
SUBSTITUTE HOUSE BILL 1087

State of Washington

68th Legislature

2023 Regular Session

By House Community Safety, Justice, & Reentry (originally sponsored by Representatives Peterson, Simmons, Berry, Bateman, Reed, Ramel, Pollet, Street, Senn, Macri, Thai, Santos, Ormsby, and Farivar)

READ FIRST TIME 01/23/23.

1 AN ACT Relating to solitary confinement; amending RCW 72.09.015;
2 adding new sections to chapter 72.09 RCW; creating new sections;
3 providing an effective date; and providing expiration dates.

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

5 NEW SECTION. **Sec. 1.** This act may be known and cited as the
6 solitary confinement restriction act.

7 NEW SECTION. **Sec. 2.** The legislature finds that almost 600
8 adults continue to be held in solitary confinement in state
9 correctional facilities. Solitary confinement has been shown to
10 create significant and lasting psychological impacts. Therefore, the
11 legislature finds that the use of solitary confinement in state
12 correctional facilities should be restricted to ensure the safe and
13 humane operation of these facilities, consistent with the state and
14 federal Constitutions, the laws and public policies of this state,
15 the mission of the correctional system, evolving medical knowledge,
16 and international human rights standards. The standards established
17 in this act apply to all incarcerated persons in the custody of the
18 department of corrections.

19 The legislature also finds that people are held in similar
20 conditions in other facilities, including those operated by private

1 contractors for longer term detention. Due to the damage caused by
2 solitary confinement over long periods, these facilities present
3 similar risks to the safety and welfare of Washingtonians and
4 solitary confinement within such facilities should be similarly
5 restricted.

6 The legislature further finds that solitary confinement is
7 occurring in local jails, and that additional data is needed in order
8 to accurately assess the use of solitary confinement in these
9 settings and what reforms may be needed in the future. The intent of
10 this act is to increase social interaction, programming
11 opportunities, and treatment while minimizing the use of solitary
12 confinement to situations necessary for the safety of the
13 incarcerated person, other inmates, and department of corrections
14 staff.

15 **Sec. 3.** RCW 72.09.015 and 2022 c 254 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) "Evidence-based" means a program or practice that has had
12 multiple-site random controlled trials across heterogeneous
13 populations demonstrating that the program or practice is effective
14 in reducing recidivism for the population.

15 (11) "Extended family visit" means an authorized visit between an
16 inmate and a member of his or her immediate family that occurs in a
17 private visiting unit located at the correctional facility where the
18 inmate is confined.

19 (12) "Good conduct" means compliance with department rules and
20 policies.

21 (13) "Good performance" means successful completion of a program
22 required by the department, including an education, work, or other
23 program.

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

31 (15) "Indigent inmate," "indigent," and "indigency" mean an
32 inmate who has less than a \$25 balance of disposable income in his or
33 her institutional account on the day a request is made to utilize
34 funds and during the 30 days previous to the request.

35 (16) "Individual reentry plan" means the plan to prepare an
36 offender for release into the community. It should be developed
37 collaboratively between the department and the offender and based on
38 an assessment of the offender using a standardized and comprehensive
39 tool to identify the offender's risks and needs. The individual
40 reentry plan describes actions that should occur to prepare

1 individual offenders for release from prison or jail, specifies the
2 supervision and services they will experience in the community, and
3 describes an offender's eventual discharge to aftercare upon
4 successful completion of supervision. An individual reentry plan is
5 updated throughout the period of an offender's incarceration and
6 supervision to be relevant to the offender's current needs and risks.

7 (17) "Inmate" (~~means~~) and "incarcerated person" mean a person
8 committed to the custody of the department, including but not limited
9 to persons residing in a correctional institution or facility and
10 persons released from such facility on furlough, work release, or
11 community custody, and persons received from another state, state
12 agency, county, federally recognized tribe, or federal jurisdiction.

13 (18) "Labor" means the period of time before a birth during which
14 contractions are of sufficient frequency, intensity, and duration to
15 bring about effacement and progressive dilation of the cervix.

16 (19) "Physical restraint" means the use of any bodily force or
17 physical intervention to control an offender or limit an offender's
18 freedom of movement in a way that does not involve a mechanical
19 restraint. Physical restraint does not include momentary periods of
20 minimal physical restriction by direct person-to-person contact,
21 without the aid of mechanical restraint, accomplished with limited
22 force and designed to:

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

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

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

28 (20) "Postpartum recovery" means (a) the entire period a woman or
29 youth is in the hospital, birthing center, or clinic after giving
30 birth and (b) an additional time period, if any, a treating physician
31 or certified nurse midwife determines is necessary for healing after
32 the woman or youth leaves the hospital, birthing center, or clinic.

33 (21) "Privilege" means any goods or services, education or work
34 programs, or earned early release days, the receipt of which are
35 directly linked to an inmate's (a) good conduct; and (b) good
36 performance. Privileges do not include any goods or services the
37 department is required to provide under the state or federal
38 Constitution or under state or federal law.

1 (22) "Promising practice" means a practice that presents, based
2 on preliminary information, potential for becoming a research-based
3 or consensus-based practice.

4 (23) "Research-based" means a program or practice that has some
5 research demonstrating effectiveness, but that does not yet meet the
6 standard of evidence-based practices.

7 (24) "Restraints" means anything used to control the movement of
8 a person's body or limbs and includes:

9 (a) Physical restraint; or

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

13 (25) "Secretary" means the secretary of corrections or his or her
14 designee.

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

21 (27) (a) "Superintendent" means the superintendent of a
22 correctional facility under the jurisdiction of the Washington state
23 department of corrections, or his or her designee.

24 (b) For purposes of sections 4 through 9 of this act, the
25 superintendent's designee may only be the secretary, the deputy
26 secretary, the chief of staff, or the assistant secretary of the
27 prisons division.

28 (28) "Transportation" means the conveying, by any means, of an
29 incarcerated pregnant woman or youth from the correctional facility
30 to another location from the moment she leaves the correctional
31 facility to the time of arrival at the other location, and includes
32 the escorting of the pregnant incarcerated woman or youth from the
33 correctional facility to a transport vehicle and from the vehicle to
34 the other location.

35 (29) "Unfair competition" means any net competitive advantage
36 that a business may acquire as a result of a correctional industries
37 contract, including labor costs, rent, tax advantages, utility rates
38 (water, sewer, electricity, and disposal), and other overhead costs.
39 To determine net competitive advantage, the department of corrections

1 shall review and quantify any expenses unique to operating a for-
2 profit business inside a prison.

3 (30) "Vocational training" or "vocational education" means
4 "vocational education" as defined in RCW 72.62.020.

5 (31) "Washington business" means an in-state manufacturer or
6 service provider subject to chapter 82.04 RCW existing on June 10,
7 2004.

8 (32) "Work programs" means all classes of correctional industries
9 jobs authorized under RCW 72.09.100.

10 (33) "Qualified medical provider," depending on the
11 circumstances, includes a physician, physician assistant, advanced
12 registered nurse practitioner, clinical nurse specialist, or other
13 comparably credentialed employee or contractor employed to provide
14 health care, or for mental health evaluations or decisions, a state
15 licensed psychiatrist or psychologist, a registered nurse, or other
16 comparably credentialed employee or contractor employed to provide
17 mental health care.

18 (34) "Less restrictive intervention" means a placement or
19 conditions of confinement, or both, in the current or an alternative
20 correctional facility or detention facility, under conditions less
21 restrictive of an incarcerated or detained person's movement,
22 privileges, activities, or social interactions than solitary
23 confinement.

24 (35) "Solitary confinement" means the confinement of an
25 incarcerated person or detained person alone in a cell or similarly
26 confined holding or living space for 20 hours or more per day
27 pursuant to disciplinary segregation, administrative segregation, or
28 protective custody. Solitary confinement does not include confinement
29 due to a partial or facility-wide lockdown that is required to ensure
30 the safety of incarcerated persons, detained persons, or staff due to
31 quarantine or isolation measures undertaken in response to a public
32 health crisis or declared state of emergency.

33 (36) "Vulnerable person" means any incarcerated person or
34 detained person who:

35 (a) Has a mental disorder, as defined in RCW 71.05.020, or where
36 there is evidence of a diagnosis of a serious mental illness, a
37 history of psychiatric hospitalization, or a history of disruptive or
38 self-injurious behavior including, but not limited to, serious and/or
39 repeated self-harm, that may be the result of a mental disorder or
40 condition;

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

2 (c) Has a serious medical condition that cannot effectively be
3 treated in solitary confinement;

4 (d) Is pregnant, in the postpartum period, or has recently
5 suffered a miscarriage or terminated a pregnancy;

6 (e) Has needs related to a physical disability that cannot be
7 accommodated in solitary confinement, including auditory impairment
8 that results in a word score of 40 percent or less, visual impairment
9 that is central visual acuity of 20/200 or less with the use of
10 corrective lenses, or both; or

11 (f) Has a record of dementia, traumatic brain injury, or other
12 cognitive condition that makes the person more vulnerable to the
13 harms of isolation.

14 (37) "Long-term private detention facility" and "detention
15 facility" mean a private detention facility as defined in RCW
16 70.395.020 where individuals may be confined for time periods greater
17 than one year.

18 (38) "Detained person" means a person confined in a long-term
19 private detention facility.

20 (39) "Administrative segregation" means the imposition of
21 solitary confinement as a nonpunitive measure for incarcerated or
22 detained persons who are prone to escape, assault correctional
23 facility staff or other incarcerated or detained persons, are a
24 threat to themselves, or are in need of medical isolation or
25 infirmary status.

26 (40) "Disciplinary segregation" means the imposition of solitary
27 confinement as the result of a disciplinary hearing in which the
28 incarcerated person or detained person has been found to be in
29 violation of a facility rule or state or federal law and this status
30 results in separating the incarcerated person or detained person from
31 the rest of the corrections facility or private detention facility
32 population to serve the consequence imposed.

33 (41) "Protective custody" means the imposition of solitary
34 confinement as a nonpunitive measure, either requested or required,
35 to ensure an incarcerated person or detained person's safety.

36 (42) "Other segregation" means any isolation of an incarcerated
37 person or detained person from other inmates, department staff,
38 family, or external communication that does not constitute solitary
39 confinement, administrative segregation, disciplinary segregation, or
40 protective custody.

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

3 RESTRICTIONS ON SOLITARY CONFINEMENT. An incarcerated or detained
4 person may not be placed in solitary confinement except when
5 necessary for emergency purposes in section 5 of this act, medical
6 isolation in section 6 of this act, or when the incarcerated or
7 detained person voluntarily requests such confinement conditions in
8 section 7 of this act.

9 NEW SECTION. **Sec. 5.** A new section is added to chapter 72.09
10 RCW to read as follows:

11 (1) SOLITARY CONFINEMENT FOR EMERGENCY PURPOSES. An incarcerated
12 or detained person may be placed in solitary confinement for
13 emergency purposes if: The person has not been determined to be a
14 vulnerable person; the superintendent of the correctional facility or
15 the person in charge of the detention facility finds that there is
16 reasonable cause to believe that the solitary confinement is
17 necessary to reduce or protect against a substantial risk of
18 immediate serious harm to the person or another person, as evidenced
19 by recent threats or conduct; and the superintendent of the
20 correctional facility or the person in charge of the detention
21 facility finds that a less restrictive intervention would
22 insufficiently reduce this risk.

23 (2) INITIAL MEDICAL EVALUATION. (a)(i) Except as provided in
24 (a)(ii) of this subsection, a qualified medical provider shall
25 conduct a personal and comprehensive medical and mental health
26 examination of the incarcerated or detained person within 24 hours of
27 the person being placed in solitary confinement under this section.

28 (ii) A person who has been involved in an altercation or use of
29 force must be examined by a qualified medical provider prior to being
30 placed in solitary confinement.

31 (b) The comprehensive medical and mental health examination must
32 include an assessment as to whether the person is a vulnerable person
33 and whether the person's age or circumstance makes them particularly
34 vulnerable to the harm of isolation, such that the person should be
35 considered a vulnerable person. The examining qualified medical
36 provider shall immediately report to the superintendent of the
37 correctional facility or the person in charge of the detention
38 facility if he or she makes any finding indicating that the person is

1 vulnerable or that for any other reason continued placement in
2 solitary confinement would be a risk to the person's health.

3 (c) A report of the qualified medical provider's conclusions
4 based on the examination must be provided to the superintendent of
5 the correctional facility and the secretary, or, if the person is
6 detained in a detention facility, to the person in charge of the
7 facility, as soon as possible and no later than the next business
8 day.

9 (3) (a) 24-HOUR LIMIT. Except for extended solitary confinement as
10 provided in (b) of this subsection, a person may not be held in
11 solitary confinement for emergency purposes under this section for
12 more than 24 consecutive hours and for more than 72 cumulative hours
13 in any 30-day period.

14 (b) EXTENDED SOLITARY CONFINEMENT AND ONGOING REVIEW. An
15 incarcerated or detained person may not be placed in extended
16 solitary confinement for more than 20 consecutive days in a 60-day
17 period, subject to the exceptions set forth in (d) of this
18 subsection.

19 (c) For a person in extended solitary confinement:

20 (i) A qualified medical provider shall, every seven days, conduct
21 a mental health and physical health status examination of the person,
22 in a confidential setting outside of the cell unless doing so would
23 present a substantial threat to security or safety or the person
24 refuses to leave the cell. These examinations must be more frequent
25 if indicated by the person's documented clinical needs pertaining to
26 his or her identified health or health care concerns;

27 (ii) The department or the detention facility shall provide the
28 incarcerated or detained person with timely, fair, and meaningful
29 opportunities to contest the extended solitary confinement,
30 including: An initial hearing within 72 hours of placement, unless
31 emergency circumstances require a continuance which may be up to an
32 additional 48 hours; the right to appear at the hearing; the right to
33 request assistance at the hearing by a lay advisor or other person of
34 the incarcerated or detained person's choosing, including but not
35 limited to other incarcerated or detained individuals when such
36 individuals do not present an individualized and specific risk if
37 permitted to participate, outside advocates, or retained counsel; an
38 independent hearing officer; a written statement of reasons for the
39 decision made at the hearing; and a written statement on how to
40 appeal a hearing determination; and

1 (iii) The department or the detention facility shall maximize the
2 incarcerated or detained person's opportunities for social
3 interaction, including increased education, treatment, recreation,
4 peer support, skill-building, small pod socialization, or programming
5 for substance abuse, restorative justice, behavioral, or other needs;
6 and shall attempt to use transitional housing, including single cell
7 housing, transition pods, enhanced closed custody pods, transfer, or
8 housing in a specialized or treatment unit rather than solitary
9 confinement.

10 (d) The department or the detention facility may place an
11 incarcerated or detained person in extended solitary confinement
12 beyond the limits of (b) of this subsection only if, pursuant to an
13 evidentiary hearing, the secretary determines in a written decision
14 that the incarcerated or detained person committed one of the acts in
15 this subsection. The written decision must identify the reasons why
16 the individual cannot be placed in any setting other than solitary
17 confinement to prevent imminent serious physical injury to staff or
18 other incarcerated or detained persons.

19 (i) The incarcerated or detained person causes or attempts to
20 cause serious physical injury or death to another person, or makes an
21 imminent threat of serious physical injury or death if the person has
22 a history of causing physical injury or death and the secretary
23 determines there is a strong likelihood that the person will carry
24 out such threat; or

25 (ii) The incarcerated or detained person escapes or attempts to
26 escape a facility while under supervision outside the facility. For
27 the purposes of this subsection, the determination that an attempt to
28 escape occurred shall only be made if there is a clear finding that
29 the incarcerated or detained person intended to escape and completed
30 significant acts in advancement of the attempt to escape. Evidence of
31 the incarcerated or detained person's withdrawal or abandonment of a
32 plan to escape shall negate a finding of intent.

33 (e) If an incarcerated or detained person is placed in extended
34 solitary confinement beyond the limits of (b) of this subsection, the
35 department must notify the office of the corrections ombuds in
36 writing and create an individualized plan, in consultation with the
37 incarcerated or detained person, that identifies specific programming
38 and objective criteria that, if obtained, will result in the
39 incarcerated or detained person's transfer from solitary confinement
40 to a less restrictive setting.

1 (f) An incarcerated or detained person may not be placed in
2 extended solitary confinement based on an incident or allegation
3 previously used as the basis for extended solitary confinement.

4 (4) VULNERABLE PERSONS. If the incarcerated or detained person is
5 determined to be a vulnerable person during the initial examination
6 under subsection (2) of this section or any status examination under
7 subsection (3)(b) of this section, then the person must not be placed
8 in solitary confinement or must be removed from solitary confinement
9 and, if necessary, transferred to an appropriate residential
10 treatment unit, medical unit, or other appropriate or specialized
11 unit designated by the secretary or the person in charge of the
12 detention facility. If the person is identified as a vulnerable
13 person due to having a mental disorder or developmental disability,
14 as identified in RCW 72.09.015, the person may also be screened by a
15 qualified medical provider for transfer to the least restrictive
16 appropriate short-term care or psychiatric facility designated by the
17 department of social and health services and transferred to such
18 facility if the requirements in RCW 72.68.031 have been met.

19 NEW SECTION. **Sec. 6.** A new section is added to chapter 72.09
20 RCW to read as follows:

21 SOLITARY CONFINEMENT FOR MEDICAL ISOLATION. (1) An incarcerated
22 or detained person may be placed in solitary confinement for medical
23 isolation if the facility medical director determines, based on a
24 personal examination, that such confinement is necessary for medical
25 reasons, which may include, but are not limited to, responding to a
26 medical or mental health emergency, and no less restrictive
27 intervention is sufficient to protect health and safety. Conditions
28 of solitary confinement under this section must be the least
29 restrictive possible and must be in compliance with prevailing public
30 health guidance including, but not limited to, guidance from the
31 United States centers for disease control and prevention and the
32 Washington state department of health.

33 (2) For any person placed in solitary confinement under this
34 section, an in-person clinical assessment must be conducted at
35 clinically appropriate intervals as determined by a qualified medical
36 provider, provided such assessments occur no less frequently than
37 every 12 hours. A person in solitary confinement under this section
38 must be placed in a general population living unit, a residential
39 treatment unit, a close observation unit, or a medical unit

1 designated by the secretary, as deemed clinically appropriate by the
2 attending qualified medical provider in consultation with the
3 facility medical director.

4 (3) A person may not be placed in solitary confinement under this
5 section for more than 20 consecutive days in a 60-day period, unless
6 a qualified medical provider determines that additional time is
7 necessary: To prevent the spread of a disease and continued medical
8 isolation is consistent with applicable United States centers for
9 disease control and prevention or Washington state department of
10 health guidelines; to facilitate the provision of medical treatment
11 to the person; or for some other clearly stated medical purpose. If
12 additional time is deemed necessary, the medical provider shall
13 document specific reasons why the isolation is required and why less
14 restrictive interventions are insufficient to accomplish the safety
15 of incarcerated or detained persons in the facility. Such notice must
16 be forwarded to the facility medical director and superintendent of
17 the correctional facility or person in charge of the detention
18 facility for consideration and final approval.

19 NEW SECTION. **Sec. 7.** A new section is added to chapter 72.09
20 RCW to read as follows:

21 VOLUNTARY SOLITARY CONFINEMENT. (1) An incarcerated or detained
22 person may be voluntarily placed in solitary confinement if: The
23 person has capacity to make an informed decision about placement in
24 solitary confinement; there is reasonable cause to believe that
25 solitary confinement is necessary to prevent reasonably foreseeable
26 harm; and the person voluntarily requests such confinement
27 conditions.

28 (2) A person may be placed in solitary confinement under this
29 section only if the person provides informed consent. Whenever
30 possible, a person's request for placement in solitary confinement
31 must be in the form of a written request. If an incarcerated or
32 detained person initiates an informed request for solitary
33 confinement under this section, the correctional or detention
34 facility must document the request and has the burden of establishing
35 a basis for refusing the request. The department or the detention
36 facility shall maintain a written record of any request provided
37 under this section. Prior to declining a request or removing a person
38 who previously requested solitary confinement under this section, the
39 department or the detention facility shall provide the incarcerated

1 or detained person with a timely, fair, and meaningful opportunity to
2 contest the decision. A person in solitary confinement under this
3 section may revoke his or her request to such confinement conditions,
4 in which case the correctional or detention facility must document
5 the request and the person must be transferred to a less restrictive
6 intervention or other appropriate setting within 15 days.

7 (3) LESS RESTRICTIVE INTERVENTION. The department or the
8 detention facility shall make a less restrictive intervention
9 available to any incarcerated or detained person requesting solitary
10 confinement who meets the standard under subsection (1) of this
11 section, which may include provision of accommodations in the general
12 population, a transfer to the general population of another
13 institution or to a unit designated for persons who face similar
14 threats, or other specialized housing, as appropriate. A transfer to
15 an out-of-state facility is not a less restrictive intervention under
16 this section unless such a transfer is requested by the incarcerated
17 or detained person. The department or the detention facility shall
18 notify the incarcerated or detained person of the available less
19 restrictive intervention when receiving any request under subsection
20 (1) of this section and shall formulate an individualized
21 intervention plan that addresses the support or services the person
22 may need to move to a less restrictive intervention.

23 (4) A person who has requested solitary confinement under this
24 section must be assessed by a qualified medical provider every 90
25 days. If the qualified medical provider finds that continued
26 placement in solitary confinement would be detrimental to the health
27 or well-being of the person, the person must be transferred to a less
28 restrictive intervention.

29 NEW SECTION. **Sec. 8.** A new section is added to chapter 72.09
30 RCW to read as follows:

31 CONDITIONS OF SOLITARY CONFINEMENT. (1) The department and long-
32 term private detention facilities shall maximize the amount of time
33 that any incarcerated or detained person held in solitary confinement
34 spends outside of the cell by providing outdoor and indoor
35 recreation, education, clinically appropriate treatment therapies,
36 and skill-building activities. Cells or other holding or living
37 spaces used for solitary confinement must be properly ventilated,
38 appropriately lit according to the time of day, temperature-

1 monitored, clean, and equipped with properly functioning sanitary
2 fixtures.

3 (2) The department and any long-term private detention facility
4 may not deny an incarcerated or detained person held in solitary
5 confinement access to food, water, or any other basic necessity, or
6 access to appropriate medical care, including emergency medical care.

7 (3) The department and any long-term private detention facility
8 may not deny an incarcerated or detained person held in solitary
9 confinement access to the telephone, personal communication or media
10 devices, reading materials, or personal hygiene items unless an
11 individualized assessment determines that limitation of such items is
12 directly necessary for the safety of the person or others. The
13 department and any long-term private detention facilities may use
14 restraints upon a person in solitary confinement to facilitate
15 movement or programming if an individualized assessment determines
16 such restraint is directly necessary for the safety of the
17 incarcerated or detained person or others.

18 (4) The department and any long-term private detention facility
19 may not directly release an incarcerated or detained person from
20 solitary confinement to the community, unless it is necessary for the
21 safety of the person, staff, other incarcerated or detained persons,
22 or the public, or in circumstances in which the person requires an
23 immediate release due to resentencing.

24 (5) The department and any long-term private detention facility
25 may not place an incarcerated or detained person in solitary
26 confinement based on the person's race, creed, color, national
27 origin, nationality, ancestry, age, marital status, domestic
28 partnership or civil union status, affectional or sexual orientation,
29 genetic information, pregnancy or breastfeeding status, sex, gender
30 identity or expression, disability, or atypical hereditary cellular
31 or blood trait.

32 NEW SECTION. **Sec. 9.** A new section is added to chapter 72.09
33 RCW to read as follows:

34 SOLITARY CONFINEMENT POLICIES AND PROCEDURES. (1) By April 1,
35 2024, the department and all long-term private detention facilities
36 shall review the status of each incarcerated or detained person in
37 solitary confinement. The department and detention facilities shall
38 develop a plan to transition those incarcerated or detained persons
39 to less restrictive interventions or other appropriate settings. Any

1 person who has been in solitary confinement for longer than 120 days
2 in the prior 12 months as of July 1, 2024, must have a trauma-
3 informed, culturally appropriate individualized intervention plan to
4 facilitate a transition to a less restrictive intervention, which may
5 include an evaluation for possible single cell placement, access to
6 and treatment by medical and mental health providers, peer supports,
7 substance abuse programming, restorative justice programming,
8 behavioral programming, or other individualized interventions or
9 accommodations.

10 (2) By January 1, 2024, the secretary shall adopt any rules or
11 policies necessary to implement sections 4 through 8 of this act,
12 including for the purposes of:

13 (a) Establishing less restrictive interventions to solitary
14 confinement, including means of separating or protecting incarcerated
15 persons without use of solitary confinement;

16 (b) Establishing that restrictions on religious, mail, and
17 telephone privileges, visit contacts, and outdoor and indoor
18 recreation may be imposed only after an individualized assessment
19 that determines restrictions are directly necessary for the safety of
20 the incarcerated person or others, and that there may not be
21 restrictions on access to food, basic necessities, or legal access;

22 (c) Requiring training of staff working with incarcerated persons
23 in solitary confinement and requiring that this training include:
24 Assistance from appropriate professionals to periodically train all
25 staff working with incarcerated persons in solitary confinement and
26 alternatives to such confinement; and the identification and response
27 to incarcerated persons in need of physical accommodations who have
28 been referred to solitary confinement;

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

31 (e) Requiring monitoring of compliance with all rules and
32 policies governing cells, units, and other places where incarcerated
33 persons are placed in solitary confinement;

34 (f) Establishing procedures for hearings under section 5(3)(b) of
35 this act; and

36 (g) Requiring posting on the official website of the department
37 monthly reports, beginning April 1, 2024, on the use of solitary
38 confinement, including: The rate of solitary confinement by category,
39 age, sex, gender identity, ethnicity, or incidence of a mental
40 disorder; the number of people released from solitary confinement

1 directly to the community; the mean and median period of solitary
2 confinement at each facility, including the population on the last
3 day of each quarter and a nonduplicative cumulative count of people
4 exposed to solitary confinement for each fiscal year; the incidence
5 of self-harm, suicide, and assault in any solitary confinement unit;
6 the number of people held in extended solitary confinement pursuant
7 to section 5(3)(d) of this act and the individualized reasons for
8 each extended placement; and the number of people held in medical
9 isolation. Reports may not include personally identifiable
10 information regarding any incarcerated person.

11 (3) Prior to April 1, 2024, long-term private detention
12 facilities must implement policies modeled off of the rules adopted
13 by the department under this section.

14 NEW SECTION. **Sec. 10.** (1) Beginning August 1, 2023, a governing
15 unit of a city or county operating one or more jails shall compile on
16 a monthly basis through July 31, 2024, the following information with
17 respect to each jail operated by the governing unit:

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

19 (b) The circumstances leading to the use of solitary confinement;
20 and

21 (c) For each instance of solitary confinement:

22 (i) Whether the imposition of solitary confinement was the result
23 of a disciplinary segregation, administrative segregation, or
24 protective custody;

25 (ii) The length of time the individual remained in solitary
26 confinement;

27 (iii) Whether a supervisory review of the solitary confinement
28 occurred and was documented;

29 (iv) For disciplinary segregation, whether a due process hearing
30 was conducted and the results;

31 (v) Whether a medical assessment or review and a mental health
32 assessment or review were conducted and documented; and

33 (vi) Whether the affected person was afforded meaningful access
34 to education, programming, and ordinary necessities such as
35 medication, meals, and reading material during the term of solitary
36 confinement.

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

1 (3) This section expires December 31, 2024.

2 NEW SECTION. **Sec. 11.** (1) Subject to the availability of
3 amounts appropriated for this specific purpose, the Washington
4 association of sheriffs and police chiefs shall collect, on a monthly
5 basis, the information submitted under section 10 of this act. The
6 collected information must be compiled into a report summarizing the
7 information by county and type of facility. An initial report must be
8 submitted, in compliance with RCW 43.01.036, to the governor and the
9 appropriate committees of the legislature by December 1, 2023. A
10 final report must be submitted, in compliance with RCW 43.01.036, to
11 the governor and the appropriate committees of the legislature by
12 December 1, 2024.

13 (2) This section expires December 31, 2024.

14 NEW SECTION. **Sec. 12.** (1) The department of corrections shall:

15 (a) Develop a staffing needs assessment, detailing the number of
16 personnel that will be needed to provide adequate security for all
17 incarcerated persons, correctional officers and other staff, and
18 outside visitors, when the restrictions on solitary confinement are
19 imposed under this act;

20 (b) Develop a corrections capital facilities master plan that
21 outlines the capital investments needed to accommodate the objectives
22 of this act, while providing for the health and safety of all
23 incarcerated persons, correctional officers and other staff, and
24 outside visitors, when the restrictions on solitary confinement are
25 imposed under this act;

26 (c) Provide a profile of currently incarcerated persons who are
27 or have been housed in restrictive housing during the 2023-2025
28 fiscal biennium, including information regarding their underlying
29 offenses and any sanctions imposed during their incarceration, and
30 the amount of time they have remaining in total confinement;

31 (d) Document any attempted suicides by individuals in restrictive
32 housing over the past ten years and the reason, if known; and

33 (e) Provide an inventory of currently incarcerated persons who
34 are or have been housed in restrictive housing and who have been
35 transferred or have been considered for transfer to an out-of-state
36 correctional facility.

37 (2) The department of corrections must compile the information
38 detailed in subsection (1) of this section into a report which must

1 be submitted, in compliance with RCW 43.01.036, to the governor and
2 the appropriate committees of the legislature by December 1, 2023.

3 (3) This section expires December 31, 2024.

4 NEW SECTION. **Sec. 13.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

8 NEW SECTION. **Sec. 14.** The secretary of the department of
9 corrections may adopt rules to implement this act.

10 NEW SECTION. **Sec. 15.** Sections 1 through 8 of this act take
11 effect July 1, 2024.

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