117TH CONGRESS  
2D SESSION  

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. TRONE introduced the following bill; which was referred to the Committee on ____________________________

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Solitary Confinement Study and Reform Act of 2022”.

SEC. 2. PURPOSES.

The purposes of this Act are to—
(1) develop and implement national standards for the use of solitary confinement to ensure that it is used infrequently and only under extreme circumstances;

(2) establish a more humane and constitutionally sound practice of segregated detention or solitary confinement in correctional facilities;

(3) accelerate the development of best practices and make reforming solitary confinement a top priority in each correctional facility at the Federal and State levels;

(4) increase the available data and information on the incidence of solitary confinement, consequently improving the management and administration of correctional facilities;

(5) standardize the definitions used for collecting data on the incidence of solitary confinement;

(6) increase the accountability of correctional facility officials who fail to design and implement humane and constitutionally sound solitary confinement practices;

(7) protect the Eighth and Fourteenth Amendment rights of incarcerated individuals at correctional facilities; and
(8) reduce the costs that solitary confinement imposes on interstate commerce.

SEC. 3. NATIONAL SOLITARY CONFINEMENT STUDY AND REFORM COMMISSION.

(a) Establishment.—There is established a commission to be known as the National Solitary Confinement Study and Reform Commission.

(b) Members.—

(1) In general.—The Commission shall be composed of 9 members, of whom—

(A) 3 shall be appointed by the President;

(B) 2 shall be appointed by the Speaker of the House of Representatives, unless the Speaker is of the same party as the President, in which case 1 shall be appointed by the Speaker of the House of Representatives and 1 shall be appointed by the minority leader of the House of Representatives;

(C) 1 shall be appointed by the minority leader of the House of Representatives (in addition to any appointment made under subparagraph (B));

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

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

(2) PERSONS ELIGIBLE.—Each member of the
Commission shall be an individual who has knowl-
edge or expertise in matters to be studied by the
Commission. Not less than three members of the
Commission shall be individuals who have been in-
carcerated or have had an incarcerated family mem-
ber.

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

(4) TERM.—Each member shall be appointed
for the life of the Commission.
(5) **TIME FOR INITIAL APPOINTMENTS.**—The appointment of the members shall be made not later than 180 days after the date of enactment of this Act.

(6) **VACANCIES.**—A vacancy in the Commission shall be filled in the manner in which the original appointment was made, and shall be made not later than 60 days after the date on which the vacancy occurred.

(c) **OPERATION.**—

(1) **CHAIRPERSON.**—Not later than 15 days after appointments of all the members are made, the President shall appoint a chairperson for the Commission from among its members.

(2) **MEETINGS.**—The Commission shall meet at the call of the chairperson. The initial meeting of the Commission shall take place not later than 30 days after the initial appointment of the members is completed.

(3) **QUORUM.**—A majority of the members of the Commission shall constitute a quorum to conduct business, but the Commission may establish a lesser quorum for conducting hearings scheduled by the Commission.
(4) RULES.—The Commission may establish by majority vote any other rules for the conduct of Commission business, if such rules are not inconsistent with this Act or other applicable law.

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

(1) IN GENERAL.—The Commission shall carry out a comprehensive legal and factual study of the penological, physical, mental, medical, social, fiscal, and economic impacts of solitary confinement in the United States on—

(A) Federal, State, and local governments;

and

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

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

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

(B) an assessment of the relationship between solitary confinement and correctional fa-
cility conditions, and existing monitoring, regu-

latory, and enforcement practices;

(C) an assessment of the characteristics of
incarcerated individuals and juvenile detainees
most likely to be referred to solitary confine-
ment and the effectiveness of various types of
treatment or programs to reduce such likeli-
hood;

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

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

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

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

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

(3) REPORT.—

(A) DISTRIBUTION.—Not later than one
year after the date of the initial meeting of the
Commission, the Commission shall submit a re-
port on the study carried out under this sub-
section to—

(i) the President;

(ii) the Congress;

(iii) the Attorney General of the
United States;

(iv) the Secretary of Health and
Human Services;

(v) the Director of the Federal Bu-
reau of Prisons;

(vi) the Administrator of the Office of
Juvenile Justice and Delinquency Preven-
tion;

(vii) the chief executive of each State;

and

(viii) the head of the department of
corrections of each State.

(B) CONTENTS.—The report under sub-
paragraph (A) shall include—
(i) the findings and conclusions of the Commission;
(ii) the recommended national standards for reducing the use of solitary confinement described in subsection (e); and
(iii) a summary of the materials relied on by the Commission in the preparation of the report.

(e) RECOMMENDATIONS.—

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

(2) MATTERS INCLUDED.—The information provided under paragraph (1) shall include recommended national standards relating to—

(A) how authorities can progress toward significantly limiting the utilization of solitary confinement so that an incarcerated individual may be placed in solitary confinement only under extreme emergency circumstances, as a last resort, for as short a time as possible, sub-
ject to independent review, and pursuant to the
authorization of a competent authority;

(B) methods that can be employed to en-
sure that the duration of solitary confinement
of an incarcerated individual at an institution
can be limited to hours at a time for purposes
of emergency de-escalation, except that if the
head of a correctional facility makes an individ-
ualized determination that the incarcerated in-
dividual cannot be safely returned to the gen-
eral population, the head of the correctional fa-
cility may continue to segregate the incarcer-
ated individual from the general population
without the use of solitary confinement, while
ensuring that the incarcerated individual has
access to the type and hours of out-of-cell con-
gregate programming, activities, and engage-
ment comparable to the general population, in
accordance with best practices and model pro-
grams for improving people’s well-being and re-
ducing violence in youth and adult correctional
settings, non-correctional settings, and other
mental health settings, and in accordance with
the United Nations Standard Minimum Rules
on the Treatment of Prisoners;
(C) ensuring that prior to being classified, assigned, or subject to long-term segregation, an incarcerated individual shall be entitled to a meaningful hearing on the reason for and duration of the confinement and have access to legal counsel for such hearings;

(D) ensuring that indefinite sentencing of an incarcerated individual to long-term segregation will not be allowed and that the incarcerated individual will be afforded a meaningful review of the segregation at least once every 30 days that the incarcerated individual remains in segregation and that correctional facility officials must record and provide a transcript of the review proceedings for the incarcerated individual under review to the incarcerated individual or the incarcerated individual’s designee;

(E) ensuring that correctional facility officials design and implement programming that allows incarcerated individuals subject to long-term segregation to earn placement in less restrictive housing through positive behavior;

(F) ensuring that protective custody and other custody designations designed to protect vulnerable incarcerated individuals, regardless
of the reason for vulnerability, are not charac-
terized by solitary confinement or other type of
isolation conditions, and that incarcerated indi-
viduals placed in protective custody have access
to programs, privileges, education, and work op-
portunities commensurate with general popu-
lation incarcerated individuals to the extent
possible;

(G) ensuring that correctional facility offi-
cials improve access to mental health treatment
for incarcerated individuals in solitary confine-
ment;

(H) ensuring that correctional facility offi-
cials do all that is feasible to make certain that
incarcerated individuals are not held in solitary
confine ment for any duration;

(I) ensuring that correctional facility offi-
cials develop alternative methods to manage
issues with incarcerated individuals other than
solitary confinement;

(J) ensuring that correctional facility offi-
cers do all that is feasible to make certain that
incarcerated individuals with mental health, 
physical, or cognitive disabilities are not held in
solitary confinement for any duration;
(K) ensuring that correctional facility officers do all that is feasible to make certain that pregnant and post-partum women are not held in solitary confinement for any duration;

(L) ensuring that correctional facility officers work towards systems that limit the circumstances and conditions under which juveniles are placed in solitary confinement, in compliance with section 5043 of title 18, United States Code;

(M) State and local governments making publicly available, on a monthly basis, information, disaggregated by the demographic characteristics of incarcerated individuals, on the use of solitary confinement, segregation, and any other form of restrictive housing in correctional facilities in the jurisdiction, including—

(i) the average daily number and percentage of incarcerated individuals in each placement;

(ii) the total number of such placements;

(iii) the reasons for such placements;

(iv) the duration incarcerated individuals spent in each placement;
(v) the duration of daily out-of-cell
time and congregate programming for in-
carcerated individuals in each placement;

and

(vi) the number and percentage self-
harm incidents, suicide attempts, suicides,
and deaths broken down by cause, for in-
carcerated individuals in each placement;

(N) ensuring that correctional facilities
have in place an independent oversight proc-
esses related to the use of solitary confinement
and segregation; and

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

(3) LIMITATION.—The Commission shall not
propose a recommended standard that would impose
substantial additional costs compared to the costs
presently expended by correctional facilities, and
shall seek to propose standards that reduce the costs
of incarceration at such facilities.

(f) CONSULTATION WITH ACCREDITATION ORGANI-
ZATIONS.—In developing recommended national standards
for the reduction of solitary confinement under subsection
(e), the Commission shall consider any standards, laws,
and policies that have already been developed, or are being
developed simultaneously to the deliberations of the Com-
mission. The Commission shall consult with accreditation
organizations responsible for the accreditation of correc-
tional facilities that have developed or are developing
standards related to solitary confinement. The Commiss-
ion shall also consult with national associations rep-
resenting the corrections profession, the legal profession,
the medical profession, people who are incarcerated, or
any other pertinent professional body that has developed
or is developing standards related to solitary confinement.

(g) HEARINGS.—

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

(2) WITNESS EXPENSES.—Witnesses requested
to appear before the Commission shall be paid the
same fees as are paid to witnesses under section
1821 of title 28, United States Code. The per diem
and mileage allowances for witnesses shall be paid
from funds appropriated to the Commission.
(3) **VIRTUAL HEARINGS PERMITTED.**—Hearings
held under this subsection may be held virtually.

(h) **INFORMATION FROM FEDERAL OR STATE AGENCIES.**—The Commission may secure directly from any
Federal department or agency such information as the
Commission considers necessary to carry out its duties
under this section. The Commission may request the head
of any State or local department or agency to furnish such
information to the Commission.

(i) **PERSONNEL MATTERS.**—

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

(2) **DETAIL OF FEDERAL EMPLOYEES.**—With
the affirmative vote of ⅔ of the Commission, any
Federal Government employee, with the approval of
the head of the appropriate Federal agency, may be
detailed to the Commission without reimbursement,
and such detail shall be without interruption or loss
of civil service status, benefits, or privileges.
(3) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—Upon the request of the Commission, the Attorney General shall provide reasonable and appropriate office space, supplies, and administrative assistance.

(j) CONTRACTS FOR RESEARCH.—

(1) NATIONAL INSTITUTE OF JUSTICE.—With a 2/3 affirmative vote, the Commission may select non-governmental researchers and experts to assist the Commission in carrying out its duties under this Act. The National Institute of Justice shall contract with the researchers and experts selected by the Commission to provide funding in exchange for their services.

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

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

(l) EXEMPTION.—The Commission shall be exempt from the Federal Advisory Committee Act.
(m) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $500,000 for each of fiscal years 2023 and 2024.

SEC. 4. ADOPTION AND EFFECT OF NATIONAL STANDARDS.

(a) PUBLICATION OF STANDARDS.—

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

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

(3) LIMITATION.—The Attorney General shall not establish a national standard under this section that would impose substantial additional costs compared to the costs presently expended by Federal and State correctional systems. The Attorney General may, however, provide a list of improvements for consideration by correctional facilities.
(4) Transmission to States.—Not later than 60 days after publishing the final rule under paragraph (1), the Attorney General shall transmit the national standards adopted under that paragraph to the chief executive of each State, the head of the department of corrections of each State, the head of the department of juvenile justice of each State, and to the appropriate authorities in those units of local government who oversee operations in one or more correctional facilities.

(b) Applicability to Federal Agencies.—Immediately upon adoption of the final rule under subsection (a)(1), the national standards referred to in subsection (a) shall apply to each Federal agency that detains or incarcerates individuals (including aliens), and to any entity with which a Federal agency has a contract for the detainment or incarceration of individuals.

SEC. 5. GRANT PROGRAM FOR MENTAL HEALTH IN CORRECTIONAL FACILITIES.

(a) Authorization.—Beginning in the first fiscal year that begins after the date on which the Attorney General issues the final rule under subsection (a)(1), the Attorney General is authorized to make grants to States for the purposes described in subsection (b).
(b) USES OF FUNDS.—Grants under this section shall be used solely for purposes of community-based prevention and education programs, community-based mental health care, or community-based drug treatment or harm reduction, including for purposes of diversion from incarceration or release from incarceration.

(c) APPLICATION.—The chief executive of a State seeking a grant under this section shall submit to the Attorney General an application at such time, in such manner, and containing such information as the Attorney General may reasonably require.

(d) ELIGIBILITY.—In order to be eligible for a grant under this section, a State shall be in compliance with the national standards for the reduction of solitary confinement in correctional facilities described in section 4(a)(1).

(e) ALLOCATION.—Of the total amount appropriated under this part in any fiscal year—

(1) 0.4 percent shall be allocated to each of the participating States;

(2) 7 percent shall be reserved to provide technical assistance to States in complying with the national standards for the reduction of solitary confinement in correctional facilities described in section 4(a)(1); and
(3) of the total funds remaining after the allo-
cation under paragraph (1), there shall be allocated
to each of the participating States an amount which
bears the same ratio to the amount of remaining
funds described in this paragraph as the State cor-
rectional facility population of such State bears to
the total correctional facility population of all the
participating States.

(f) LIMITATION.—Not more than 5 percent of grant
funds received by a State may be used for administrative
purposes.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is
authorized to be appropriated $20,000,000 for each of fis-
cal years 2023 and 2024 to carry out this section.

SEC. 6. DEFINITIONS.

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

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

(2) COMMISSION.—The term “Commission”
means the National Solitary Confinement Study and
Reform Commission established under section 3 of
this Act.
(3) LONG-TERM.—The term “long-term” means any period lasting more than 15 days in a 60-day period.

(4) SOLITARY CONFINEMENT.—The term “solitary confinement” means confinement of an incarcerated individual or juvenile detainee in a cell or other place, alone or with other persons, with severely restricted activity, movement, and social interaction.

(5) SEGREGATION.—The term “segregation” means housing of an incarcerated individual separate from the general population of a correctional facility.

(6) CORRECTIONAL FACILITY.—The term “correctional facility” means a Federal, State, local, or privately run prison, jail, or juvenile detention facility.

(7) STATE.—The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.
SEC. 7. RULE OF CONSTRUCTION RELATED TO BIVENS REMEDIES.

Consistent with the Supreme Court’s decisions in Carlson v. Green, 446 U.S. 14 (1980) and Farmer v. Brennan, 511 U.S. 825 (1994), Congress recognizes that people in prison and detention may bring a Bivens action to seek damages for violations of their Constitutional rights in prison, and nothing in this Act may be construed to limit that remedy.