

**2SHB 1756 - H AMD 1128**

By Representative Peterson

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** This act may be known and cited as the  
4 solitary confinement restriction act.

5 NEW SECTION. **Sec. 2.** The legislature finds that almost 600  
6 adults continue to be held in solitary confinement in state  
7 correctional facilities. Solitary confinement has been shown to  
8 create significant and lasting psychological impacts. Therefore, the  
9 legislature finds that the use of solitary confinement in state  
10 correctional facilities should be restricted to ensure the safe and  
11 humane operation of these facilities, consistent with the state and  
12 federal Constitutions, the laws and public policies of this state,  
13 the mission of the correctional system, evolving medical knowledge,  
14 and international human rights standards. The standards established  
15 in this act apply to all incarcerated persons in the custody of the  
16 department of corrections.

17 **Sec. 3.** RCW 72.09.015 and 2020 c 319 s 2 are each amended to  
18 read as follows:

19 The definitions in this section apply throughout this chapter.

20 (1) "Adult basic education" means education or instruction  
21 designed to achieve general competence of skills in reading, writing,  
22 and oral communication, including English as a second language and  
23 preparation and testing services for obtaining a high school diploma  
24 or a high school equivalency certificate as provided in RCW  
25 28B.50.536.

26 (2) "Base level of correctional services" means the minimum level  
27 of field services the department of corrections is required by  
28 statute to provide for the supervision and monitoring of offenders.

29 (3) "Civil judgment for assault" means a civil judgment for  
30 monetary damages awarded to a correctional officer or department

1 employee entered by a court of competent jurisdiction against an  
2 inmate that is based on, or arises from, injury to the correctional  
3 officer or department employee caused by the inmate while the  
4 correctional officer or department employee was acting in the course  
5 and scope of his or her employment.

6 (4) "Community custody" has the same meaning as that provided in  
7 RCW 9.94A.030 and also includes community placement and community  
8 supervision as defined in RCW 9.94B.020.

9 (5) "Contraband" means any object or communication the secretary  
10 determines shall not be allowed to be: (a) Brought into; (b)  
11 possessed while on the grounds of; or (c) sent from any institution  
12 under the control of the secretary.

13 (6) "Correctional facility" means a facility or institution  
14 operated directly or by contract by the secretary for the purposes of  
15 incarcerating adults in total or partial confinement, as defined in  
16 RCW 9.94A.030.

17 (7) "County" means a county or combination of counties.

18 (8) "Department" means the department of corrections.

19 (9) "Earned early release" means earned release as authorized by  
20 RCW 9.94A.729.

21 (10) "Evidence-based" means a program or practice that has had  
22 multiple-site random controlled trials across heterogeneous  
23 populations demonstrating that the program or practice is effective  
24 in reducing recidivism for the population.

25 (11) "Extended family visit" means an authorized visit between an  
26 inmate and a member of his or her immediate family that occurs in a  
27 private visiting unit located at the correctional facility where the  
28 inmate is confined.

29 (12) "Good conduct" means compliance with department rules and  
30 policies.

31 (13) "Good performance" means successful completion of a program  
32 required by the department, including an education, work, or other  
33 program.

34 (14) "Immediate family" means the inmate's children,  
35 stepchildren, grandchildren, great grandchildren, parents,  
36 stepparents, grandparents, great grandparents, siblings, aunts,  
37 uncles, and a person legally married to or in a state registered  
38 domestic partnership with an inmate. "Immediate family" includes the  
39 immediate family of an inmate who was adopted as a child or an adult,  
40 but does not include an inmate adopted by another inmate.

1 (15) "Indigent inmate," "indigent," and "indigency" mean an  
2 inmate who has less than a twenty-five dollar balance of disposable  
3 income in his or her institutional account on the day a request is  
4 made to utilize funds and during the thirty days previous to the  
5 request.

6 (16) "Individual reentry plan" means the plan to prepare an  
7 offender for release into the community. It should be developed  
8 collaboratively between the department and the offender and based on  
9 an assessment of the offender using a standardized and comprehensive  
10 tool to identify the offender's risks and needs. The individual  
11 reentry plan describes actions that should occur to prepare  
12 individual offenders for release from prison or jail, specifies the  
13 supervision and services they will experience in the community, and  
14 describes an offender's eventual discharge to aftercare upon  
15 successful completion of supervision. An individual reentry plan is  
16 updated throughout the period of an offender's incarceration and  
17 supervision to be relevant to the offender's current needs and risks.

18 (17) "Inmate" (~~means~~) and "incarcerated person" mean a person  
19 committed to the custody of the department, including but not limited  
20 to persons residing in a correctional institution or facility and  
21 persons released from such facility on furlough, work release, or  
22 community custody, and persons received from another state, state  
23 agency, county, or federal jurisdiction.

24 (18) "Labor" means the period of time before a birth during which  
25 contractions are of sufficient frequency, intensity, and duration to  
26 bring about effacement and progressive dilation of the cervix.

27 (19) "Physical restraint" means the use of any bodily force or  
28 physical intervention to control an offender or limit an offender's  
29 freedom of movement in a way that does not involve a mechanical  
30 restraint. Physical restraint does not include momentary periods of  
31 minimal physical restriction by direct person-to-person contact,  
32 without the aid of mechanical restraint, accomplished with limited  
33 force and designed to:

34 (a) Prevent an offender from completing an act that would result  
35 in potential bodily harm to self or others or damage property;

36 (b) Remove a disruptive offender who is unwilling to leave the  
37 area voluntarily; or

38 (c) Guide an offender from one location to another.

39 (20) "Postpartum recovery" means (a) the entire period a woman or  
40 youth is in the hospital, birthing center, or clinic after giving

1 birth and (b) an additional time period, if any, a treating physician  
2 determines is necessary for healing after the woman or youth leaves  
3 the hospital, birthing center, or clinic.

4 (21) "Privilege" means any goods or services, education or work  
5 programs, or earned early release days, the receipt of which are  
6 directly linked to an inmate's (a) good conduct; and (b) good  
7 performance. Privileges do not include any goods or services the  
8 department is required to provide under the state or federal  
9 Constitution or under state or federal law.

10 (22) "Promising practice" means a practice that presents, based  
11 on preliminary information, potential for becoming a research-based  
12 or consensus-based practice.

13 (23) "Research-based" means a program or practice that has some  
14 research demonstrating effectiveness, but that does not yet meet the  
15 standard of evidence-based practices.

16 (24) "Restraints" means anything used to control the movement of  
17 a person's body or limbs and includes:

18 (a) Physical restraint; or

19 (b) Mechanical device including but not limited to: Metal  
20 handcuffs, plastic ties, ankle restraints, leather cuffs, other  
21 hospital-type restraints, tasers, or batons.

22 (25) "Secretary" means the secretary of corrections or his or her  
23 designee.

24 (26) "Significant expansion" includes any expansion into a new  
25 product line or service to the class I business that results from an  
26 increase in benefits provided by the department, including a decrease  
27 in labor costs, rent, or utility rates (for water, sewer,  
28 electricity, and disposal), an increase in work program space, tax  
29 advantages, or other overhead costs.

30 (27) (a) "Superintendent" means the superintendent of a  
31 correctional facility under the jurisdiction of the Washington state  
32 department of corrections, or his or her designee.

33 (b) For purposes of sections 4 through 9 of this act, the  
34 superintendent's designee may only be the secretary, the deputy  
35 secretary, the chief of staff, or the assistant secretary of the  
36 prisons division.

37 (28) "Transportation" means the conveying, by any means, of an  
38 incarcerated pregnant woman or youth from the correctional facility  
39 to another location from the moment she leaves the correctional  
40 facility to the time of arrival at the other location, and includes

1 the escorting of the pregnant incarcerated woman or youth from the  
2 correctional facility to a transport vehicle and from the vehicle to  
3 the other location.

4 (29) "Unfair competition" means any net competitive advantage  
5 that a business may acquire as a result of a correctional industries  
6 contract, including labor costs, rent, tax advantages, utility rates  
7 (water, sewer, electricity, and disposal), and other overhead costs.  
8 To determine net competitive advantage, the department of corrections  
9 shall review and quantify any expenses unique to operating a for-  
10 profit business inside a prison.

11 (30) "Vocational training" or "vocational education" means  
12 "vocational education" as defined in RCW 72.62.020.

13 (31) "Washington business" means an in-state manufacturer or  
14 service provider subject to chapter 82.04 RCW existing on June 10,  
15 2004.

16 (32) "Work programs" means all classes of correctional industries  
17 jobs authorized under RCW 72.09.100.

18 (33) "Qualified medical provider" means a physician, physician  
19 assistant, advanced registered nurse practitioner, clinical nurse  
20 specialist, or other comparably credentialed employee or contractor  
21 employed to provide health care, or for mental health evaluations or  
22 decisions, a state-licensed psychiatrist or psychologist, a  
23 registered nurse, or other comparably credentialed employee or  
24 contractor employed to provide mental health care.

25 (34) "Less restrictive intervention" means a placement or  
26 conditions of confinement, or both, in the current or an alternative  
27 correctional facility, under conditions less restrictive of an  
28 incarcerated person's movement, privileges, activities, or social  
29 interactions than solitary confinement.

30 (35) "Solitary confinement" means the confinement of an  
31 incarcerated person alone in a cell or similarly confined holding or  
32 living space for 20 hours or more per day under circumstances other  
33 than a partial or facility-wide lockdown.

34 (36) "Vulnerable person" means any incarcerated person who:

35 (a) Has a mental disorder, as defined in RCW 71.05.020, or where  
36 there is evidence of a diagnosis of a serious mental illness, a  
37 history of psychiatric hospitalization, or a history of disruptive or  
38 self-injurious behavior including, but not limited to, serious and/or  
39 repeated self-harm, that may be the result of a mental disorder or  
40 condition;

- 1       (b) Has a developmental disability, as defined in RCW 71A.10.020;  
2       (c) Has a serious medical condition that cannot effectively be  
3 treated in solitary confinement;  
4       (d) Is pregnant, in the postpartum period, or has recently  
5 suffered a miscarriage or terminated a pregnancy;  
6       (e) Has needs related to a physical disability that cannot be  
7 accommodated in solitary confinement;  
8       (f) Has a significant auditory or visual impairment; or  
9       (g) Has a record of dementia, traumatic brain injury, or other  
10 cognitive condition that makes the person more vulnerable to the  
11 harms of isolation.

12       NEW SECTION. Sec. 4. A new section is added to chapter 72.09  
13 RCW to read as follows:

14       RESTRICTIONS ON SOLITARY CONFINEMENT. An incarcerated person may  
15 not be placed in solitary confinement except when necessary for  
16 emergency purposes in section 5 of this act, medical isolation in  
17 section 6 of this act, or when the incarcerated person voluntarily  
18 requests such confinement conditions in section 7 of this act.

19       NEW SECTION. Sec. 5. A new section is added to chapter 72.09  
20 RCW to read as follows:

21       (1) SOLITARY CONFINEMENT FOR EMERGENCY PURPOSES. An incarcerated  
22 person may be placed in solitary confinement for emergency purposes  
23 if: The incarcerated person has not been determined to be a  
24 vulnerable person; the superintendent of the correctional facility  
25 finds that there is reasonable cause to believe that the solitary  
26 confinement is necessary to reduce or protect against a substantial  
27 risk of immediate serious harm to the incarcerated person or another  
28 person, as evidenced by recent threats or conduct; and the  
29 superintendent of the correctional facility finds that a less  
30 restrictive intervention would insufficiently reduce this risk.

31       (2) INITIAL MEDICAL EVALUATION. (a)(i) Except as provided in  
32 (a)(ii) of this subsection, a qualified medical provider shall  
33 conduct a personal and comprehensive medical and mental health  
34 examination of the incarcerated person within 24 hours of the  
35 incarcerated person being placed in solitary confinement under this  
36 section.

1 (ii) A person who has been involved in an altercation or use of  
2 force must be examined by a qualified medical provider prior to being  
3 placed in solitary confinement.

4 (b) The comprehensive medical and mental health examination must  
5 include an assessment as to whether the incarcerated person is a  
6 vulnerable person and whether the person's age or circumstance makes  
7 them particularly vulnerable to the harm of isolation, such that the  
8 person should be considered a vulnerable person. The examining  
9 qualified medical provider shall immediately report to the  
10 superintendent if he or she makes any finding indicating that the  
11 incarcerated person is vulnerable or that for any other reason  
12 continued placement in solitary confinement would be a risk to the  
13 person's health.

14 (c) A report of the qualified medical provider's conclusions  
15 based on the examination must be provided to the superintendent and  
16 the secretary as soon as possible and no later than the next business  
17 day.

18 (3) (a) 24-HOUR LIMIT. Except for extended solitary confinement as  
19 provided in (b) of this subsection, an incarcerated person may not be  
20 held in solitary confinement for emergency purposes under this  
21 section for more than 24 consecutive hours and for more than 72  
22 cumulative hours in any 30-day period.

23 (b) EXTENDED SOLITARY CONFINEMENT AND ONGOING REVIEW. An  
24 incarcerated person may not be placed in extended solitary  
25 confinement for more than 15 consecutive days and for more than 45  
26 cumulative days during a single fiscal year. For an incarcerated  
27 person in extended solitary confinement:

28 (i) A qualified medical provider shall, every seven days, conduct  
29 a mental health and physical health status examination of the  
30 incarcerated person, in a confidential setting outside of the cell  
31 unless doing so would present a substantial threat to security or  
32 safety or the individual refuses to leave the cell. These  
33 examinations must be more frequent if indicated by the incarcerated  
34 person's documented clinical needs pertaining to his or her  
35 identified health or health care concerns; and

36 (ii) The department shall provide the incarcerated person with  
37 timely, fair, and meaningful opportunities to contest the extended  
38 solitary confinement, including: An initial hearing within 72 hours  
39 of placement, unless emergency circumstances require a continuance  
40 which may be up to an additional 48 hours; the right to appear at the

1 hearing; the right to request assistance at the hearing by a lay  
2 advisor or other person of the incarcerated person's choosing,  
3 including but not limited to other incarcerated individuals when such  
4 individuals do not present an individualized and specific risk if  
5 permitted to participate, outside advocates, or retained counsel; an  
6 independent hearing officer; a written statement of reasons for the  
7 decision made at the hearing; and a written statement on how to  
8 appeal a hearing determination.

9 (4) VULNERABLE PERSONS. If the incarcerated person is determined  
10 to be a vulnerable person during the initial examination under  
11 subsection (2) of this section or any status examination under  
12 subsection (3)(b) of this section, then the incarcerated person must  
13 not be placed in solitary confinement or must be removed from  
14 solitary confinement and, if necessary, transferred to an appropriate  
15 residential treatment unit, medical unit, or other appropriate or  
16 specialized unit designated by the secretary. If the incarcerated  
17 person is identified as a vulnerable person due to having a mental  
18 disorder or developmental disability, as identified in RCW 72.09.015,  
19 the incarcerated person may also be screened by a qualified medical  
20 provider for transfer to the least restrictive appropriate short-term  
21 care or psychiatric facility designated by the department of social  
22 and health services and transferred to such facility if the  
23 requirements in RCW 72.68.031 have been met.

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

26 SOLITARY CONFINEMENT FOR MEDICAL ISOLATION. (1) An incarcerated  
27 person may be placed in solitary confinement for medical isolation if  
28 the facility medical director determines, based on a personal  
29 examination, that such confinement is necessary for medical reasons,  
30 which may include, but are not limited to, responding to a medical or  
31 mental health emergency, and no less restrictive intervention is  
32 sufficient to protect health and safety. Conditions of solitary  
33 confinement under this section must be the least restrictive possible  
34 and must be in compliance with prevailing public health guidance  
35 including, but not limited to, guidance from the United States  
36 centers for disease control and prevention and the Washington state  
37 department of health.

38 (2) For any incarcerated person placed in solitary confinement  
39 under this section, an in-person clinical assessment must be



1 conducted at clinically appropriate intervals as determined by a  
2 qualified medical provider, provided such assessments occur no less  
3 frequently than every 12 hours. An incarcerated person in solitary  
4 confinement under this section must be placed in a general population  
5 living unit, a residential treatment unit, a close observation unit,  
6 or a medical unit designated by the secretary, as deemed clinically  
7 appropriate by the attending qualified medical provider in  
8 consultation with the facility medical director.

9 (3) An incarcerated person may not be placed in solitary  
10 confinement under this section for more than 15 consecutive days and  
11 for more than 45 cumulative days during a single fiscal year, unless  
12 a qualified medical provider determines that additional time is  
13 necessary: To prevent the spread of a disease and continued medical  
14 isolation is consistent with applicable United States centers for  
15 disease control and prevention or Washington state department of  
16 health guidelines; to facilitate the provision of medical treatment  
17 to the incarcerated person; or for some other clearly stated medical  
18 purpose. If additional time is deemed necessary, the medical provider  
19 shall document specific reasons why the isolation is required and why  
20 less restrictive interventions are insufficient to accomplish the  
21 safety of incarcerated persons in the facility. Such notice must be  
22 forwarded to the facility medical director and superintendent for  
23 consideration and final approval.

24 NEW SECTION. **Sec. 7.** A new section is added to chapter 72.09  
25 RCW to read as follows:

26 VOLUNTARY SOLITARY CONFINEMENT. (1) An incarcerated person may be  
27 voluntarily placed in solitary confinement if: The person has  
28 capacity to make an informed decision about placement in solitary  
29 confinement; there is reasonable cause to believe that solitary  
30 confinement is necessary to prevent reasonably foreseeable harm; and  
31 the incarcerated person voluntarily requests such confinement  
32 conditions.

33 (2) An incarcerated person may be placed in solitary confinement  
34 under this section only if the person provides informed consent.  
35 Whenever possible, an incarcerated person's request for placement in  
36 solitary confinement must be in the form of a written request. If an  
37 incarcerated person initiates an informed request for solitary  
38 confinement under this section, the correctional facility must  
39 document the request and has the burden of establishing a basis for

1 refusing the request. The department shall maintain a written record  
2 of any request provided under this section. Prior to declining a  
3 request or removing an incarcerated person who previously requested  
4 solitary confinement under this section, the department shall provide  
5 the incarcerated person with a timely, fair, and meaningful  
6 opportunity to contest the decision. An incarcerated person in  
7 solitary confinement under this section may revoke his or her request  
8 to such confinement conditions, in which case the correctional  
9 facility must document the request and the incarcerated person must  
10 be transferred to a less restrictive intervention or other  
11 appropriate setting within 15 days.

12 (3) LESS RESTRICTIVE INTERVENTION. The department shall make a  
13 less restrictive intervention available to any incarcerated person  
14 requesting solitary confinement who meets the standard under  
15 subsection (1) of this section, which may include provision of  
16 accommodations in the general population, a transfer to the general  
17 population of another institution or to a unit designated for  
18 incarcerated persons who face similar threats, or other specialized  
19 housing, as appropriate. A transfer to an out-of-state facility is  
20 not a less restrictive intervention under this section unless such a  
21 transfer is requested by the incarcerated person. The department  
22 shall notify the incarcerated person of the available less  
23 restrictive intervention when receiving any request under subsection  
24 (1) of this section and shall formulate an individualized  
25 intervention plan that addresses the support or services the person  
26 may need to move to a less restrictive intervention.

27 (4) A person who has requested solitary confinement under this  
28 section must be assessed by a qualified medical provider every 90  
29 days. If the qualified medical provider finds that continued  
30 placement in solitary confinement would be detrimental to the health  
31 or well-being of the incarcerated person, the incarcerated person  
32 must be transferred to a less restrictive intervention.

33 NEW SECTION. **Sec. 8.** A new section is added to chapter 72.09  
34 RCW to read as follows:

35 CONDITIONS OF SOLITARY CONFINEMENT. (1) The department shall  
36 maximize the amount of time that an incarcerated person held in  
37 solitary confinement spends outside of the cell by providing outdoor  
38 and indoor recreation, education, clinically appropriate treatment  
39 therapies, and skill-building activities. Cells or other holding or

1 living spaces used for solitary confinement must be properly  
2 ventilated, appropriately lit according to the time of day,  
3 temperature-monitored, clean, and equipped with properly functioning  
4 sanitary fixtures.

5 (2) The department may not deny an incarcerated person held in  
6 solitary confinement access to food, water, or any other basic  
7 necessity, or access to appropriate medical care, including emergency  
8 medical care.

9 (3) The department may not deny an incarcerated person held in  
10 solitary confinement access to the telephone, personal communication  
11 or media devices, reading materials, or personal hygiene items unless  
12 an individualized assessment determines that limitation of such items  
13 is directly necessary for the safety of the incarcerated person or  
14 others. The department may use restraints upon an incarcerated person  
15 in solitary confinement to facilitate movement or programming if an  
16 individualized assessment determines such restraint is directly  
17 necessary for the safety of the incarcerated person or others.

18 (4) The department may not directly release an incarcerated  
19 person from solitary confinement to the community, unless it is  
20 necessary for the safety of the incarcerated person, staff, other  
21 incarcerated persons, or the public, or in circumstances in which the  
22 incarcerated person requires an immediate release due to  
23 resentencing.

24 (5) The department may not place an incarcerated person in  
25 solitary confinement based on the incarcerated person's race, creed,  
26 color, national origin, nationality, ancestry, age, marital status,  
27 domestic partnership or civil union status, affectional or sexual  
28 orientation, genetic information, pregnancy or breastfeeding status,  
29 sex, gender identity or expression, disability, or atypical  
30 hereditary cellular or blood trait.

31 NEW SECTION. **Sec. 9.** A new section is added to chapter 72.09  
32 RCW to read as follows:

33 SOLITARY CONFINEMENT POLICIES AND PROCEDURES. (1) By April 1,  
34 2023, the department shall review the status of each incarcerated  
35 person in solitary confinement. The department shall develop a plan  
36 to transition those incarcerated persons to less restrictive  
37 interventions or other appropriate settings. Any incarcerated person  
38 who has been in solitary confinement for longer than 120 days in the  
39 prior 12 months as of July 1, 2023, must have a trauma-informed,

1 culturally appropriate individualized intervention plan to facilitate  
2 a transition to a less restrictive intervention, which may include an  
3 evaluation for possible single cell placement, access to and  
4 treatment by medical and mental health providers, peer supports,  
5 substance abuse programming, restorative justice programming,  
6 behavioral programming, or other individualized interventions or  
7 accommodations.

8 (2) By January 1, 2023, the secretary shall adopt any rules or  
9 policies necessary to implement sections 4 through 8 of this act,  
10 including for the purposes of:

11 (a) Establishing less restrictive interventions to solitary  
12 confinement, including means of separating or protecting incarcerated  
13 persons without use of solitary confinement;

14 (b) Establishing that restrictions on religious, mail, and  
15 telephone privileges, visit contacts, and outdoor and indoor  
16 recreation may be imposed only after an individualized assessment  
17 that determines restrictions are directly necessary for the safety of  
18 the incarcerated person or others, and that there may not be  
19 restrictions on access to food, basic necessities, or legal access;

20 (c) Requiring training of staff working with incarcerated persons  
21 in solitary confinement and requiring that this training include:  
22 Assistance from appropriate professionals to periodically train all  
23 staff working with incarcerated persons in solitary confinement and  
24 alternatives to such confinement; and the identification and response  
25 to incarcerated persons in need of physical accommodations who have  
26 been referred to solitary confinement;

27 (d) Requiring documentation of all decisions, procedures, and  
28 reviews of incarcerated persons placed in solitary confinement;

29 (e) Requiring monitoring of compliance with all rules and  
30 policies governing cells, units, and other places where incarcerated  
31 persons are placed in solitary confinement;

32 (f) Establishing procedures for hearings under section 5(3)(b) of  
33 this act; and

34 (g) Requiring posting on the official website of the department  
35 monthly reports, beginning April 1, 2023, on the use of solitary  
36 confinement, including: The rate of solitary confinement by category,  
37 age, sex, gender identity, ethnicity, or incidence of a mental  
38 disorder; the number of people released from solitary confinement  
39 directly to the community; the mean and median period of solitary  
40 confinement at each facility, including the population on the last

1 day of each quarter and a nonduplicative cumulative count of people  
2 exposed to solitary confinement for each fiscal year; the incidence  
3 of self-harm, suicide, and assault in any solitary confinement unit;  
4 and the number of people held in medical isolation. Reports may not  
5 include personally identifiable information regarding any  
6 incarcerated person.

7 NEW SECTION. **Sec. 10.** (1) Beginning July 1, 2022, a governing  
8 unit of a city or county operating one or more jails shall compile on  
9 a monthly basis through July 1, 2023, the following information with  
10 respect to each jail operated by the governing unit:

- 11 (a) The number of times solitary confinement was used;
- 12 (b) The circumstances leading to the use of solitary confinement;
- 13 and
- 14 (c) For each instance of solitary confinement:
  - 15 (i) Whether the imposition of solitary confinement was the result
  - 16 of a disciplinary segregation, administrative segregation, or
  - 17 protective custody;
  - 18 (ii) The length of time the individual remained in solitary
  - 19 confinement;
  - 20 (iii) Whether a supervisory review of the solitary confinement
  - 21 occurred and was documented;
  - 22 (iv) For disciplinary segregation, whether a due process hearing
  - 23 was conducted and the results;
  - 24 (v) Whether a medical assessment or review and a mental health
  - 25 assessment or review were conducted and documented; and
  - 26 (vi) Whether the affected person was afforded meaningful access
  - 27 to education, programming, and ordinary necessities such as
  - 28 medication, meals, and reading material during the term of solitary
  - 29 confinement.

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

33 (3) For the purposes of this section, "solitary confinement"  
34 means confinement of an incarcerated person alone in a cell or  
35 similarly confined holding or living space for 20 hours or more per  
36 day under circumstances other than a partial or facility-wide  
37 lockdown.

38 (4) This section expires December 31, 2023.

1        NEW SECTION.     **Sec. 11.**     (1) Subject to the availability of  
2 amounts appropriated for this specific purpose, the Washington  
3 association of sheriffs and police chiefs shall collect, on a monthly  
4 basis, the information submitted under section 10 of this act. The  
5 collected information must be compiled into a report summarizing the  
6 information by county and type of facility. An initial report must be  
7 submitted, in compliance with RCW 43.01.036, to the governor and the  
8 appropriate committees of the legislature by December 1, 2022. A  
9 final report must be submitted, in compliance with RCW 43.01.036, to  
10 the governor and the appropriate committees of the legislature by  
11 December 1, 2023.

12        (2) This section expires December 31, 2023.

13        NEW SECTION.     **Sec. 12.**     (1) The department of corrections shall:

14        (a) Develop a staffing needs assessment, detailing the number of  
15 personnel that will be needed to provide adequate security for all  
16 incarcerated persons, correctional officers and other staff, and  
17 outside visitors, when the restrictions on solitary confinement are  
18 imposed under this act;

19        (b) Develop a corrections capital facilities master plan that  
20 outlines the capital investments needed to accommodate the objectives  
21 of this act, while providing for the health and safety of all  
22 incarcerated persons, correctional officers and other staff, and  
23 outside visitors, when the restrictions on solitary confinement are  
24 imposed under this act;

25        (c) Provide a profile of currently incarcerated persons who are  
26 or have been housed in restrictive housing during the 2021-2023  
27 fiscal biennium, including information regarding their underlying  
28 offenses and any sanctions imposed during their incarceration, and  
29 the amount of time they have remaining in total confinement;

30        (d) Document any attempted suicides by individuals in restrictive  
31 housing over the past ten years and the reason, if known; and

32        (e) Provide an inventory of currently incarcerated persons who  
33 are or have been housed in restrictive housing and who have been  
34 transferred or have been considered for transfer to an out-of-state  
35 correctional facility.

36        (2) The department of corrections must compile the information  
37 detailed in subsection (1) of this section into a report which must  
38 be submitted, in compliance with RCW 43.01.036, to the governor and  
39 the appropriate committees of the legislature by January 9, 2023.

1 (3) This section expires December 31, 2023.

2 NEW SECTION. **Sec. 13.** The secretary of the department of  
3 corrections may adopt rules to implement this act.

4 NEW SECTION. **Sec. 14.** Sections 1 through 8 of this act take  
5 effect July 1, 2023.

6 NEW SECTION. **Sec. 15.** Sections 9 through 13 of this act take  
7 effect July 1, 2022.

8 NEW SECTION. **Sec. 16.** If specific funding for the purposes of  
9 this act, referencing this act by bill or chapter number, is not  
10 provided by June 30, 2022, in the omnibus appropriations act, this  
11 act is null and void."

12 Correct the title.

EFFECT: Retains all provisions of the underlying bill with the following changes:

Makes the following changes to definitions: (1) Modifies the definition of "solitary confinement" to mean confinement alone for 20 hours or more per day (rather than 17) under circumstances other than a partial or facility-wide lockdown (rather than only a facility-wide lockdown); (2) modifies the definition of "superintendent" to specify that the superintendent's designee, for purposes of the solitary confinement provisions, may only be the Department of Corrections (DOC) Secretary, Deputy Secretary, Chief of Staff, or Assistant Secretary of the Prisons Division; and (3) modifies the definition of "qualified medical provider" to remove the requirement that a registered nurse must have a specialty in psychiatric nursing to qualify.

Makes the following changes to the provisions relating to solitary confinement for emergency purposes: (1) Changes the timelines for initial medical evaluations to provide that an evaluation must occur prior to placement in solitary confinement if the person has been involved in an altercation or use of force, and within 24 hours of placement in other circumstances (rather than requiring evaluation prior to placement for all persons, absent a substantial safety or security threat); (2) requires the qualifying medical provider to immediately report to the facility superintendent any finding that the incarcerated person is vulnerable or that continued solitary confinement would present a health risk, and requires a report of conclusions based on the examination to be provided to the facility superintendent and the Secretary as soon as possible and no later than the next business day (rather than requiring immediate reporting of evaluations); (3) requires mental and physical health status examinations every seven days, or more frequently if indicated by documented clinical needs (rather than requiring daily examinations), and makes an exception to the requirement that such examinations take place outside the cell for

circumstances in which the person refuses to leave the cell; (4) modifies provisions related to hearings to contest placement in extended solitary confinement to allow the 72-hour timeline to be continued for an additional 48 hours in emergency circumstances, and qualifies that the right for an incarcerated person to be assisted by another incarcerated person at the hearing applies only when that individual's participation does not present an individualized and specific risk; and (5) modifies the provision allowing transfer of certain vulnerable persons to an appropriate Department of Social and Health Services (DSHS) facility to specify that current law statutory requirements for such transfers must be met.

Makes the following changes to the provisions relating to solitary confinement for medical isolation purposes: (1) Modifies the criteria for determining when a person qualifies for solitary confinement for medical isolation purposes to provide that the facility medical director, rather than a qualified medical provider, must make the determination, and adds a requirement that no less restrictive intervention is sufficient to protect health and safety; (2) requires conditions of confinement to be the least restrictive possible and in compliance with prevailing health guidance; (3) requires in-person clinical assessments to occur at clinically appropriate intervals of at least every 12 hours (rather than every six hours); (4) allows placement in a general population living unit (in addition to a residential treatment, close observation, or medical unit) as deemed clinically appropriate by a qualified medical provider in consultation with the facility medical director; and (5) provides for extension of solitary confinement past 45 days to prevent the spread of disease when continued medical isolation is consistent with health guidelines (rather than to prevent the spread of communicable disease), and requires documentation of the reasons for an extension to be forwarded to the facility medical director (in addition to the superintendent) for final approval.

Makes the following changes to the provisions relating to voluntary solitary confinement: (1) Removes the prohibition on voluntary solitary confinement for vulnerable persons; (2) removes the requirement that requests to be placed in or removed from voluntary solitary confinement be in writing, and instead requires that requests must be in writing whenever possible and that the DOC must document requests; and (3) provides a timeline of 15 days for transferring a person to a less restrictive setting upon the person's request to leave voluntary solitary confinement.

Makes the following changes to the policies and procedures related to solitary confinement: (1) Makes an exception to the prohibition on direct release of a person from solitary confinement to the community for circumstances in which a person requires an immediate release due to resentencing; (2) requires the DOC to review the status of all persons in solitary confinement by April 1, 2023 (rather than January 1, 2023), and modifies the requirement to develop a transition plan to a less restrictive placement to apply to any person who has been in solitary confinement for longer than 120 days in the prior 12 months (rather than any person who has been in solitary confinement for longer than 45 days); (3) removes the requirement for staff training relating to solitary confinement to include assistance from professionals from the DSHS; and (4) requires the DOC to begin posting monthly reports on its use of solitary confinement on April 1, 2023 (rather than July 1, 2023).

Makes the following changes to the provisions relating to reporting by local jails: (1) Modifies the definition of "solitary confinement" to match the amended definition as it applies to DOC facilities; (2) requires jails to collect data regarding whether the



imposition of solitary confinement was the result of disciplinary segregation, administrative segregation, or protective custody, and for disciplinary segregation, whether a due process hearing was conducted and the results of the hearing; (3) modifies the requirement to collect data relating to access to programming and ordinary necessities while in solitary confinement to refer to meaningful access, rather than full access; and (4) specifies that the obligation to collect data begins on July 1, 2022.

Modifies intent language.

--- END ---