

Durbin, Coons, Senators Introduce Bill to Limit Use of Solitary Confinement

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WASHINGTON – U.S. Senators Dick Durbin (D-IL), Chris Coons (D-DE), Cory Booker (D-NJ), Kamala Harris (D-CA), Patrick Leahy (D-VT), Brian Schatz (D-HI), and Elizabeth Warren (D-MA) introduced legislation to reduce the Federal Bureau of Prisons’ (BOP) use of solitary confinement and improve conditions for inmates separated from the general prison population.

The *Solitary Confinement Reform Act* limits solitary confinement to the briefest term and under the least restrictive conditions possible, because the overuse of solitary confinement threatens public safety, strains prison budgets, and violates fundamental human rights. The bill also improves access to mental health services for BOP prisoners in solitary confinement, and provides resources to state and local jurisdictions to assist

them in reforming their own confinement practices. Additionally, the bill protects inmates' civil rights through the creation of a Civil Rights Ombudsman position and bans the practice of placing LGBTQ inmates in solitary confinement as a means of protection.

“The goal of our criminal justice system should be to rehabilitate offenders and prepare them for successful reentry into our society, but the overuse of solitary confinement undermines this objective, causing psychological harm that is difficult, if not impossible, to undo,” said Durbin. “I’ve had the opportunity to hear directly from men like Anthony Graves, who spent 16 years in solitary confinement for a crime he didn’t commit, about the devastating toll of isolation, and that’s why I’m certain of the need to restrict solitary confinement to cases where it is absolutely necessary.”

“Our criminal justice system should be about justice and rehabilitation, not just punishment,” said Coons. “Solitary confinement should be a tool of last resort, yet the use of solitary confinement by the federal prison system has increased in recent months, even when evidence clearly demonstrates that this practice frequently fails to achieve its intended goal of improving prison safety or stopping criminal behavior. In fact, widespread overuse of solitary confinement is causing lasting, irreparable harm to many inmates subjected to it. I’m proud to join with Senator Durbin in reintroducing this legislation, which is an important step in our efforts to reform our criminal justice system and reduce recidivism.”

Durbin, Coons, Booker, Harris, Leahy, and Warren today also pressed Acting Bureau of Prisons Director Hugh Hurwitz to take measures to address the significant increase in the use of restricted housing in the Federal prison system. Unfortunately, the once-encouraging decline in the restricted housing population has reversed over the last several months. As of February 27, 2019, 7.8 percent of the total Federal prison population was housed in restricted housing—including 10,581 inmates in special housing units, 892 inmates in special management units, and 398 inmates in the ADX supermax facility in Florence, Colorado.

“This is a deeply troubling development. While we understand BOP is currently addressing significant challenges, including increased contraband, we are also concerned by the sharp rise in a practice that DOJ has acknowledged ‘can cause serious, long-lasting harm’ and should be ‘used only as necessary—and never as a default solution,’” the members wrote in a letter to Acting Director Hurwitz. “As we reintroduce the *Solitary Confinement Reform Act*, we urge you to take steps to address this concerning rise in the use of restricted housing. We are ready and willing to work with you to reform and reduce this practice.”

Full text of the letter is available [here](#).

The *Solitary Confinement Reform Act* has been endorsed by the American Civil Liberties Union, National Religious Campaign Against Torture, Human Rights Campaign, National Alliance on Mental Illness, Campaign for Youth Justice, and The Leadership Conference on Civil and Human Rights.

As Chairman of the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights, Durbin held the first-ever Congressional hearing on solitary confinement in June 2012 where Anthony Graves – the 12th death row inmate in Texas to be exonerated – testified. As a result of the hearing, BOP agreed to Durbin’s request to submit the first independent assessment of its solitary confinement policies and practices.

In 2014, Durbin held a second hearing on solitary confinement in which he called for an end to the use of solitary confinement for juveniles, pregnant women, and those with serious and persistent mental illness. Damon Thibodeaux – a man held in solitary confinement for 15 years before his exoneration and release from prison – testified at the hearing.

In February 2015, BOP released the independent assessment Durbin requested following his first solitary confinement hearing. The report identified areas where operational and policy improvements were needed, including mental health care, time parameters for restrictive housing, and the segregation of inmates in protective custody.

In 2015, following the independent assessment, the Department of Justice undertook a review of BOP’s use of solitary confinement. In January 2016, President Obama announced that he had accepted a number of the Justice Department’s recommendations to reform and reduce the practice of solitary confinement in the federal prison system—including implementing the ban on juvenile solitary confinement that Durbin called for in 2014. The ban on placing juveniles in solitary confinement was a key provision in previous versions of the *Solitary Confinement Reform Act* and was codified in the recently-enacted *First Step Act*.

BOP began implementing these changes and, until recently, the numbers continued trending downwards. While this previous decline was encouraging, there was also a need for further reform measures. The Senators first introduced the *Solitary Confinement Reform Act* in 2016 to codify and build upon the DOJ recommendations for reform.