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HOUSE BILL 2080

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State of Washington

66th Legislature

2019 Regular Session

By Representative Peterson

1 AN ACT Relating to solitary confinement; adding new sections to  
2 chapter 13.40 RCW; adding new sections to chapter 70.48 RCW; adding a  
3 new section to chapter 72.09 RCW; adding a new section to chapter  
4 36.28A RCW; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 13.40  
7 RCW to read as follows:

8 (1) It is the policy of the state of Washington that the solitary  
9 confinement of juveniles shall occur rarely and only in the limited  
10 circumstances authorized in this section. The requirements of this  
11 section are intended to prevent this use of solitary confinement and,  
12 in the limited instances of its use, ameliorate and mitigate the  
13 harms that result from solitary confinement of juveniles.

14 (2) The solitary confinement of juveniles is prohibited in all  
15 detention facilities and institutions, except when, based on the  
16 person's behavior, solitary confinement is necessary to prevent  
17 imminent and significant physical harm to the person detained or to  
18 others, and less restrictive alternatives were unsuccessful. Solitary  
19 confinement of juveniles may not be used for disciplinary or  
20 punishment purposes.

1 (3) The department shall, by December 1, 2019, develop policies  
2 and procedures for solitary confinement of juveniles in detention  
3 facilities and institutions with the goal of limiting its use and  
4 duration. In determining the solitary confinement policies and  
5 procedures, the department must be consistent with nationally  
6 accepted best practices, and include:

7 (a) Preventative measures to protect the safety and security of  
8 incarcerated juveniles and their peers, the staff of the detention  
9 facilities and institutions, other persons who work in the detention  
10 facilities and institutions, and visitors;

11 (b) A requirement that solitary confinement ends as soon as the  
12 juvenile demonstrates physical and emotional control, and a limit on  
13 the duration of any solitary confinement to no more than four hours  
14 in any twenty-four hour period;

15 (c) A requirement that any use of solitary confinement be subject  
16 to review by supervisors;

17 (d) A requirement that medical professionals assess or evaluate  
18 any juvenile in solitary confinement as soon as possible after the  
19 juvenile is placed in solitary confinement, and that qualified mental  
20 health professionals evaluate and develop a care plan, that may  
21 include hospitalization, for juveniles who are placed in solitary  
22 confinement to prevent self-harm; and

23 (e) Procedures to ensure juveniles' continued access to  
24 education, programming, and ordinary necessities, such as medication,  
25 meals, and reading material, when in solitary confinement.

26 (4) Detention facilities and institutions shall fully comply with  
27 the policies and procedures established in subsection (3) of this  
28 section by July 1, 2020.

29 (5) The definitions in this subsection apply throughout this  
30 section unless the context clearly requires otherwise.

31 (a) "Detention facilities and institutions" include detention  
32 facilities and juvenile rehabilitation facilities organized under  
33 this chapter, and jails organized under chapter 70.48 RCW.

34 (b) "Juvenile" means a person incarcerated for an offense that  
35 occurred or is alleged to have occurred before the person turned age  
36 eighteen.

37 (c) "Solitary confinement" means the placement of a juvenile in a  
38 locked room or cell alone with minimal or no contact with persons  
39 other than guards, correctional facility staff, and attorneys. Using  
40 different terminology for this practice, such as room confinement,

1 administrative segregation, segregated housing, protective custody,  
2 restrictive housing, restricted housing, restricted engagement, close  
3 confinement, special management unit, intensive management unit,  
4 administrative detention, nonpunitive isolation, temporary isolation  
5 reflection cottage, or maximum custody, among others, does not exempt  
6 a practice from being solitary confinement. The use of single person  
7 sleeping rooms, during ordinary sleeping or rest periods, does not  
8 constitute solitary confinement. The short-term placement of  
9 juveniles in individual cells for purposes of facility or living unit  
10 security issues, or for other short-term facility physical plant  
11 safety and maintenance issues, does not constitute solitary  
12 confinement.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.48  
14 RCW to read as follows:

15 Any jail housing one or more juvenile offenders must adhere to  
16 the requirements under section 1 of this act. For purposes of this  
17 section, "juvenile offenders" are persons incarcerated for an offense  
18 that occurred or is alleged to have occurred before the person turned  
19 age eighteen.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 13.40  
21 RCW to read as follows:

22 (1) The department must compile, on a monthly basis until June 1,  
23 2020, the following information with respect to all state  
24 institutions and facilities used for juvenile rehabilitation:

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

26 (b) The circumstances leading to the use of solitary confinement;

27 (c) A determination of whether, for each instance of solitary  
28 confinement, the use of solitary confinement lasted more or less than  
29 four hours within a twenty-four hour period and, for instances  
30 lasting more than four hours, the length of time the youth remained  
31 in solitary confinement;

32 (d) For each instance of solitary confinement, whether or not  
33 supervisory review of the solitary confinement occurred and was  
34 documented;

35 (e) For each instance of solitary confinement, whether or not a  
36 medical assessment or review and a mental health assessment or review  
37 were conducted and documented; and

1 (f) For each instance of solitary confinement, whether or not the  
2 affected youth was afforded full access to education, programming,  
3 and ordinary necessities such as medication, meals, and reading  
4 material during the term of solitary confinement.

5 (2) Information collected under subsection (1) of this section  
6 must be compiled into a report and submitted, in compliance with RCW  
7 43.01.036, to the appropriate committees of the legislature. An  
8 initial report must be submitted by December 1, 2019, and an updated  
9 report must be submitted by June 1, 2020.

10 (3) For the purposes of this section, "solitary confinement"  
11 means the placement of an incarcerated or detained youth in a locked  
12 room or cell alone with minimal or no contact with persons other than  
13 guards, facility staff, and attorneys. Using different terminology  
14 for this practice, such as room confinement, administrative  
15 segregation, segregated housing, protective custody, restrictive  
16 housing, restricted housing, restricted engagement, close  
17 confinement, special management unit, intensive management unit,  
18 administrative detention, nonpunitive isolation, temporary isolation,  
19 reflection cottage, or maximum custody, among others, does not exempt  
20 a practice from being solitary confinement. The short-term placement  
21 of youth in individual cells for purposes of facility or living unit  
22 security issues or for other short-term facility physical plan safety  
23 and maintenance issues does not constitute solitary confinement.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 13.40  
25 RCW to read as follows:

26 (1) A county operating a detention facility must compile, on a  
27 monthly basis until June 1, 2020, the following information with  
28 respect to the detention facility:

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

30 (b) The circumstances leading to the use of solitary confinement;

31 (c) A determination of whether, for each instance of solitary  
32 confinement, the use of solitary confinement lasted more or less than  
33 four hours within a twenty-four hour period and, for instances  
34 lasting more than four hours, the length of time the youth remained  
35 in solitary confinement;

36 (d) For each instance of solitary confinement, whether or not  
37 supervisory review of the solitary confinement occurred and was  
38 documented;

1 (e) For each instance of solitary confinement, whether or not a  
2 medical assessment or review and a mental health assessment or review  
3 were conducted and documented; and

4 (f) For each instance of solitary confinement, whether or not the  
5 affected youth was afforded full access to education, programming,  
6 and ordinary necessities such as medication, meals, and reading  
7 material during the term of solitary confinement.

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

11 (3) For purposes of this section, "solitary confinement" means  
12 the placement of an incarcerated or detained youth in a locked room  
13 or cell alone with minimal or no contact with persons other than  
14 guards, facility staff, and attorneys. Using different terminology  
15 for this practice, such as room confinement, administrative  
16 segregation, segregated housing, protective custody, restrictive  
17 housing, restricted housing, restricted engagement, close  
18 confinement, special management unit, intensive management unit,  
19 administrative detention, nonpunitive isolation, temporary isolation,  
20 reflection cottage, or maximum custody, among others, does not exempt  
21 a practice from being solitary confinement. The short-term placement  
22 of youth in individual cells for purposes of facility or living unit  
23 security issues, or for other short-term facility physical plan  
24 safety and maintenance issues, does not constitute solitary  
25 confinement.

26 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.48  
27 RCW to read as follows:

28 (1) A governing unit operating one or more jails must compile, on  
29 a monthly basis until June 1, 2020, the following information with  
30 respect to each jail operated by the governing unit:

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

32 (b) The circumstances leading to the use of solitary confinement;

33 (c) For each instance of solitary confinement, the length of time  
34 the individual remained in solitary confinement. If a juvenile under  
35 the age of eighteen, or a person who is detained pursuant to an  
36 offense committed or alleged to have occurred before the person  
37 turned eighteen, is housed in the jail and is placed in solitary  
38 confinement, the governing unit must include information as to  
39 whether, for each instance of solitary confinement concerning such

1 person, the use of solitary confinement lasted more or less than four  
2 hours within a twenty-four hour period and, for instances lasting  
3 more than four hours, the length of time the individual remained in  
4 solitary confinement;

5 (d) For each instance of solitary confinement, whether or not  
6 supervisory review of the solitary confinement occurred and was  
7 documented;

8 (e) For each instance of solitary confinement, whether or not a  
9 medical assessment or review and a mental health assessment or review  
10 were conducted and documented; and

11 (f) For each instance of solitary confinement, whether or not the  
12 affected person was afforded full access to education, programming,  
13 and ordinary necessities such as medication, meals, and reading  
14 material during the term of solitary confinement.

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

18 (3) For purposes of this section, "solitary confinement" means  
19 the placement of an incarcerated or detained person in a locked room  
20 or cell alone with minimal or no contact with persons other than  
21 guards, facility staff, and attorneys. Using different terminology  
22 for this practice, such as room confinement, administrative  
23 segregation, segregated housing, protective custody, restrictive  
24 housing, restricted housing, restricted engagement, close  
25 confinement, special management unit, intensive management unit,  
26 administrative detention, nonpunitive isolation, temporary isolation,  
27 reflection cottage, or maximum custody, among others, does not exempt  
28 a practice from being solitary confinement. The short-term placement  
29 of incarcerated or detained persons in individual cells for purposes  
30 of facility or living unit security issues, or for other short-term  
31 facility physical plan safety and maintenance issues, does not  
32 constitute solitary confinement.

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

35 (1) The department must compile, on a monthly basis until June 1,  
36 2020, the following information with respect to each state  
37 correctional institution:

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

39 (b) The circumstances leading to the use of solitary confinement;

1 (c) For each instance of solitary confinement, the length of time  
2 the offender remained in solitary confinement;

3 (d) For each instance of solitary confinement, whether or not  
4 supervisory review of the solitary confinement occurred and was  
5 documented;

6 (e) For each instance of solitary confinement, whether or not a  
7 medical assessment or review and a mental health assessment or review  
8 were conducted and documented; and

9 (f) For each instance of solitary confinement, whether or not the  
10 affected offender was afforded full access to education, programming,  
11 and ordinary necessities such as medication, meals, and reading  
12 material during the term of solitary confinement.

13 (2) Information collected under subsection (1) of this section  
14 must be compiled into a report and submitted, in compliance with RCW  
15 43.01.036, to the appropriate committees of the legislature. An  
16 initial report must be submitted by December 1, 2019, and an updated  
17 report must be submitted by June 1, 2020.

18 (3) For purposes of this section, "solitary confinement" means  
19 the placement of an offender in a locked room or cell alone with  
20 minimal or no contact with persons other than guards, facility staff,  
21 and attorneys. Using different terminology for this practice, such as  
22 room confinement, administrative segregation, segregated housing,  
23 protective custody, restrictive housing, restricted housing,  
24 restricted engagement, close confinement, special management unit,  
25 intensive management unit, administrative detention, nonpunitive  
26 isolation, temporary isolation, reflection cottage, or maximum  
27 custody, among others, does not exempt a practice from being solitary  
28 confinement. The short-term placement of offenders in individual  
29 cells for purposes of facility or living unit security issues, or for  
30 other short-term facility physical plan safety and maintenance  
31 issues, does not constitute solitary confinement.

32 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.28A  
33 RCW to read as follows:

34 (1) The Washington association of sheriffs and police chiefs must  
35 collect, on a monthly basis, the information submitted under sections  
36 4 and 5 of this act.

37 (2) The collected information must be compiled into a report  
38 summarizing the information by county and type of facility.

1           (3) An initial report must be submitted, in compliance with RCW  
2 43.01.036, to the appropriate committees of the legislature by  
3 December 1, 2019. An updated report must be submitted, in compliance  
4 with RCW 43.01.036, to the appropriate committees of the legislature  
5 by June 1, 2020.

6           NEW SECTION.   **Sec. 8.**   Sections 3 through 7 of this act expire  
7 July 1, 2021.

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