

## FEDERAL BIPARTISAN LAWS THAT LIMIT YOUTH SOLITARY CONFINEMENT

In December 2018, Congress took a huge step toward ending youth solitary by passing the First Step Act (FSA) and the reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJJPA). The FSA is in keeping with the recommendations of justice, mental health, the Annie E. Casey Foundations Juvenile Detention Alternative Initiative (JDAI) Facility Assessment Standards, and the Stop Solitary for Kids campaign. The FSA prohibits federal facilities from using solitary confinement as punishment and permits the practice only when youth behavior poses a risk of immediate physical harm that cannot otherwise be deescalated. Youth must be released as soon as they are calm and always within three hours.

The JJJPA incentivizes states to implement similar reforms. The Act requires state data on restraints and isolation, shedding light on what is too often a hidden problem. It also requires states to describe their strategies to reduce isolation, and requires federal training and technical assistance to support these goals. Critically, the JJJPA prohibits states from holding youth in adult jails, except in narrow circumstances.

### The First Step Act on Solitary Confinement, Sec. 613 – [S.3747](#)

*Amends Title 18, Chapter 403 § 5043.*

#### **Definitions and Applicability – Sec. 613**

- Does not apply to youth held in custody for immigration offenses. “Covered juveniles” are those who are charged with a delinquent act, adjudicated delinquent, or charged as an adult in federal court for a criminal offense.
- Defines room confinement as “involuntary placement of a covered juvenile alone in a cell, room, or other area for any reason.”

#### **Prohibitions on Room Confinement in Juvenile Facilities**

- Prohibits room confinement “for discipline, punishment, retaliation, or any reason other than as a temporary response to a covered juvenile’s behavior that poses a serious and immediate risk of physical harm to any individual, including the covered juvenile.”
- Requires staff to attempt less restrictive alternatives and immediately release the youth once the youth “has sufficiently gained control so as to no longer engage in behavior that threatens serious and immediate risk of physical harm to the youth or to others.”
- Limits room confinement to 3 hours or 30 minutes when youth poses an immediate risk of physical harm to self.
- If the youth is not sufficiently calm to exit room confinement after these periods, facilities must transfer the youth to another facility or an internal location where services can be provided without room confinement OR initiate a referral if a QMHP believes the youth needs a higher level of crisis service than the facility can provide.

### **Staff Training – Sec. 606**

- Requires the BOP to provide training on de-escalation and responding to the “unique needs of individuals who have a mental illness or cognitive deficit” for staff in BOP and contract facilities.

### **Data Reporting – Sec. 610 (a) (2)**

- Sec. 610 requires the Bureau of Justice Statistics to provide the “number of prisoners placed in solitary confinement at any time during the previous year.”
- Definition of “solitary confinement” in this section is unclear.

<b>JJDP Sections on Solitary Confinement – <a href="#">H.R. 6964</a></b>
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### **Defines Solitary – Sec. 102**

- Defines solitary confinement as any time a youth is confined alone for more than 15 minutes except isolation under two notable exceptions: (1) as part of a treatment program approved by a medical or mental health professional; or (2) in a non-locked setting for “calming” (*amends 43 U.S.C. 11103 § 103 (32)*).

### **Annual Reports – Sec. 203**

- Requires OJJDP to report annual state data on the use of isolation and restraints in state and county juvenile detention and commitment facilities.
- The Act only requires a summary of data from one month of the fiscal year. (*amends 24 U.S.C. 11117 § 207(1)(G)*).

### **State Plans – Sec. 223**

- Calls for states to describe what policies, practices, and training for staff in state juvenile correctional facilities to in facilities to end dangerous practices including “unreasonable isolation.” (*amends 34 U.S.C. §223 (a) (29)*).

### **Training & Technical Assistance – Sec. 208**

- Requires OJJDP to work with state and local governments to provide training and technical assistance to:
  - 1) Improve conditions of confinement with methods that minimize the use of isolation and unreasonable restraints and respond to cultural differences; and
  - 2) Encourage alternative behavioral management based on positive youth development. (*amends 34 U.S.C. 11162 § 242 (f)*)



Stop Solitary for Kids is a partnership between the Center for Children’s Law and Policy, the Center for Juvenile Justice Reform at Georgetown University, the Council of Juvenile Correctional Administrators, and the Justice Policy Institute. To learn more, visit:

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