H-0743.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 2080**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Peterson, Davis, Frame, and Macri

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) "Solitary confinement" means the placement of a juvenile in a locked room or cell alone with minimal or no contact with persons other than guards, correctional facility staff, and attorneys. Using different terminology for this practice, such as room confinement, administrative segregation, segregated housing, protective custody, restrictive housing, restricted housing, restricted engagement, close confinement, special management unit, intensive management unit, administrative detention, nonpunitive isolation, temporary isolation reflection cottage, or maximum custody, among others, does not exempt a practice from being solitary confinement. The use of single person sleeping rooms, during ordinary sleeping or rest periods, does not constitute solitary confinement. The short-term placement of juveniles in individual cells for purposes of facility or living unit security issues, or for other short-term facility physical plant safety and maintenance issues, does not constitute solitary confinement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) For each instance of solitary confinement, the length of time the individual remained in solitary confinement. If a juvenile under the age of eighteen, or a person who is detained pursuant to an offense committed or alleged to have occurred before the person turned eighteen, is housed in the jail and is placed in solitary confinement, the governing unit must include information as to whether, for each instance of solitary confinement concerning such person, the use of solitary confinement lasted more or less than four hours within a twenty-four hour period and, for instances lasting more than four hours, the length of time the individual remained in solitary confinement;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**--- END ---**