ (18) "Individual reentry plan" means the plan to prepare  
9 an offender for release into the community. It should be developed  
10 collaboratively between the department and the offender and based on  
11 an assessment of the offender using a standardized and comprehensive  
12 tool to identify the offender's risks and needs. The individual  
13 reentry plan describes actions that should occur to prepare  
14 individual offenders for release from prison or jail, specifies the  
15 supervision and services they will experience in the community, and  
16 describes an offender's eventual discharge to aftercare upon  
17 successful completion of supervision. An individual reentry plan is  
18 updated throughout the period of an offender's incarceration and  
19 supervision to be relevant to the offender's current needs and risks.

20 ~~((17))~~ (19) "Inmate" means a person committed to the custody of  
21 the department, including but not limited to persons residing in a  
22 correctional institution or facility and persons released from such  
23 facility on furlough, work release, or community custody, and persons  
24 received from another state, state agency, county, or federal  
25 jurisdiction.

26 ~~((18))~~ (20) "Labor" means the period of time before a birth  
27 during which contractions are of sufficient frequency, intensity, and  
28 duration to bring about effacement and progressive dilation of the  
29 cervix.

30 ~~((19))~~ (21) "Less restrictive intervention" means a placement  
31 or conditions of confinement, or both, in the current or an  
32 alternative correctional facility, under conditions less restrictive  
33 of an incarcerated person's movement, privileges, activities, or  
34 social interactions than solitary confinement.

35 (22) "Medical isolation" means solitary confinement of an  
36 incarcerated person for medical reasons including, but not limited  
37 to, a mental health emergency or when necessary for preventing the  
38 spread of a communicable disease.

39 (23) "Medical provider" means state-licensed psychiatrists,  
40 physicians, physician assistants, advanced practice nurses or

1 clinical nurse specialists or, for mental health evaluations or  
2 decisions, those registered nurses with a specialty in psychiatric  
3 nursing, or comparably credentialed employees or contractors employed  
4 to provide health care.

5 (24) "Member of a vulnerable population" means any incarcerated  
6 person who:

7 (a) Is 25 years of age or younger;

8 (b) Is 60 years of age or older;

9 (c) Has a mental disorder, as defined by RCW 71.05.020, or where  
10 there is evidence of a diagnosis of a serious mental illness, a  
11 history of psychiatric hospitalization, or a history of disruptive or  
12 self-injurious behavior including, but not limited to, serious and/or  
13 repeated self-harm, that may be the result of a mental disorder or  
14 condition;

15 (d) Has a developmental disability, as defined in RCW 71A.10.020;

16 (e) Has a serious medical condition that cannot effectively be  
17 treated in solitary confinement;

18 (f) Is pregnant, in the postpartum period, or has recently  
19 suffered a miscarriage or terminated a pregnancy;

20 (g) Has needs related to a physical disability that cannot be  
21 accommodated in solitary confinement; or

22 (h) Has a significant auditory or visual impairment.

23 (25) "Physical restraint" means the use of any bodily force or  
24 physical intervention to control an offender or limit an offender's  
25 freedom of movement in a way that does not involve a mechanical  
26 restraint. Physical restraint does not include momentary periods of  
27 minimal physical restriction by direct person-to-person contact,  
28 without the aid of mechanical restraint, accomplished with limited  
29 force and designed to:

30 (a) Prevent an offender from completing an act that would result  
31 in potential bodily harm to self or others or damage property;

32 (b) Remove a disruptive offender who is unwilling to leave the  
33 area voluntarily; or

34 (c) Guide an offender from one location to another.

35 ~~((+20))~~ (26) "Postpartum recovery" means (a) the entire period a  
36 woman or youth is in the hospital, birthing center, or clinic after  
37 giving birth and (b) an additional time period, if any, a treating  
38 physician determines is necessary for healing after the woman or  
39 youth leaves the hospital, birthing center, or clinic.

1       (~~(21)~~) (27) "Privilege" means any goods or services, education  
2 or work programs, or earned early release days, the receipt of which  
3 are directly linked to an inmate's (a) good conduct; and (b) good  
4 performance. Privileges do not include any goods or services the  
5 department is required to provide under the state or federal  
6 Constitution or under state or federal law.

7       (~~(22)~~) (28) "Promising practice" means a practice that  
8 presents, based on preliminary information, potential for becoming a  
9 research-based or consensus-based practice.

10       (~~(23)~~) (29) "Protective custody" means confinement of an  
11 incarcerated person in a cell or similarly confined holding or living  
12 space, under conditions necessary to protect the incarcerated person  
13 or others.

14       (30) "Research-based" means a program or practice that has some  
15 research demonstrating effectiveness, but that does not yet meet the  
16 standard of evidence-based practices.

17       (~~(24)~~) (31) "Restraints" means anything used to control the  
18 movement of a person's body or limbs and includes:

19       (a) Physical restraint; or

20       (b) Mechanical device including but not limited to: Metal  
21 handcuffs, plastic ties, ankle restraints, leather cuffs, other  
22 hospital-type restraints, tasers, or batons.

23       (~~(25)~~) (32) "Secretary" means the secretary of corrections or  
24 his or her designee.

25       (~~(26)~~) (33) "Significant expansion" includes any expansion into  
26 a new product line or service to the class I business that results  
27 from an increase in benefits provided by the department, including a  
28 decrease in labor costs, rent, or utility rates (for water, sewer,  
29 electricity, and disposal), an increase in work program space, tax  
30 advantages, or other overhead costs.

31       (~~(27)~~) (34) "Solitary confinement" means confinement of an  
32 incarcerated person in a correctional facility, pursuant to  
33 disciplinary, administrative, protective, investigative, mental  
34 health or medical, or other classification, in a cell or similarly  
35 confined holding or living space, alone or with other incarcerated  
36 persons, for 20 hours or more per day. Solitary confinement shall not  
37 include confinement due to a facility-wide or unit-wide lockdown that  
38 is required to ensure the safety of incarcerated persons and staff or  
39 confinement due to quarantine or isolation measures undertaken in  
40 response to a public health crisis or declared state of emergency.

1        (35) "Superintendent" means the superintendent of a correctional  
2 facility under the jurisdiction of the Washington state department of  
3 corrections, or his or her designee.

4        ~~((28))~~ (36) "Transportation" means the conveying, by any means,  
5 of an incarcerated pregnant woman or youth from the correctional  
6 facility to another location from the moment she leaves the  
7 correctional facility to the time of arrival at the other location,  
8 and includes the escorting of the pregnant incarcerated woman or  
9 youth from the correctional facility to a transport vehicle and from  
10 the vehicle to the other location.

11        ~~((29))~~ (37) "Unfair competition" means any net competitive  
12 advantage that a business may acquire as a result of a correctional  
13 industries contract, including labor costs, rent, tax advantages,  
14 utility rates (water, sewer, electricity, and disposal), and other  
15 overhead costs. To determine net competitive advantage, the  
16 department of corrections shall review and quantify any expenses  
17 unique to operating a for-profit business inside a prison.

18        ~~((30))~~ (38) "Vocational training" or "vocational education"  
19 means "vocational education" as defined in RCW 72.62.020.

20        ~~((31))~~ (39) "Washington business" means an in-state  
21 manufacturer or service provider subject to chapter 82.04 RCW  
22 existing on June 10, 2004.

23        ~~((32))~~ (40) "Work programs" means all classes of correctional  
24 industries jobs authorized under RCW 72.09.100.

25        NEW SECTION.    **Sec. 4.** A new section is added to chapter 72.09  
26 RCW to read as follows:

27        (1) The use of solitary confinement in correctional facilities in  
28 this state shall be restricted as follows:

29        (a) Except as otherwise provided in subsection (3)(a), (c), and  
30 (d) of this section:

31        (i) An incarcerated person shall not be placed in solitary  
32 confinement unless there is reasonable cause to believe that the  
33 incarcerated person would create a substantial risk of immediate  
34 serious harm to himself or another, as evidenced by recent threats or  
35 conduct, and a less restrictive intervention would be insufficient to  
36 reduce this risk.

37        (ii) An incarcerated person shall not be placed in solitary  
38 confinement for nondisciplinary reasons.

1 (b) Except as otherwise provided in subsection (3)(a) of this  
2 section:

3 (i) An incarcerated person shall not be placed in solitary  
4 confinement before receiving a personal and comprehensive medical and  
5 mental health examination conducted by a qualified medical provider  
6 unless there is reasonable cause to believe that such advance  
7 evaluation would create a substantial threat to security or safety;  
8 in such instances an evaluation must occur within one hour of  
9 placement in solitary confinement.

10 (ii) An incarcerated person shall only be held in solitary  
11 confinement pursuant to initial procedures and reviews that provide  
12 timely, fair, and meaningful opportunities for the incarcerated  
13 person to contest the confinement. These procedures shall include the  
14 right to an initial hearing within 72 hours of placement; the right  
15 to appear at the hearing; the right to assistance at the hearing by a  
16 lay advisor or other person of their choosing, including but not  
17 limited to other incarcerated individuals, outside advocates, or  
18 retained counsel; an independent hearing officer; a written statement  
19 of reasons for the decision made at the hearing; and a written  
20 statement on how to appeal a hearing determination.

21 (c) Except as otherwise provided in subsection (3)(c) of this  
22 section, the final decision to place an incarcerated person in  
23 solitary confinement shall be made by the superintendent.

24 (d) Except as otherwise provided in (e) of this subsection and  
25 subsection (3)(c) of this section, an incarcerated person shall not  
26 be placed or retained in solitary confinement if the superintendent  
27 determines that the incarcerated person no longer meets the standard  
28 for the confinement.

29 (e) A qualified medical provider shall conduct a mental health  
30 and physical health status examination for each incarcerated person  
31 placed in solitary confinement on a daily basis, in a confidential  
32 setting outside of the cell whenever possible, to determine whether  
33 the incarcerated person is a member of a vulnerable population.  
34 Except as otherwise provided in subsection (3) of this section, an  
35 incarcerated person determined to be a member of a vulnerable  
36 population shall be immediately removed from solitary confinement and  
37 moved to an appropriate placement.

38 (f) A disciplinary sanction of solitary confinement that has been  
39 imposed on an incarcerated person who is removed from solitary



1 confinement pursuant to (e) of this subsection, shall be deemed to be  
2 satisfied.

3 (g) Except as otherwise provided in subsection (3)(a) of this  
4 section, during a facility-wide lockdown, an incarcerated person  
5 shall not be placed in solitary confinement for more than 15  
6 consecutive days, and for no more than 45 cumulative days during a  
7 single fiscal year.

8 (h) Cells or other holding or living spaces used for solitary  
9 confinement are to be properly ventilated, appropriately lit,  
10 temperature-monitored, clean, and equipped with properly functioning  
11 sanitary fixtures.

12 (i) A correctional facility shall maximize the amount of time  
13 that an incarcerated person held in solitary confinement spends  
14 outside of the cell by providing, as appropriate, access to outdoor  
15 and indoor recreation, education, clinically appropriate treatment  
16 therapies, skill-building activities, and social interaction with  
17 staff and other incarcerated persons.

18 (j) An incarcerated person held in solitary confinement shall not  
19 be denied access to food, water, or any other basic necessity.

20 (k) An incarcerated person held in solitary confinement shall not  
21 be denied access to appropriate medical care, including emergency  
22 medical care.

23 (l) An incarcerated person shall not be directly released from  
24 solitary confinement to the community, unless it is necessary for the  
25 safety of the incarcerated person, staff, other incarcerated persons,  
26 or the public.

27 (m) An incarcerated person shall not be held in solitary  
28 confinement based on the incarcerated person's race, creed, color,  
29 national origin, nationality, ancestry, age, marital status, domestic  
30 partnership or civil union status, affectional or sexual orientation,  
31 genetic information, pregnancy or breastfeeding status, sex, gender  
32 identity or expression, disability, or atypical hereditary cellular  
33 or blood trait.

34 (2) Except as otherwise provided in subsection (3) of this  
35 section, an incarcerated person who is a member of a vulnerable  
36 population shall not be placed in solitary confinement.

37 (a) An incarcerated person who is a member of a vulnerable  
38 population due to a mental disorder or developmental disability as  
39 defined in this section:

1 (i) Shall not be subject to discipline for refusing treatment or  
2 medication, for self-harming or related conduct or threats of this  
3 conduct, or for other behavior that is due to a disability; and

4 (ii) Who would otherwise be placed in solitary confinement shall  
5 be screened by a qualified medical provider for placement in a  
6 residential treatment unit or close observation unit for observation  
7 and assessment, or transferred to the least restrictive appropriate  
8 short-term care or psychiatric facility designated by the department  
9 of social and health services pursuant to RCW 72.68.031.

10 (b) An incarcerated person who is a member of a vulnerable  
11 population because the incarcerated person is under 25 or over 60  
12 years of age, has a serious medical condition that cannot be  
13 effectively treated in solitary confinement, a physical disability  
14 that cannot be accommodated in solitary confinement, has significant  
15 auditory or visual impairment, is pregnant, is in the postpartum  
16 period, or has recently suffered a miscarriage or terminated a  
17 pregnancy, and who would otherwise be placed in solitary confinement,  
18 shall alternately be placed in an appropriate medical or other unit  
19 as designated by the secretary.

20 (3) Solitary confinement shall be permitted under limited  
21 circumstances as follows:

22 (a) The superintendent or their designee determines that a  
23 facility-wide lockdown is required to ensure the safety of  
24 incarcerated persons in the facility until the superintendent or  
25 their designee determines that these circumstances no longer exist.  
26 The superintendent or designee shall document specific reasons why  
27 any lockdown is necessary for more than 24 hours and why less  
28 restrictive interventions are insufficient to accomplish the  
29 facility's safety goals. Within seven days, the secretary shall  
30 publish the reasons for the lockdown on the department of corrections  
31 website and provide meaningful notice of the reasons for the lockdown  
32 to the legislature and the office of the corrections ombuds.

33 (b) The superintendent determines that an incarcerated person  
34 should be placed in emergency confinement, provided that:

35 (i) An incarcerated person shall not be held in emergency  
36 confinement for more than 24 consecutive hours and for no more than  
37 72 cumulative hours in a 30 day period; and

38 (ii) An incarcerated person held in emergency confinement shall  
39 receive an initial in-person medical and mental health evaluation  
40 prior to placement in emergency confinement unless there is

1 reasonable cause to believe that an advance evaluation would create a  
2 substantial threat to security or safety. In such instances, an  
3 evaluation must occur within one hour of placement in emergency  
4 confinement. A comprehensive medical and mental health evaluation  
5 shall be conducted by a member of the medical staff within 12 hours  
6 of emergency confinement. Reports of these evaluations shall be  
7 immediately provided to the superintendent of the facility and the  
8 secretary.

9 (c) A qualified medical provider, based on a personal  
10 examination, determines that an incarcerated person should be placed  
11 or retained in medical isolation. The decision to place and retain an  
12 incarcerated person in medical isolation due to a mental health  
13 emergency shall be made by a qualified medical provider based on a  
14 personal examination. In any case of isolation under this subsection,  
15 an in-person clinical review shall be conducted at least every six  
16 hours and as clinically indicated. An incarcerated person in medical  
17 isolation pursuant to this subsection shall be placed in a  
18 residential treatment unit, a close observation unit, or a medical  
19 unit, as designated by the secretary.

20 (d) If the superintendent determines that an incarcerated person  
21 should be placed in solitary confinement in order to protect their  
22 safety, the safety of staff, or other incarcerated people, protective  
23 custody shall proceed as follows:

24 (i) The facility shall keep a written record of a request by an  
25 incarcerated person to be placed in solitary confinement for the  
26 purposes of voluntary protective custody. The incarcerated person may  
27 be placed in voluntary protective custody only with informed, written  
28 consent and when there is reasonable cause to believe that  
29 confinement is necessary to prevent reasonably foreseeable harm. When  
30 an incarcerated person makes an informed, written request for such  
31 protective custody, the correctional facility shall bear the burden  
32 of establishing a basis for refusing the request.

33 (ii) The incarcerated person may be placed in solitary  
34 confinement for involuntary protective custody only when there is  
35 clear and convincing evidence that such confinement is necessary to  
36 prevent reasonably foreseeable harm and that a less restrictive  
37 intervention would not be sufficient to prevent the harm. Placement  
38 in solitary confinement for involuntary protective custody shall not  
39 exceed 72 hours.

1 (iii) An incarcerated person placed in solitary confinement for  
2 the purposes of protective custody shall receive comparable  
3 opportunities for activities, movement, and social interaction,  
4 consistent with their safety and the safety of others as are  
5 available to incarcerated persons in the general population of the  
6 facility.

7 (iv) An incarcerated person subject to removal from solitary  
8 confinement for the purposes of protective custody shall be provided  
9 with a timely, fair, and meaningful opportunity to contest the  
10 removal.

11 (v) An incarcerated person who may be placed or currently is in  
12 solitary confinement for the purposes of voluntary protective custody  
13 may opt out of that status by providing informed, written refusal of  
14 that status.

15 (vi) The superintendent shall place an incarcerated person in a  
16 less restrictive intervention, including transfer to the general  
17 population of another institution or to any unit designated for  
18 incarcerated persons who face similar threats, before placing the  
19 incarcerated person in solitary confinement for either voluntary or  
20 involuntary protective custody unless the incarcerated person poses  
21 an extraordinary security risk so great that transferring the  
22 incarcerated person would be insufficient to ensure the incarcerated  
23 person's safety or the safety of others.

24 (4) (a) An incarcerated person shall not be placed in solitary  
25 confinement pending investigation of a disciplinary offense unless:

26 (i) The incarcerated person's presence, in the general  
27 population, poses a serious and imminent danger to the incarcerated  
28 person, staff, other incarcerated persons, or the public. In making  
29 this determination, the superintendent shall consider the seriousness  
30 of the alleged offense, including whether the offense involved  
31 violence or escape, or posed a threat to institutional safety by  
32 encouraging others to engage in serious misconduct; or

33 (ii) The superintendent has granted approval in an emergency  
34 situation.

35 (b) An incarcerated person's placement in solitary confinement  
36 pending investigation of a disciplinary offense shall be reviewed  
37 within 24 hours by a supervisory employee who was not involved in the  
38 initial placement decision.

39 (c) An incarcerated person who has been placed in solitary  
40 confinement pending investigation of a disciplinary offense shall be

1 considered for release to the general population every 24 hours; and  
2 if the incarcerated person demonstrates good behavior during that  
3 period, he or she shall be released. If the incarcerated person is  
4 found guilty of the disciplinary offense, the incarcerated person's  
5 good behavior shall be considered in determining the appropriate  
6 penalty. In no circumstance should an incarcerated person remain in  
7 solitary confinement pending investigation of a disciplinary offense  
8 for more than 15 days.

9 (5) The secretary shall:

10 (a) Develop policies and implement procedures for the review of  
11 incarcerated persons placed in solitary confinement and submit  
12 proposed regulations for adoption as required by subsection (6) of  
13 this section;

14 (b) Initiate a review of each incarcerated person currently in  
15 solitary confinement pursuant to the policies and procedures  
16 developed and implemented under (a) of this subsection; and

17 (c) Develop a plan for providing step-down and transitional  
18 units, programs, and staffing patterns to accommodate incarcerated  
19 persons in solitary confinement, incarcerated persons who will be  
20 placed in solitary confinement, and incarcerated persons who receive  
21 an intermediate sanction in lieu of being placed in solitary  
22 confinement.

23 (6) The secretary shall adopt regulations to effectuate the  
24 provisions of this section. The regulations shall include, but not be  
25 limited to:

26 (a) Regulations establishing less restrictive interventions to  
27 solitary confinement, including means of separating or protecting  
28 incarcerated persons without use of solitary confinement;

29 (b) Establishing that restrictions on religious, mail, and  
30 telephone privileges, visit contacts, and outdoor and indoor  
31 recreation shall only be imposed as is directly necessary for the  
32 safety of the incarcerated person or others, and that there shall be  
33 no restrictions on access to food, basic necessities, or legal  
34 access;

35 (c) Requiring training of disciplinary staff and all staff  
36 working with incarcerated persons in solitary confinement and  
37 requiring that this training include:

38 (i) Assistance from appropriate professionals including, but not  
39 limited to, professionals in the department of social and health

1 services to periodically train all staff working with incarcerated  
2 persons in solitary confinement and alternatives to such confinement;

3 (ii) Standards for solitary confinement, including that it shall  
4 be limited to when an incarcerated person commits an offense  
5 involving serious violence, escapes or attempts to escape, or poses a  
6 serious threat to institutional safety; that the maximum penalties  
7 for each offense shall be based on the seriousness of the offense;  
8 and available less restrictive interventions;

9 (iii) The identification of developmental disabilities, and the  
10 symptoms of mental illness, including traumatic brain injuries,  
11 trauma, and personality disorders, and methods of safe responses to  
12 people in distress; and

13 (iv) The identification and response to incarcerated individuals  
14 in need of physical accommodations who have been referred to solitary  
15 confinement;

16 (d) Requiring documentation of all decisions, procedures, and  
17 reviews of incarcerated persons placed in solitary confinement;

18 (e) Requiring monitoring of compliance with all rules governing  
19 cells, units, and other places where incarcerated persons are placed  
20 in solitary confinement;

21 (f) Requiring posting on the official website of the department  
22 monthly reports on the use of solitary confinement, by age, sex,  
23 gender identity, ethnicity, incidence of a mental disorder, and type  
24 of confinement status, number of people released from solitary  
25 confinement directly to the community, and the mean and median period  
26 of solitary confinement at each facility, and these reports shall  
27 include the population on the last day of each quarter and a  
28 nonduplicative cumulative count of people exposed to solitary  
29 confinement for each fiscal year. These incarcerated person reports  
30 shall also include the incidence of emergency confinement, self-harm,  
31 suicide, and assault in any solitary confinement unit, as well as  
32 explanations for each instance of facility-wide lockdown. These  
33 reports shall not include personally identifiable information  
34 regarding any incarcerated person; and

35 (g) Modifying the Washington Administrative Code for consistency  
36 with the provisions of this act.

37 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.48  
38 RCW to read as follows:

1 (1) A governing unit operating one or more jails must compile on  
2 a monthly basis until June 1, 2021, the following information with  
3 respect to each jail operated by the governing unit:

4 (a) The number of times solitary confinement was used;

5 (b) The circumstances leading to the use of solitary confinement;

6 (c) For each instance of solitary confinement, the length of time  
7 the individual remained in solitary confinement, whether or not  
8 supervisory review of the solitary confinement occurred and was  
9 documented, whether or not a medical assessment or review and a  
10 mental health assessment or review were conducted and documented, and  
11 whether or not the affected person was afforded full access to  
12 education, programming, and ordinary necessities such as medication,  
13 meals, and reading material during the term of solitary confinement.

14 (2) Information collected under subsection (1) of this section  
15 must be compiled into a monthly report and submitted to the  
16 Washington association of sheriffs and police chiefs.

17 (3) For the purposes of this section, "solitary confinement"  
18 means confinement of an incarcerated person in a jail, pursuant to  
19 disciplinary, administrative, protective, investigative, mental  
20 health or medical, or other classification, in a cell or similarly  
21 confined holding or living space, alone or with other incarcerated  
22 persons, for 20 hours or more per day. Solitary confinement shall not  
23 include confinement due to a jail-wide lockdown that is required to  
24 ensure the safety of incarcerated persons and staff or confinement  
25 due to quarantine or isolation measures undertaken in response to a  
26 public health crisis or declared state of emergency.

27 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.28A  
28 RCW to read as follows:

29 (1) The Washington association of sheriffs and police chiefs must  
30 collect, on a monthly basis, the information submitted under section  
31 5 of this act.

32 (2) The collected information must be compiled into a report  
33 summarizing the information by county and type of facility.

34 (3) An initial report must be submitted, in compliance with RCW  
35 43.01.036, to the appropriate committees of the legislature by  
36 December 1, 2021. An updated report must be submitted, in compliance  
37 with RCW 43.01.036, to the appropriate committees of the legislature  
38 by December 1, 2022.

1        NEW SECTION.    **Sec. 7.**    The secretary of the department of  
2 corrections is authorized to create rules necessary to implement this  
3 act.

4        NEW SECTION.    **Sec. 8.**    This act takes effect August 1, 2022.

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