H. R. _____

To end the use of solitary confinement and other forms of restrictive housing in all Federal agencies and entities they contract with.

IN THE HOUSE OF REPRESENTATIVES

Ms. BUSH introduced the following bill; which was referred to the Committee on __________________________

A BILL

To end the use of solitary confinement and other forms of restrictive housing in all Federal agencies and entities they contract with.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “End Solitary Confinement Act”.

6 SEC. 2. FINDINGS.

7 Congress finds that—
(1) the use of solitary confinement as a carceral practice causes devastating harm and constitutes a form of torture;

(2) solitary confinement of any length of time, measured in days or even hours, can cause self-mutilation, suicide, heart disease, anxiety, depression, psychosis, mental and physical deterioration, and a significantly heightened risk of death;

(3) over 120,000 people are estimated to be in solitary confinement on any given day in Federal, State, local, and immigration detention facilities;

(4) solitary confinement and other forms of restrictive housing and practices are disproportionately inflicted on Black, Latinx, Native, and other people of color, as well as transgender and gender nonconforming people, people with mental health needs, and young people;

(5) survivors of solitary confinement often carry significant trauma and other physical and psychological harm with them for the rest of their lives;

(6) solitary confinement has directly caused the deaths of far too many people, and has increased violence and harm in prisons, detention facilities, and communities;
(7) solitary confinement derives from, and helps perpetuate, a horrific and brutal incarceration system that is rooted in racism and focuses on extreme punishment and abuse, rather than on providing opportunities for growth, healing, redemption, and transformation;

(8) the United States is an outlier among advanced democracies in its use of solitary confinement;

(9) evidence shows that out-of-cell, prosocial engagement and programming increase safety, well-being, and reentry outcomes;

(10) solitary confinement is expensive, and cost analyses at the Federal and State levels indicate that its elimination would save taxpayers billions of dollars; and

(11) solitary confinement is costly to taxpayers, does not make communities safer, jeopardizes the safety of incarcerated people and correctional staff, constitutes inhumane and degrading treatment, and has no place in a civilized society.
SEC. 3. ENDING SOLITARY CONFINEMENT AND ESTABLISHING MINIMUM STANDARDS.

(a) In General.—Chapter 301 of title 18, United States Code, is amended by adding at the end the following:

“§ 4015. Ending solitary confinement and establishing minimum standards

“(a) Prohibition on the Use of Solitary Confinement and Establishment of Minimum Standards.—

“(1) In general.—Except in the circumstances described in paragraph (2)(B), placement of a person incarcerated in a Federal facility in solitary confinement shall be prohibited.

“(2) Minimum standards for out-of-cell time and meaningful human engagement.—

“(A) Congregate interaction required.—Except as provided in subparagraphs (B)(iii), (B)(iv), and (B)(v), all persons incarcerated in a Federal facility, regardless of housing unit or detention status, shall have access to at least 14 hours per day of out-of-cell congregative interaction in a shared space, without physical barriers, that is conducive to meaningful group interaction, including access to—
“(i) at least 7 hours daily of structured out-of-cell, congregate programming led by a staff member, incarcerated person, or community member, including access to educational, vocational, volunteer, mental health, violence prevention, alcohol and substance use treatment, financial, religious, and reentry programming; “(ii) at least 1 hour daily of out-of-cell congregate recreation; and “(iii) other unstructured out-of-cell congregate activities, including time in a day room or equivalent space, meals, library and law library, legal visits, social and legal telephone calls, contact social visitation without physical barriers, and personal property and commissary.

“(B) Prohibition on solitary confinement.—A person incarcerated in a Federal facility shall not be placed in solitary confinement unless such placement is necessary— “(i) at night for count or sleep, not to exceed 8 hours in any 24-hour period; “(ii) during the day for count or required facility business that can only be
carried out while a person incarcerated in a Federal facility is placed in a cell, not to exceed 2 hours in any 24-hour period;

“(iii) for purposes of medical quarantine or medical isolation, only if done in a medical unit overseen by health care staff, for as limited a time as medically necessary as determined by health care staff, and with comparable access as individuals incarcerated in the general population to phone calls, emails, and programming at a physical distance determined appropriate by health care staff;

“(iv) in an emergency situation as a last resort, only if necessary to deescalate immediate circumstances that pose a specific and significant risk of imminent serious physical injury to an individual, staff, or other incarcerated persons, and for as short a time as necessary to deescalate such circumstances, not to exceed 4 hours total immediately following such emergency situation, 4 hours total in any 24-hour period, or 12 hours total in any 7-day period,
and subject to subparagraphs (C) and (D); or

“(v) as part of a Federal agency-wide, facility-wide, or partial facility-wide lockdown, only if a head of a facility or agency has determined such lockdown is necessary to deescalate an emergency that involves several incarcerated persons and poses a specific and significant risk of imminent serious physical injury to the staff or incarcerated persons, only when there are no less restrictive means to address an emergency, as a last resort after exhausting less restrictive measures, confined to as narrow an area as possible and to as limited number of people as possible, reviewed every hour by the head of the facility or agency, with notification provided to the agency regional or field office, or equivalent office responsible for oversight of the facility, beginning at the time the lockdown reaches 2 hours, and lifted as quickly as possible, not to exceed 4 hours total from the start of the lockdown, 4 hours total in
any 24-hour period, or 12 hours total in any 7-day period.

“(C) DEESCALATION.—For placements pursuant to subparagraph (B)(iv), facility staff shall meet with the person at least once an hour to attempt deescalation, work toward their release from such confinement, and determine whether it is necessary to continue to hold the person in such confinement, and for all placements pursuant to subparagraphs (B)(iv) and (B)(v), health care staff must conduct a thorough medical, mental health, social, and behavioral assessment upon admission to such placement, conduct meaningful check-ins every 15 minutes to engage with the person in custody, evaluate and treat any urgent health needs, and attempt any deescalation. If health care staff determines the person should be removed from such confinement for assessment or treatment purposes, or because of a negative impact of such confinement, the person shall be removed to an appropriate setting as determined by health care staff.

“(D) PROHIBITION ON INVOLUNTARY CONFINEMENT.—No person may be involuntarily
confined in their cell under subparagraph (B)(iv) who—

“(i) is aged 25 or younger;
“(ii) is aged 55 or older;
“(iii) has a disability, as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102);
“(iv) has any diagnosed mental health need;
“(v) is pregnant, in the first 8 weeks of the postpartum recovery period, or caring for a child in a facility program; or
“(vi) has identified as or is known or perceived by any facility staff to be lesbian, gay, bisexual, transgender, intersex, or gender nonconforming.

“(E) REQUIREMENTS FOR SEPARATION.—

If a Federal facility determines that an individual must be separated from the general facility population, including any placement in protective custody, for any reasons other than, or in a manner other than as provided under subparagraphs (B)(iii), (B)(iv), and (B)(v) of this section, such separation in an alternative unit must—
“(i) comply with subparagraphs (A) and (F) of this paragraph, and paragraphs (3), (4), and (5) of this subsection; and

“(ii) provide access to out-of-cell, congregate, trauma-informed, therapeutic programming aimed at promoting personal development, addressing underlying causes of problematic behavior resulting in the alternative unit placement, and helping prepare for discharge from the unit to the general population and to the community.

“(F) Prohibition on limitation of services.—In all Federal facilities, no limitation on services, programming, treatment, contact visitation, phone calls, email, mail, or basic needs such as clothing, food, or bedding shall be imposed as a form of punishment, discipline, or for any other reason. No involuntary restricted diets or any other involuntary change in diet shall be imposed as a form of punishment, discipline, or for any other reason. Nor shall approved personal property be confiscated as a form of punishment, discipline, or for any other reason.

“(3) Due process requirements.—
“(A) HEARING REGULATIONS.—The reasons and procedures for placement in protective custody shall be subject to the regulations, rules, standards, and procedures (or any successors thereof) applicable to each Federal agency. All hearings under such regulations shall comply with paragraph (4). The conditions for all people in protective custody shall comply with subparagraphs (A), (E), and (F) of paragraph (2), and paragraph (5).

“(B) REVIEW OF PLACEMENT.—The placement of an incarcerated individual in an alternative unit shall be meaningfully reviewed at least within the first 15 days after placement and at least every 15 days thereafter by a multidisciplinary team, including program and health care staff, to determine whether the incarcerated person’s release to the general facility population continues to present a specific and significant risk of imminent serious physical injury to the individual, staff, or other incarcerated persons. If a person is not discharged from such housing at such a review, they shall promptly receive in writing the reasons for the determination and the program,
treatment, service, or corrective action required before discharge. The incarcerated person shall be given access to the programs, treatment, and services specified, and shall be permitted to be discharged from such housing if the person so chooses and does not engage in behavior that presents a specific and significant risk of imminent serious physical injury to the individual, staff, or other incarcerated persons during the subsequent 15 days. Other than for purposes of protective custody, or upon the individual’s written request, no person may be held in an alternative unit for more than 60 days in any 6-month period.

“(C) NO PLACEMENT BASED ON PREVIOUS INCIDENT.—No person may be placed in an alternative unit for an act or incident for which they were previously placed in such unit.

“(4) PLACEMENT HEARINGS.—

“(A) PLACEMENT IN ALTERNATIVE UNIT.—Other than separation of individuals in protective custody or for purposes of confinement under paragraphs (2)(B)(iii), (2)(B)(iv), and (2)(B)(v), no person incarcerated in a Federal facility may be placed in an alternative unit
unless and until it is determined in writing fol-
lowing a placement hearing that clear and con-
vincing evidence shows the person committed
one of the following acts at the time placement
is sought, and the specific circumstances of the
acts were so heinous or destructive that place-
ment of the individual in general facility hous-
ing creates a specific and significant risk of im-
minent serious physical injury to staff or other
incarcerated persons:

“(i) Causing or attempting to cause
serious physical injury or death to another
person.

“(ii) Compelling or attempting to
compel another person, by force or threat
of force, to engage in a sexual act.

“(iii) Leading, organizing, inciting, or
attempting to cause a riot, or other simi-
larly serious disturbance that results in the
taking of a hostage, major property dam-
age, or serious physical harm to another
person.

“(iv) Escaping, attempting to escape
or facilitating an escape from a facility or
escaping, attempting to escape or facili-
tating an escape while under supervision outside such facility.

“(B) NEUTRAL DECISION MAKER REQUIRED.—Each placement hearing shall be conducted by a neutral decision maker.

“(C) DEPARTMENT OF JUSTICE.—For all placement hearings involving placement in Federal Bureau of Prisons facilities or facilities contracting with the Federal Bureau of Prisons or United States Marshals Service for incarcerating people in their care or custody, the neutral decision maker shall be appointed by the Assistant Attorney General for Civil Rights, employed by the Department of Justice but independent of any division or unit within the Department of Justice that has people in its care or custody or engages in any prosecuting activities, any other Federal agency, and any prosecuting entity.

“(D) DEPARTMENT OF HOMELAND SECURITY.—For all placement hearings involving placement in U.S. Immigration and Customs Enforcement, Department of Homeland Security, or U.S. Customs and Border Protection facilities, or facilities contracting with U.S. Immig-
gration and Customs Enforcement, the Depart-
ment of Homeland Security, or U.S. Customs
and Border Protection for incarcerating people
in their care or custody, the neutral decision
maker shall be appointed by the Officer for
Civil Rights and Civil Liberties, employed by
the Department of Homeland Security but inde-
pendent of the Office for Civil Rights and Civil
Liberties, any division or unit within the De-
partment of Homeland Security that has people
in its care or custody or engages in any pros-
cecuting activities, any other Federal agency,
and any prosecuting entity.

“(E) DEPARTMENT OF HEALTH AND
HUMAN SERVICES.—For all placement hearings
involving placement in Department of Health
and Human Services facilities or facilities con-
tracting with the Department of Health and
Human Services for incarcerating people in
their care or custody, the neutral decision
maker shall be appointed by the Director of the
Office for Civil Rights, employed by the Depart-
ment of Health and Human Services but inde-
pendent of the Office for Civil Rights, any divi-
sion or unit within the Department of Health
and Human Services that has people in its care or custody, any other Federal agency, and any prosecuting entity.

“(F) Evidence Presented.—At any placement hearing, the incarcerated person shall be permitted to offer documentary and testimonial evidence, cross-examine witnesses, and present any mitigating evidence, justification evidence, or other relevant evidence helpful in aiding the incarcerated person’s defense.

“(G) Representation.—At such a hearing, the incarcerated person shall be permitted to represent themselves or be represented by any attorney, law student, paralegal, community advocate, or other incarcerated person of their choosing. If a person does not have their own representative, they shall be offered the assistance of a representative as follows:

“(i) For all placement hearings described in subparagraph (C), if an incarcerated person does not select their own representative, an appointed representative shall be selected by the Assistant Attorney General for Civil Rights, employed by the Department of Justice, and independent of
any division or unit within the Department of Justice that has people in its care or custody or engages in any prosecuting activities, any other Federal agency, and any prosecuting entity.

“(ii) For all placement hearings described in subparagraph (D), if an incarcerated person does not select their own representative, an appointed representative shall be selected by the Officer for Civil Rights and Civil Liberties, employed by the Department of Homeland Security, and independent of the Office for Civil Rights and Civil Liberties, any division or unit within the Department of Homeland Security that has people in its care or custody or engages in any prosecuting activities, any other Federal agency, and any prosecuting entity.

“(iii) For all placement hearings described in subparagraph (E), if an incarcerated person does not select their own representative, any appointed representative shall be selected by the Director of the Office for Civil Rights, employed by the
Department of Health and Human Services, and independent of the Office for Civil Rights, any division or unit within the Department of Health and Human Services that has people in its care or custody, any other Federal agency, and any prosecuting entity.

“(H) NOTICE.—Not less than 2 days prior to any placement hearing, both the incarcerated person and their chosen representative shall be provided detailed written notice of the reason for proposed placement in an alternative unit including all relevant evidence, during which time the person shall not, other than for purposes of protective custody, be placed in such alternative unit. The individual and their chosen representative shall be provided adequate time to prepare for such hearings and afforded adjournments as appropriate. Any refusal by an incarcerated person to attend such hearings shall be videotaped and made part of the evidentiary record that shall be maintained by the relevant federal agency. Failure to provide the notice described herein or to enter into the record videotaped evidence of an alleged refusal
to attend by an incarcerated person shall constitute a basis for resolving the hearing in that person’s favor.

“(I) **Written Determination.**—The neutral decision maker shall issue a written determination within 5 business days of the conclusion of the placement hearing. Any finding that an incarcerated person meets the criteria of placement in an alternative unit in subparagraph (A) shall be supported by clear and convincing evidence. The determination shall specify the finding, a summary of each witness’s testimony and an explanation of whether their testimony was credited or rejected, the evidence relied upon in reaching the finding, and the placement imposed, if any. A copy of the determination shall be provided to the incarcerated person and their chosen representative within 24 hours of the issuance of the determination.

“(5) **Use of Restraints.**—

“(A) **In General.**—No person incarcerated in a Federal facility shall be placed in restraints unless subject to the following provisions:
“(B) EXCEPTIONS.—Subparagraph (A) shall not apply if facility staff make an individualized determination at the time of, or immediately following, an incident precipitating placement in restraints that such restraints are necessary to prevent a specific and significant risk of imminent serious physical injury to the individual, other incarcerated persons, or staff based on concrete evidence of such risk.

“(C) LEAST RESTRICTIVE FORM.—The least restrictive form of restraints shall be used for no longer than necessary to abate such specific and significant risk of imminent serious physical injury, and in no circumstances shall continue beyond 4 hours unless a supervisory medical provider determines that such restraints are necessary to prevent such risk.

“(D) PLACEMENT HEARING REQUIRED.—Restraints shall not be used on the same individual on consecutive days unless a placement hearing with protections established under paragraphs (3) and (4) establishes such restraints are necessary to prevent a specific and significant risk of imminent serious physical injury to the individual, other incarcerated per-
sons, or staff based on concrete evidence of such risk, and subject to the same limitations each day as set forth in this paragraph. Any repeated use of restraints approved at such a due process hearing shall be no longer than 3 days, subject to the same limitations each day as set forth in this paragraph, meaningfully reviewed by a supervisory medical provider at least daily, and discontinued once restraints are no longer necessary to prevent a specific and significant risk of imminent serious physical injury to the individual, other incarcerated persons, or staff.

“(E) SUBSEQUENT USE OF RESTRAINTS.—
Once an approved use of restraints has been discontinued, any subsequent use of restraints on that person shall only be permitted to address a new incident and upon the same requirements under this paragraph.

“(6) SPECIAL ADMINISTRATIVE MEASURES.—
Special administrative measures shall be prohibited in all Federal facilities.

“(b) REPORT REQUIRED.—Within 15 days of the end of each quarter of the fiscal year, each Federal agency shall report on the website of such Federal agency the following:
“(1) The total number of incidents at each facility operated by the Federal agency during the preceding quarter of self-harm, suicide attempts, and suicide, disaggregated by race, age, gender identity, documented mental health status, documented disability, pregnancy or postpartum status, identification as lesbian, gay, bisexual, transgender, intersex, or gender nonconforming, type of housing unit including confinement under subsections (a)(2)(B)(iii), (a)(2)(B)(iv), (a)(2)(B)(v), any alternative units, and length of time in such housing unit.

“(2) The total number of placements at each facility during the preceding quarter, separately listed, in confinement under subsections (a)(2)(B)(iii), (a)(2)(B)(iv), and (a)(2)(B)(v), in protective custody under subsection (a)(2)(E), and in any other alternative units under subsection (a)(2)(E) during that quarter.

“(3) The total number of people at each facility on the last day of each quarter, separately listed, in confinement under subsections (a)(2)(B)(iii), (a)(2)(B)(iv), and (a)(2)(B)(v), in protective custody under subsection (a)(2)(E), and in any other alternative units under (a)(2)(E), disaggregated by race, age, gender identity, documented mental health sta-
 tus, documented disability, pregnancy or postpartum status, identification as lesbian, gay, bisexual, transgender, intersex, or gender nonconforming, and reason for placement.

“(4) The total number of placements at each facility during the preceding quarter, separately listed, for which confinement under subsections (a)(2)(B)(iv) and (a)(2)(B)(v) lasted for less than 1 hour, between 1 and 2 hours, between 2 and 3 hours, between 3 and 4 hours, and for longer than 4 hours, with a listing of the length of time of each placement that exceeded 4 hours.

“(5) The total number of people at each facility who had reached a total period of time during the preceding quarter, separately listed, in confinement under (a)(2)(B)(iii), in protective custody under subsection (a)(2)(E), and in any other alternative units under (a)(2)(E) of less than 7 days, between 8 days and 15 days, between 16 days and 30 days, between 31 days and 45 days, between 46 days and 60 days, and for longer than 60 days, with a listing of the length of time of each person who had reached a period of time during the preceding quarter that exceeded a total of 60 days in such confinement or housing.
“(c) Private Cause of Action.—

“(1) In General.—Any person who is injured by a violation of subsection (a) may bring a civil action in the appropriate United States district court against any person, entity, or any other relevant party who violated such subsection for declaratory and injunctive relief, including directing the closure of the facility, building, or unit where the violation took place if that facility, building, or unit is in repeated and systemic noncompliance with this Act, and for such money damages as the court determines appropriate, including for emotional pain and suffering. The court may, in addition, award reasonable attorney’s fees and costs of the action to a prevailing plaintiff.

“(2) No Liability for Certain Lockdowns.—No Federal agency shall be liable for a Federal agency-wide, facility-wide, or partial facility-wide lockdown that exceeded the 4-hour limit in subsection (a)(2)(B)(v) if the agency can demonstrate that—

“(A) the lockdown, and the length of the time of the lockdown, was necessary to address unexpected, extraordinary circumstances involving the detonation of an explosive device, an
acute mass contamination or contagion situation, a violent riot, revolt, or insurrection involving a large number of people that resulted in the taking of a hostage, major property damage, or serious physical harm to a person, or other similar emergency of the same magnitude involving a large group of people;

“(B) the head of facility who authorized the lockdown complied with all notification requirements, and received approval from the agency regional or field office, or equivalent office responsible for oversight of the facility, at the time the lockdown lasted longer than 4 hours;

“(C) the head of the applicable Federal agency approved of the lockdown if the lockdown exceeded 8 hours and the approval occurred at that time;

“(D) the lockdown was ended as quickly as possible, did not last longer than necessary to address the unexpected, extraordinary circumstances, and did not exceed 24 hours; and

“(E) the lockdown was not used as a substitute for medical isolation or quarantine nor individual lock-ins pursuant to subsections
(a)(2)(B)(iii) and (a)(2)(B)(iv), nor as a way to circumvent the time limits or protections for people held under those subsections.

“(3) Any person who is injured by a violation of the U.S. Constitution by a Federal official or person contracting with a Federal agency in a Federal facility may bring a civil action in the appropriate United States district court against any person, entity, or relevant party who violated such constitutional provision for declaratory and injunctive relief, including directing the closure of the facility, building, or unit where the violation took place, and for such money damages as the court determines appropriate, including for emotional pain and suffering. The court may, in addition, award reasonable attorney’s fees and costs of the action to a prevailing plaintiff.”.

(b) Clerical Amendment.—The table of contents for chapter 301 of title 18, United States Code, is amended by inserting after the item relating to section 4014 the following:

“4015. Ending solitary confinement and establishing minimum standards.”.

SEC. 4. OVERSIGHT.

(a) In General.—Chapter 301 of title 18, United States Code, is further amended by adding at the end the following:
§ 4016. Oversight

(a) Community Monitoring Body.—Not later than 90 days after the date of the enactment of this Act, the Attorney General, in consultation with the Assistant Attorney General for Civil Rights at the Department of Justice, Officer for Civil Rights and Civil Liberties at the Department of Homeland Security, and Director of the Office for Civil Rights at the Department of Health and Human Services, shall establish a community monitoring body that shall operate independently of the Attorney General and of any other unit or division within the Department of Justice and any other Federal agency.

(b) Appointment.—The Attorney General, in consultation with the Assistant Attorney General for Civil Rights at the Department of Justice, Officer for Civil Rights and Civil Liberties at the Department of Homeland Security, and Director of the Office for Civil Rights at the Department of Health and Human Services, and after obtaining input and recommendations from community organizations that provide educational services and legal support to incarcerated persons or otherwise advocate for the rights of incarcerated people and an end to solitary confinement, shall appoint no less than 15 people to serve as members of the community monitoring body.

(c) Membership.—Each member of the community monitoring body shall be a person who has survived soli-
tary confinement, has had loved ones in solitary confinement or lost loved ones because of solitary confinement, is a faith leader, medical or mental health professional, or is a civil rights or human rights advocate. All members shall have had some experience engaging in advocacy, service provision, or program operation aimed at enhancing the rights and treatment of people incarcerated. No less than half of all members shall be people who have been incarcerated or have had family members incarcerated.

“(d) MEMBERSHIP TERM.—Members of the community monitoring body shall be appointed for a term of 5 years, with the possibility of 1 reappointment by the Attorney General for a total of 10 years. Each member shall be reimbursed by the Department of Justice for their per diem expenses in connection with service on the community monitoring body.

“(e) ASSISTANCE.—The community monitoring body shall have the ability to designate any person to assist the work of the community monitoring body.

“(f) ACCESS.—Notwithstanding any other provision of law, the community monitoring body and its designees shall have the ability to make unannounced visits to Federal agencies and Federal facilities, and have access to
every area of every Federal facility and all nonclassified, nonprivileged data from every Federal agency.

“(g) IN-PERSON INTERVIEWS.—The community monitoring body and its designees shall have the ability to conduct in-person interviews and correspond and communicate with incarcerated persons and Federal agency and Federal facility staff freely, privately, and confidentially, upon consent of the incarcerated person or staff.

“(h) MEETINGS.—Administrators of each Federal agency and facility shall meet privately with the community monitoring body or its designees upon request.

“(i) CONFIDENTIAL COMMUNICATIONS.—(1) All people incarcerated in Federal facilities shall have the right and access to confidentially communicate with the community monitoring body and its designees, including while the community monitoring body or its designees are at a Federal facility and through free phone calls, free mail correspondence, and free email correspondence. These communications shall be afforded the same levels of protection, confidentiality, and privilege as attorney-client correspondence.

“(2) No person shall face any form of retaliation or adverse impact for having contact with, or being perceived to have had contact with, the community monitoring body or its designees.
“(3) An incarcerated person shall not be required to raise a complaint with the community monitoring body before seeking other remedies in connection with that complaint.

“(j) ELECTRONIC EQUIPMENT.—The community monitoring body and its designees shall have the right to bring and use electronic equipment in any Federal facility, including video cameras, photographic cameras, audio recording devices, mobile telephones, computers, and tablets, for the purposes of recording, documentation, administration of surveys, and other related purposes.

“(k) ACCESS TO CERTAIN INFORMATION.—(1) The community monitoring body and its designees shall have the right to receive, access, inspect, and copy all relevant non-classified, non-privileged information, records, and documents in the possession or control of any Federal facility, Federal agency, or employee of any Federal facility or Federal agency.

“(2) The community monitoring body and its designees shall receive any such records within 7 days of a request to the head of a Federal facility or Federal agency. Where the records requested by the community monitoring body or its designees pertain to a death of an incarcerated person, threats of bodily harm including sexual or physical assaults, or the denial of necessary medical treatment, the
records shall be provided within 48 hours unless members of the community monitoring body or their designees consent to an extension of the deadline.

“(l) RECOMMENDATIONS.—The community monitoring body may make periodic recommendations to any Federal agency or Federal facility, as well as to the President, Attorney General, Secretary of Homeland Security, Secretary of Health and Human Services, House Committee on the Judiciary, House Committee on Oversight and Accountability, Senate Committee on the Judiciary, Senate Committee on Homeland Security and Governmental Affairs, and other government entities. For any recommendations made by the community monitoring body to each Federal agency or Federal facility, such agency or facility shall report to the community monitoring body within 90 days whether it has designed and implemented a remedial action plan to address the recommendations, and transmit any such remedial action plan to the community monitoring body. The community monitoring body may publish its findings and recommendations on its website.

“(m) ACCESS FOR CERTAIN INDIVIDUALS.—Representatives of the news media, public defenders, Legal Orientation Program representatives, elected Federal,
State, and local representatives, and their designees, shall have the ability to—

“(1) make unannounced visits to Federal agencies and Federal facilities and access every area of every Federal facility, except that access to enter the cell of a person incarcerated in the Federal facility shall only be granted with the consent of the person housed in that cell, and to enter a bathroom or shower area when such areas are unoccupied by people incarcerated in the Federal facility;

“(2) receive in a timely manner, pursuant to the Freedom of Information Act (5 U.S.C. 552), or any successor thereto, all requested data from every Federal agency that has people in its care or custody; and

“(3) correspond with and interview, with the ability to take notes and use electronic and other recording devices, incarcerated persons freely, privately, and confidentially upon their consent.

“(n) INSPECTORS GENERAL.—Nothing in this section shall be construed to modify, supersede, or otherwise affect the authority of any Inspector General to access all records, reports, audits, reviews, documents, papers, recommendations, or other materials, as authorized by law.”.
(b) Clerical Amendment.—The table of contents for chapter 301 of title 18, United States Code, is amended by inserting after the item relating to section 4015 as added by section 3 the following:

“4016. Oversight.”.

SEC. 5. CREATING STATE INCENTIVES TO END SOLITARY CONFINEMENT.

(a) In general.—Chapter 301 of title 18, United States Code, is further amended by inserting after section 4016, as amended in section 4, the following:

“§ 4017. Creating State incentives to end solitary confinement

“(a) In general.—Any State or local entity receiving any Federal funds from section 500 of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10151 et seq.) shall annually certify to the Attorney General with comprehensive documentation that the State or local entity has in effect (or shall have in effect, not later than 6 months after the date of enactment of this Act) laws, policies, and programs that substantially comply with section 3 of this Act to fully and meaningfully end solitary confinement and ensure all people in the States’ and localities’ prisons, jails, and detention centers, have access to at least 14 hours of out-of-cell congregate interaction in a shared space, without physical barriers, that is conducive to meaningful group interaction.
“(b) PENALTY.—Beginning in the first fiscal year that begins after the date of enactment of this Act, in the case of a State or local entity that is not in substantial compliance with section 3 of the End Solitary Confinement Act, or an amendment made by such Act, the Attorney General shall reduce by at least 10 percent the total amount that such State or unit of local government would otherwise receive from section 500 of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10151 et seq.), except that funding for public defenders, community-based mental health care, community-based drug treatment, community-based violence interruption, and other similar community-based non-carceral and non-policing services shall be exempted from any reductions.”.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 301 of title 18, United States Code, is amended by inserting after the item relating to section 4016 as added by section 4 the following:

“4017. Creating State incentives to end solitary confinement.”.

SEC. 6. DEFINITIONS.

(a) IN GENERAL.—Chapter 301 of title 18, United States Code, is further amended by inserting after section 4017 as amended in section 5, the following:

“§ 4018. Certain definitions.

“In sections 4015, 4016, and 4017:
“(1) ALTERNATIVE UNIT.—The term ‘alternative unit’ means any unit that is separate from the general facility population or is in any way more restrictive than the general facility population in terms of access to programming, services, or other aspects of daily life.

“(2) ATTEMPTING.—The term ‘attempting’ means having the intent to carry out a particular act and completing significant steps in the advancement of the attempt. Evidence of withdrawal or abandonment of a plan to carry out the act shall negate a finding of intent.

“(3) FEDERAL AGENCY.—The term ‘Federal agency’ means the Federal Bureau of Prisons, U.S. Immigration and Customs Enforcement, Department of Homeland Security, U.S. Customs and Border Protection, Office of Refugee Resettlement, United States Marshals Service, Department of Health and Human Services, any other Federal agency that has people in its care or custody, and any Federal, State, local, or private entity that has contracted with any of these or other Federal agencies for holding or providing services to people in their care or custody.
“(4) FEDERAL FACILITY.—The term ‘Federal facility’ means a Federal Bureau of Prisons facility, U.S. Immigration and Customs Enforcement facility, Department of Homeland Security facility, U.S. Customs and Border Protection facility, Office of Refugee Resettlement facility, United States Marshals Service facility, Department of Health and Human Services facility, any other facility operated by a Federal agency that has people in its care or custody, and any Federal, State, local, or private facility that has contracted with any Federal agencies for incarcerating people in their care or custody or providing services to incarcerated people in their care or custody.

“(5) HEALTH CARE STAFF.—The term ‘health care staff’ means people who are employed, contracted, or volunteer to provide medical, mental, and behavioral health care services at a Federal facility.

“(6) INCARCERATED.—The term ‘incarcerated’ means being held in a Federal facility for any reason.

“(7) MENTAL HEALTH NEED.—The term ‘mental health need’ means having any current mental health diagnosis by any medical or mental health
professional, or having had any such mental health
diagnosis in the previous two years.

“(8) MULTIDISCIPLINARY TEAM.—The term
‘multidisciplinary team’ means a group of staff or
other people working or operating in a Federal facil-
ity who have different professional backgrounds and
roles in the facility, and which shall include program
and health care staff.

“(9) PLACEMENT HEARING.—The term ‘place-
ment hearing’ means an administrative hearing to
determine whether a person may be placed in an al-
ternative unit in a Federal facility.

“(10) PROTECTIVE CUSTODY.—The term ‘pro-
tective custody’ means any housing of a person for
their own protection.

“(11) REPRESENTATIVE OF THE NEWS
MEDIA.—The term ‘representative of the news
media’ means any person or entity that gathers in-
formation of potential interest to a segment of the
public, uses its editorial skills to turn the raw mate-
rials into a distinct work, and distributes that work
to an audience.

“(12) SOLITARY CONFINEMENT.—The term
‘solitary confinement’ means being confined in a cell
or other space without access to meaningful group
interaction in a shared space.

“(13) Special administrative measures.—
The term ‘special administrative measures’ means
the special administrative measures under section
501.3 of title 28 of the Code of Federal Regulations,
or any successor thereto.

“(14) Supervisory medical provider.—The
term ‘supervisory medical provider’ means a prac-
ticing doctor, nurse practitioner, or physician assist-
ant who has supervisory responsibilities over other
medical staff in a Federal facility.”.

(b) Clerical Amendment.—The table of contents
for chapter 301 of title 18, United States Code, is amend-
ed by inserting after the item relating to section 4018 as
added by section 5 the following:

“4018. Certain definitions.”.

SEC. 7. REMOVAL OF LIMITATION ON RECOVERY ON CER-
TAIN SUITS BY INCARCERATED PEOPLE.

Section 7(e) of the Civil Rights of Institutionalized
Persons Act (42 U.S.C. 1997e(e)) is amended to read as
follows:

“(e) Limitation on Recovery.—No Federal civil
action may be brought by a prisoner confined in a jail,
prison, or other correctional facility, for mental or emo-
tional injury suffered while in custody without a prior
showing of physical injury, the commission of a sexual act (as defined in section 2246 of title 18), or placement in solitary confinement or an alternative unit (as defined in section 4015 of title 18)."

SEC. 8. REVISIONS TO STANDARD OPERATING PROCEDURES AND STANDARDS.

Each Federal agency shall incorporate the requirements of this Act into the relevant standards and procedures governing confinement and shall monitor compliance with the requirements of this Act.

SEC. 9. APPROPRIATIONS AND PROHIBITION ON USE OF FUNDS.

No sums appropriated to carry out the provisions of this Act may be used for any—

(1) Buildings and Facilities Appropriations for the Bureau of Prisons;

(2) Procurement, Construction, and Improvements Appropriations for the Department of Homeland Security, including Immigration and Customs Enforcement and Customs and Border Protection;

(3) Constructions Appropriations for the U.S. Marshal Service; Buildings and Facilities Appropriations for the Department of Health and Human Services, including the Administration for Children
and Families and the Office of Refugee Resettlement;

(4) Federal agency to construct facilities where people will be incarcerated or to construct or renovate buildings or spaces within facilities where people are or will be incarcerated; and

(5) Federal agency to construct, install, or introduce any weapons, any objects or devices or mechanisms restricting a person’s or people’s movement in any way, or any other objects or mechanisms that limit movement or create more restrictive environments.

SEC. 10. SEVERABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act, or the application of that provision to persons or circumstances other than those as to which it is held invalid, is not affected thereby.

SEC. 11. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take full effect no later than 60 days after the date of enactment of this Act.