There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protection of Military Airfields from Wind Turbine Encroachment Act''.

SEC. 2. NEW WIND TURBINES LOCATED NEAR CERTAIN MILITARY INSTALLATIONS.

(a) IN GENERAL.—Paragraph (1) of section 45(d) of the Internal Revenue Code of 1986 is amended by striking ''Such term'' and all that follows through the period and inserting the following: ''Such term shall not include—

''(A) any facility with respect to which any qualified small wind energy property expenditure (as defined in subsection (d)(4) of section 25D) is taken into account in determining the credit under such section, or

''(B) any facility which is originally placed in service after the date of the enactment of the Protection of Military Airfields from Wind Turbine Encroachment Act and is located within a 30-mile radius of—

''(i) an airfield or airbase under the jurisdiction of a military department which is in active use, or

''(ii) an air traffic control radar site, weather radar site, or aircraft navigation aid which is—

''(I) owned or operated by the Department of Defense, and

''(II) a permanent land-based structure at a fixed location.''.

(b) QUALIFIED SMALL WIND ENERGY PROPERTY.—Paragraph (4) of section 48(c) of the Internal Revenue Code of 1986 is amended—

(1) by redesignating subparagraph (C) as subparagraph (D), and

(2) by inserting after subparagraph (B) the following:

''(C) EXCEPTION.—The term 'qualifying small wind energy property' shall not include any property which is originally placed in service after the date of the enactment of the Protection of Military Airfields from Wind Turbine Encroachment Act and is located within a 30-mile radius of any property described in clause (i) or (ii) of section 45(d)(1)(B).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

By Mr. DURBIN (for himself, Mr. COONS, Mr. LEAHY, Mr. BOOKER, and Mr. FRANKEN):

S. 3432. A bill to reform the use of solitary confinement and other forms of restrictive housing in the Bureau of Prisons, and for other purposes; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I come to the floor today to introduce the Solitary Confinement Reform Act, a bill that would make significant reforms to the use of solitary confinement in federal prisons and encourage states to implement similar reforms. Before I discuss what this legislation would do, let me explain why I am introducing it.

Several years ago, I read an article in the New Yorker magazine entitled ''Hellhole.'' This article was written by Dr. Atul Gawande, a medical doctor who examined the human impact of long-term solitary confinement in American prisons. In this article, Dr. Gawande asked:

> If prolonged isolation is—as research and experience have confirmed for decades—so objectively horrifying, so intrinsically cruel, how did we end up with a prison system that may subject more of our own citizens to it than any other country in history has?

At the time, I was serving as Chairman of the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights, and I decided to hold a hearing on solitary confinement—the first-ever congressional hearing on the topic. It turned out to be a hearing that I will never forget.

One of our witnesses at the hearing was Anthony Graves. I will never forget Mr. Graves' testimony. He spent 18 years in prison, including 16 years in solitary confinement. In 2010, he became the 12th death row inmate to be exonerated in Texas. Think about that—Mr. Graves spent 16 years in solitary for a crime he didn't commit. At the hearing, Mr. Graves testified about his experience, and here is what he said:

> I lived under some of the worst conditions imaginable with the filth, the food, the total disrespect of human dignity. I lived under the rules of a system that is literally driving men out of their minds.

He went on to say:

> Solitary confinement does one thing, it breaks a man's will to live and he ends up deteriorating. He's never the same person again. . . . I have been free for almost two years and I still cry at night, because no one out here can relate to what I have gone through. I battle with feelings of loneliness. I've tried therapy but it didn't work. The therapist was crying more than me. She couldn't believe that our system was putting men through this sort of inhumane treatment.

I think that sentiment echoed through the minds of everyone in the hearing room as Mr. Graves gave his testimony. We couldn't believe that our system was putting inmates through this sort of inhumane treatment.

Mr. Graves' story shed light on the damaging impact of holding tens of thousands of men, women, and children in small windowless cells 23 hours a day—for weeks, months, years—with very little, if any, contact with the outside world. Clearly, such extreme isolation can have serious psychological effects on inmates.

At the hearing, we also examined the serious fiscal impact of solitary confinement. We learned that in a federal high security facility, the cost of housing an inmate in segregation is about 1.3 times the cost of housing an inmate in a general population unit. At the Federal supermax prison in Florence, CO, the cost of housing an inmate in segregation is more than 2.5 times the cost of housing an inmate in the general population. Is this a wise use of taxpayer dollars when the money we spend on our Federal prisons already consumes one quarter of the Department of Justice's budget every year? So every dollar that we spend holding a prisoner in solitary confinement is a dollar that we don't spend on community policing, crime prevention, and drug treatment.

We also discussed the significant public safety consequences of widespread solitary confinement. Some people might ask, ''What happens in our prisons doesn't affect me, so why should I care?'' But consider this—the vast majority of inmates held in segregation will be released into our communities someday. So if solitary confinement destabilizes prisoners and makes them more likely to engage in violence or other criminal conduct, then that affects all of us.

Two years after my first hearing, I held a follow-up hearing. At that hearing, we heard from Damon Thibodeaux, who spent 15 years in solitary confinement at the Louisiana State Penitentiary before he was exonerated in 2012. Mr. Thibodeaux testified:

> I do not condone what those who have killed and committed other serious offenses have done. But I also don't condone what we do to them, when we put them in solitary for years on end and treat them as sub-human. We are better than that. As a civilized society, we should be better than that.

Mr. Thibodeaux was right. We should be better than that. Thankfully, our society is beginning to recognize that the widespread use of solitary confinement in our prison system must change.

In 2014, Supreme Court Justice Anthony Kennedy testified to Congress that, quote, ''solitary confinement literally drives men mad.'' Last year, Justice Kennedy again brought up the issue in a powerful concurring opinion. He wrote, quote, ''research still confirms what this Court suggested over a century ago: Years on end of near-total isolation exacts a terrible price.'' He went on to note that, quote, ''the judiciary may be required . . . to determine whether workable alternative systems for long-term confinement exist, and, if so, whether a correctional system should be required to adopt them.''

Pope Francis has also criticized solitary confinement. In a 2014 speech at the Vatican, he referred to the practice of extreme isolation as ''torture'' and ''a genuine surplus of pain added to the actual suffering of imprisonment.'' He went on to say:

> The lack of sensory stimuli, the total impossibility of communication and the lack of contact with other human beings induce mental and physical suffering such as paranoia, anxiety, depression, weight loss, and significantly increase the suicidal tendency.

I still don't fully understand how our society reached a point at which the overuse of solitary confinement became acceptable, or normal. But I know that we need to do something about it.

In light of the mounting evidence of the harmful, even dangerous, impacts of solitary confinement, states around the country have led the way in reassessing the practice. Take Colorado, for example, which has implemented a number of critical reforms. Colorado no longer releases offenders directly

from solitary to the community and no longer places inmates with serious mental illness in solitary. Have these reforms made Colorado's prisons less safe? No, in fact since Colorado changed its solitary confinement practices, inmate-on-staff assaults are at their lowest levels since 2006, incidents of self-harm have decreased, and most inmates released from solitary are not returning.

Progress has been made at the Federal level as well. After my 2014 hearing I called for an end to solitary confinement for juveniles, pregnant women, and inmates with serious mental illness in our federal prisons. I also asked the Federal Bureau of Prisons to submit for the first time to an outside independent assessment of its solitary confinement practices. The assessment, released last year, noted that some improvements have been made since the hearing, most importantly in the declining number of inmates in solitary confinement. The assessment also made a number of recommendations for additional reforms, such as improving mental health care for inmates in segregation and establishing alternatives to segregation for inmates in protective custody. BOP began taking steps to address these issues following the release of the assessment.

Last year, building upon this independent assessment, the Department of Justice undertook a review of the Bureau of Prisons' use of solitary confinement. This January, President Obama announced that he had accepted a number of DOJ'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 I called for in 2014.

I welcome the reforms that the President announced, and I am glad to see that the Bureau of Prisons is making some progress in implementing these reforms. However, our Federal prison system is still housing more than 10,000 inmates in segregation as I speak. The number of inmates in solitary confinement since my first hearing has decreased from about 13,600 to about 10,400. But the number of total Federal prisoners has also dropped significantly since 2012. So the percentage of Federal prisoners in solitary has only gone down from 7.8 percent to 6.7 percent. Clearly, there is much more work to be done.

That is why Senator COONS and I are joining together to introduce the Solitary Confinement Reform Act. This legislation will build on the Justice Department's recommendations to further reform and reduce the use of solitary confinement in Federal prisons.

Our bill ensures that inmates are only placed in solitary confinement when absolutely necessary—such as to control a substantial and immediate threat to the safety of other inmates or corrections staff, or to punish an inmate for a significant and serious disciplinary violation.

Our bill also improves the conditions of confinement for prisoners in solitary and establishes firm time limits on segregation, in order to combat long-term isolation. However, we recognize that some extremely dangerous inmates require long-term separation from the general population. That's why our bill ensures that BOP can continue to separate those inmates who pose the greatest risk to other inmates, staff, and the general public.

Among the most important provisions in our bill are the strict limits on the use of solitary confinement for inmates nearing their release date, inmates in protective custody, LGBT inmates, and inmates who are minors, have a serious mental illness, have an intellectual or physical disability, or are pregnant or in the first eight weeks of postpartum recovery after birth.

For inmates who are placed in segregated housing, our bill improves access to mental health care and ensures that a robust review process is in place. Additionally, our bill increases transparency and accountability by requiring the Attorney General to establish a Civil Rights Ombudsman within the Bureau of Prisons to review inmate complaints, and directing BOP to submit an annual assessment to Congress detailing their solitary confinement policies, regulations, and data. Finally, our bill establishes a National Resource Center on Solitary Confinement Reform that would provide vital resources to state and local jurisdictions as corrections systems around the country pursue reductions in solitary confinement.

I want to thank Senator COONS for working with me on this legislation, and Senators BOOKER, LEAHY, and FRANKEN for joining as original cosponsors of the bill.

I also want to thank the ACLU, The Leadership Conference on Civil and Human Rights, Human Rights Watch, Just Detention International, Campaign for Youth Justice, Center for Children's Law and Policy, Human Rights Campaign, National Alliance on Mental Illness, National Religious Campaign Against Torture, Bend the Arc Jewish Action, Interfaith Action for Human Rights, T'ruah: The Rabbinic Call for Human Rights, and Washington Lawyers' Committee for Civil Rights and Urban Affairs for endorsing the Solitary Confinement Reform Act.

This legislation is one of many steps we should take to reform our criminal justice system and make our country safer, more just, and more fiscally responsible. I urge my colleagues to support the Solitary Confinement Reform Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3432

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Solitary Confinement Reform Act''.

SEC. 2. SOLITARY CONFINEMENT REFORMS.

(a) AMENDMENT.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

''§ 4050. Solitary confinement

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTRATIVE MAXIMUM FACILITY.—The term 'administrative maximum facility' means a maximum-security facility, including the Administrative Maximum facility in Florence, Colorado, designed to house inmates who present an ongoing significant and serious threat to other inmates, staff, and the public.

''(2) ADMINISTRATIVE SEGREGATION.—The term 'administrative segregation' means a non-punitive form of solitary confinement that removes an individual from the general population of a correctional facility for—

''(A) investigative, protective, or preventative reasons resulting in a substantial and immediate threat; or

''(B) transitional reasons, including a pending transfer, pending classification, or other temporary administrative matter.

''(3) APPROPRIATE LEVEL OF CARE.—The term 'appropriate level of care' means the appropriate treatment setting for mental health care that an inmate with mental illness requires, which may include outpatient care, emergency or crisis services, day treatment, supported residential housing, infirmary care, or inpatient psychiatric hospitalization services.

''(4) DIRECTOR.—The term 'Director' means the Director of the Bureau of Prisons.

''(5) DISCIPLINARY HEARING OFFICER.—The term 'disciplinary hearing officer' means an employee of the Bureau of Prisons who is responsible for conducting disciplinary hearings for which solitary confinement may be a sanction, as described in section 541.8 of title 28, Code of Federal Regulations, or any successor thereto.

''(6) DISCIPLINARY SEGREGATION.—The term 'disciplinary segregation' means a punitive form of solitary confinement imposed only by a Disciplinary Hearing Officer as a sanction for committing a significant and serious disciplinary infraction.

''(7) INTELLECTUAL DISABILITY.—The term 'intellectual disability' means a significant mental impairment characterized by significant limitations in both intellectual functioning and in adaptive behavior.

''(8) MULTIDISCIPLINARY STAFF COMMITTEE.—The term 'multidisciplinary staff committee' means a committee—

''(A) made up of staff at the facility where an inmate resides who are responsible for reviewing the initial placement of the inmate in solitary confinement and any extensions of time in solitary confinement; and

''(B) which shall include—

''(i) not less than 1 licensed mental health professional;

''(ii) not less than 1 medical professional; and

''(iii) not less than 1 member of the leadership of the facility.

''(9) ONGOING SIGNIFICANT AND SERIOUS THREAT.—The term 'ongoing significant and serious threat' means an ongoing set of circumstances that require the highest level of security and staff supervision for an inmate who, by the behavior of the inmate—

''(A) has been identified as assaultive, predacious, riotous, or a serious escape risk; and

''(B) poses a great risk to other inmates, staff, and the public.

''(10) PROTECTION CASE.—The term 'protection case' means an inmate who, by the request of the inmate or through a staff determination, requires protection, as described

by section 541.23(c)(3) of title 28, Code of Federal Regulations, or any successor thereto.

''(11) SERIOUS MENTAL ILLNESS.—The term 'serious mental illness' means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

''(12) SIGNIFICANT AND SERIOUS DISCIPLINARY INFRACTION.—The term 'significant and serious disciplinary infraction' means—

''(A) an act of violence that either—

''(i) resulted in or was likely to result in serious injury or death to another; or

''(ii) occurred in connection with any act of non-consensual sex; or

''(B) an escape, attempted escape, or conspiracy to escape from within a security perimeter or custody, or both; or

''(C) possession of weapons, possession of illegal narcotics with intent to distribute, or other similar, severe threats to the safety of the inmate, other inmates, staff, or the public.

''(13) SOLITARY CONFINEMENT.—The term 'solitary confinement' means confinement characterized by substantial isolation in a cell, alone or with other inmates, including administrative segregation, disciplinary segregation, and confinement in any facility designated by the Bureau of Prisons as a special housing unit, special management unit, or administrative maximum facility.

''(14) SPECIAL ADMINISTRATIVE MEASURES.—The term 'special administrative measures' means reasonably necessary measures used to—

''(A) prevent disclosure of classified information upon written certification to the Attorney General by the head of an element of the intelligence community (as specified or designated under section 3(4) of the National Security act of 1947 (50 U.S.C. 3003(4))) that the unauthorized disclosure of such information would pose a threat to the national security and that there is a danger that the inmate will disclose such information, as described by section 501.2 of title 28, Code of Federal Regulations, or any successor thereto; or

''(B) protect persons against the risk of death or serious bodily injury, upon written notification to the Director by the Attorney General or, at the Attorney General's direction, by the head of a Federal law enforcement agency, or the head of an element of the intelligence community (as specified or designated under section 3(4) of the National Security act of 1947 (50 U.S.C. 3003(4))), that there is a substantial risk that the communications of an inmate or contacts by the inmate with other persons could result in death or serious bodily injury to persons, or substantial damage to property that would entail the risk of death or serious bodily injury to persons, as described by section 501.3 of title 28, Code of Federal Regulations, or any successor thereto.

''(15) SPECIAL HOUSING UNIT.—The term 'special housing unit' means a housing unit in an institution of the Bureau of Prisons in which inmates are securely separated from the general inmate population for disciplinary or administrative reasons, as described in section 541.21 of title 28, Code of Federal Regulations, or any successor thereto.

''(16) SPECIAL MANAGEMENT UNIT.—The term 'special management unit' means a non-punitive housing program with multiple, step-down phases for inmates whose history, behavior, or situation requires enhanced management approaches in order to ensure the safety of other inmates, the staff, and the public.

''(17) SUBSTANTIAL AND IMMEDIATE THREAT.—The term 'substantial and immediate threat' means any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the safety of an inmate, other inmates, staff, or the public.

''(b) USE OF SOLITARY CONFINEMENT.—

''(1) IN GENERAL.—The placement of a Federal inmate in solitary confinement within the Bureau of Prisons or any facility that contracts with the Bureau of Prisons to provide housing for inmates in Federal custody shall be limited to situations in which such confinement—

''(A) is limited to the briefest term and the least restrictive conditions practicable, including not less than 4 hours of out-of-cell time every day, unless the inmate poses a substantial and immediate threat;

''(B) is consistent with the rationale for placement and with the progress achieved by the inmate;

''(C) allows the inmate to participate in meaningful programming opportunities and privileges as consistent with those available in the general population as practicable, either individually or in a classroom setting;

''(D) allows the inmate to have as much meaningful interaction with others, such as other inmates, visitors, clergy, or licensed mental health professionals, as practicable; and

''(E) complies with the provisions of this section.

''(2) TRANSITIONAL PROCESS FOR INMATES IN SOLITARY CONFINEMENT.—

''(A) INMATES WITH UPCOMING RELEASE DATES.—The Director shall establish—

''(i) policies to ensure that an inmate with an anticipated release date of 180 days or less is not housed in solitary confinement, unless—

''(I) such confinement is limited to not more than 5 days of administrative segregation relating to the upcoming release of the inmate; or

''(II) the inmate poses a substantial and immediate threat; and

''(ii) a transitional process for each inmate with an anticipated release date of 180 days or less who is held in solitary confinement under clause (i)(II), which shall include—

''(I) substantial re-socialization programming in a group setting;

''(II) regular mental health counseling to assist with the transition; and

''(III) re-entry planning services offered to inmates in a general population setting.

''(B) INMATES IN LONG-TERM SOLITARY CONFINEMENT.—The Director shall establish a transitional process for each inmate who has been held in solitary confinement for more than 30 days and who will transition into a general population unit, which shall include—

''(i) substantial re-socialization programming in a group setting; and

''(ii) regular mental health counseling to assist with the transition.

''(3) PROTECTIVE CUSTODY UNITS.—The Director—

''(A) shall establish within the Federal prison system additional general population protective custody units that provide sheltered general population housing to protect inmates from harm that they may otherwise be exposed to in a typical general population housing unit;

''(B) shall establish policies to ensure that an inmate who is considered a protection case shall, upon request of the inmate, be placed in a general population protective custody unit;

''(C) shall create an adequate number of general population protective custody units to—

''(i) accommodate the requests of inmates who are considered to be protection cases; and

''(ii) ensure that inmates who are considered to be protection cases are placed in facilities as close to their homes as practicable; and

''(D) may not place an inmate who is considered to be a protection case in solitary confinement due to the status of the inmate as a protection case unless—

''(i) the inmate requests to be placed in solitary confinement, in which case, at the request of the inmate the inmate shall be transferred to a general population protective custody unit or, if appropriate, a different general population unit; or

''(ii) such confinement is limited to—

''(I) not more than 5 days of administrative segregation; and

''(II) is necessary to protect the inmate during preparation for transfer to a general population protective custody unit or a different general population unit.

''(4) VULNERABLE POPULATIONS.—The Bureau of Prisons or any facility that contracts with the Bureau of Prisons shall not place an inmate in solitary confinement if—

''(A) the inmate is younger than 18 years of age, unless—

''(i) such confinement is a temporary response to the behavior of the inmate, which poses a substantial and immediate threat;

''(ii) all other options to de-escalate the situation have been exhausted, including less restrictive techniques such as—

''(I) penalizing the inmate through loss of privileges;

''(II) speaking with the inmate in an attempt to de-escalate the situation; and

''(III) a licensed mental health professional providing an appropriate level of care;

''(iii) such confinement is limited to—

''(I) 3 hours after the inmate is placed in solitary confinement, if the inmate poses a substantial and immediate threat to others; or

''(II) 30 minutes after the inmate is placed in solitary confinement, if the inmate poses a substantial and immediate threat only to himself or herself; and

''(iv) if, after the applicable maximum period of confinement under subclause (I) or (II) of clause (iii) has expired, the inmate continues to pose a substantial and immediate threat described in that subclause—

''(I) the inmate shall be transferred to another facility or internal location where services can be provided to the inmate without relying on solitary confinement; or

''(II) if a qualified mental health professional believes the level of crisis service needed is not currently available, a staff member of the facility shall initiate a referral to a location that can meet the needs of the inmate;

''(B) the inmate has a serious mental illness, has an intellectual disability, has a physical disability that a licensed medical professional finds is likely to be exacerbated by placement in solitary confinement, is pregnant or in the first 8 weeks of the postpartum recovery period after giving birth, or has been determined by a licensed mental health professional to likely be significantly adversely affected by placement in solitary confinement, unless—

''(i) the inmate poses a substantial and immediate threat;

''(ii) all other options to de-escalate the situation have been exhausted, including less restrictive techniques such as—

''(I) penalizing the inmate through loss of privileges;

''(II) speaking with the inmate in an attempt to de-escalate the situation; and

''(III) a licensed mental health professional providing an appropriate level of care;

''(iii) such confinement is limited to the briefest term and the least restrictive conditions practicable, including access to medical and mental health treatment;

''(iv) such confinement is reviewed by a multidisciplinary staff committee for appropriateness every 24 hours; and

''(v) as soon as practicable, but not later than 5 days after such confinement begins, the inmate is diverted, upon release from solitary confinement, to—

''(I) a general population unit;

''(II) a protective custody unit described in paragraph (3); or

''(III) a mental health treatment program as described in subsection (c)(2); or

''(C) the inmate is lesbian, gay, bisexual, transgender (as defined in section 115.5 of title 28, Code of Federal Regulations, or any successor thereto), intersex (as defined in section 115.5 of title 28, Code of Federal Regulations, or any successor thereto), or gender nonconforming (as defined in section 115.5 of title 28, Code of Federal Regulations, or any successor thereto), when such placement is solely on the basis of such identification or status.

''(5) SPECIAL HOUSING UNITS.—The Director shall—

''(A) limit administrative segregation—

''(i) to situations in which such segregation is necessary to—

''(I) control a substantial and immediate threat that cannot be addressed through alternative housing; or

''(II) temporarily house an inmate pending transfer, pending classification, or pending resolution of another temporary administrative matter; and

''(ii) to a duration of not more than 15 consecutive days, and not more than 20 days in a 60-day period, unless—

''(I) the inmate requests to remain in administrative segregation under paragraph (3)(D)(i); or

''(II) in order to address the continued existence of a substantial and immediate threat, a multidisciplinary staff committee approves a temporary extension, which—

''(aa) may not be longer than 15 days; and

''(bb) shall be reviewed by the multidisciplinary staff committee every 3 days during the period of the extension, in order to confirm the continued existence of the substantial and immediate threat;

''(B) limit disciplinary segregation—

''(i) to situations in which such segregation is necessary to punish an inmate who has been found to have committed a significant and serious disciplinary infraction by a Disciplinary Hearing Officer and alternative sanctions would not adequately regulate the behavior of the inmate; and

''(ii) to a duration of not more than 30 consecutive days, and not more than 40 days in a 60-day period, unless a multidisciplinary staff committee, in consultation with the Disciplinary Hearing Officer who presided over the inmate's disciplinary hearing, determines that the significant and serious disciplinary infraction of which the inmate was found guilty is of such an egregious and violent nature that a longer sanction is appropriate and approves a longer sanction, which—

''(I) may be not more than 60 days in a special housing unit if the inmate has never before been found guilty of a similar significant and serious disciplinary infraction; or

''(II) may be not more than 90 days in a special housing unit if the inmate has previously been found guilty of a similar significant and serious disciplinary infraction;

''(C) ensure that any time spent in administrative segregation during an investigation into an alleged offense is credited as time served for a disciplinary segregation sentence;

''(D) ensure that concurrent sentences are imposed for disciplinary violations arising from the same episode; and

''(E) ensure that an inmate may be released from disciplinary segregation for good behavior before completing the term of the inmate, unless the inmate poses a substantial and immediate threat to the safety of other inmates, staff, or the public.

''(6) SPECIAL MANAGEMENT UNITS.—The Director shall—

''(A) limit segregation in a special management unit to situations in which such segregation is necessary to temporarily house an inmate whose history, behavior, or circumstances require enhanced management approaches that cannot be addressed through alternative housing;

''(B) evaluate whether further reductions to the minimum and maximum number of months an inmate may spend in a special management unit are appropriate on an annual basis;

''(C) ensure that each inmate understands the status of the inmate in the special management unit program and how the inmate may progress through the program; and

''(D) further reduce the minimum and maximum number of months an inmate may spend in a special management unit if the Director determines such reductions are appropriate after evaluations are performed under subparagraph (B).

''(7) ADMINISTRATIVE MAXIMUM FACILITIES.—The Director shall—

''(A) limit segregation in an administrative maximum facility to situations in which such segregation is necessary to—

''(i) implement special administrative measures, as directed by the Attorney General; or

''(ii) house an inmate who poses an ongoing significant and serious threat to the safety of other inmates, staff, or the public that cannot be addressed through alternative housing; and

''(B) issue final approval of referral of any inmate who poses an ongoing significant and serious threat for placement in an Administrative Maximum facility, including the United States Penitentiary Administrative Maximum in Florence, Colorado.

''(8) RIGHT TO REVIEW PLACEMENT IN SOLITARY CONFINEMENT.—The Director shall ensure that each inmate placed in solitary confinement has access to—

''(A) written notice thoroughly detailing the basis for placement or continued placement in solitary confinement not later than 6 hours after the beginning of such placement, including—

''(i) thorough documentation explaining why such confinement is permissible and necessary under paragraph (1); and

''(ii) if an exception under paragraph (2)(A), (3)(D), (4)(A), (4)(B), (4)(C), (5)(A), or (5)(B) is used to justify placement in solitary confinement or under paragraph (1) to justify increased restrictive conditions in solitary confinement, thorough documentation explaining why such an exception applied;

''(B) a timely, thorough, and continuous review process that—

''(i) occurs within not less than 3 days of placement in solitary confinement, and thereafter at least—

''(I) on a weekly basis for inmates in special housing units;

''(II) on a monthly basis for inmates in special management units; and

''(III) on a monthly basis for inmates at an administrative maximum facility;

''(ii) includes private, face-to-face interviews with a multidisciplinary staff committee; and

''(iii) examines whether—

''(I) placement in solitary confinement was and remains necessary;

''(II) the conditions of confinement comply with this section; and

''(III) whether any exception under paragraph (2)(A), (3)(D), (4)(A), (4)(B), (4)(C), (5)(A), or (5)(B) used to justify placement in solitary confinement or under paragraph (1) used to justify increased restrictive conditions in solitary confinement was and remains warranted;

''(C) a process to appeal the initial placement or continued placement of the inmate in solitary confinement;

''(D) prompt and timely written notice of the appeal procedures; and

''(E) copies of all documents, files, and records relating to the inmate's placement in solitary confinement, unless such documents contain contraband, classified information, or sensitive security-related information.

''(c) MENTAL HEALTH CARE FOR INMATES IN SOLITARY CONFINEMENT.—

''(1) MENTAL HEALTH SCREENING.—Not later than 6 hours after an inmate in the custody of the Bureau of Prisons or any facility that contracts with the Bureau of Prisons to provide housing for inmates in Federal custody is placed in solitary confinement, the inmate shall receive a comprehensive, face-to-face mental health evaluation by a licensed mental health professional in a confidential setting.

''(2) MENTAL HEALTH TREATMENT PROGRAM.—An inmate diagnosed with a serious mental illness after an evaluation required under paragraph (1)—

''(A) shall not be placed in solitary confinement in accordance with subsection (b)(4); and

''(B) may be diverted to a mental health treatment program within the Bureau of Prisons that provides an appropriate level of care to address the inmate's mental health needs.

''(3) CONTINUING EVALUATIONS.—After each 14-calendar-day period an inmate is held in continuous placement in solitary confinement—

''(A) a licensed mental health professional shall conduct a comprehensive, face-to-face, out-of-cell mental health evaluation of the inmate in a confidential setting; and

''(B) the Director shall adjust the placement of the inmate in accordance with this subsection.

''(4) REQUIREMENT.—The Director shall operate mental health treatment programs in order to ensure that inmates of all security levels with serious mental illness have access to an appropriate level of care.

''(d) TRAINING FOR BUREAU OF PRISONS STAFF.—

''(1) TRAINING.—All employees of the Bureau of Prisons or any facility that contracts with the Bureau of Prisons to provide housing for inmates in Federal custody who interact with inmates on a regular basis shall be required to complete training in—

''(A) the recognition of symptoms of mental illness;

''(B) the potential risks and side effects of psychiatric medications;

''(C) de-escalation techniques for safely managing individuals with mental illness;

''(D) consequences of untreated mental illness;

''(E) the long- and short-term psychological effects of solitary confinement; and

''(F) de-escalation and communication techniques to divert inmates from situations that may lead to the inmate being placed in solitary confinement.

''(2) NOTIFICATION TO MEDICAL STAFF.—An employee of the Bureau of Prisons shall immediately notify a member of the medical or mental health staff if the employee—

''(A) observes an inmate with signs of mental illness, unless such employee has knowledge that the inmate's signs of mental illness have previously been reported; or

''(B) observes an inmate with signs of mental health crisis.

''(e) CIVIL RIGHTS OMBUDSMAN.—

''(1) IN GENERAL.—Within the Bureau of Prisons, there shall be a position of the Civil Rights Ombudsman (referred to in this subsection as the 'Ombudsman') and an Office of the Civil Rights Ombudsman.

''(2) APPOINTMENT.—The Ombudsman shall be appointed by the Attorney General and shall report directly to the Director. The Ombudsman shall have a background in corrections and civil rights and shall have expertise on the effects of prolonged solitary confinement.

''(3) REPORTING.—The Director shall ensure that each Bureau of Prisons facility or any facility that contracts with the Bureau of Prisons provides multiple internal ways for inmates and others to promptly report civil rights violations and violations of this section to the Ombudsman, including—

''(A) not less than 2 procedures for inmates and others to report civil rights violations and violations of this section to an entity or office that is not part of the facility, and that is able to receive and immediately forward inmate reports to the Ombudsman, allowing the inmate to remain anonymous upon request; and

''(B) not less than 2 procedures for inmates and others to report civil rights abuses and violations of this section to the Ombudsman in a confidential manner, allowing the inmate to remain anonymous upon request.

''(4) NOTICE.—The Director shall ensure that each Bureau of Prisons facility or any facility that contracts with the Bureau of Prisons provides inmates with—

''(A) notice of how to report civil rights violations and violations of this section in accordance with paragraph (3), including—

''(i) notice prominently posted in the living and common areas of each such facility;

''(ii) individual notice to inmates at initial intake into the Bureau of Prisons, when transferred to a new facility, and when placed in solitary confinement;

''(iii) notice to inmates with disabilities in accessible formats; and

''(iv) written or verbal notice in a language the inmate understands; and

''(B) notice of permissible practices related to solitary confinement in the Bureau of Prisons, including the requirements of this section.

''(5) FUNCTIONS.—The Ombudsman shall—

''(A) review all complaints the Ombudsman receives;

''(B) investigate all complaints that allege a civil rights violation or violation of this section;

''(C) refer all possible violations of law to the Department of Justice;

''(D) refer to the Director allegations of misconduct involving Bureau of Prisons staff;

''(E) identify areas in which the Bureau of Prisons can improve the Bureau's policies and practices to ensure that the civil rights of inmates are protected;

''(F) identify areas in which the Bureau of Prisons can improve the solitary confinement policies and practices of the Bureau and reduce the use of solitary confinement; and

''(G) propose changes to the policies and practices of the Bureau of Prisons to mitigate problems and address issues the Ombudsman identifies.

''(6) ACCESS.—The Ombudsman shall have unrestricted access to Bureau of Prisons facilities and any facility that contracts with the Bureau of Prisons and shall be able to speak privately with inmates and staff.

''(7) ANNUAL REPORTS.—

''(A) OBJECTIVES.—Not later than December 31 of each year, the Ombudsman shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the activities of the Office of the Ombudsman for the fiscal year ending in such calendar year.

''(B) CONTENTS.—Each report submitted under subparagraph (A)—

''(i) contain full and substantive analysis, in addition to statistical information;

''(ii) identify the recommendations the Office of the Ombudsman has made on addressing reported civil rights violations and violations of this section and reducing the use and improving the practices of solitary confinement in the Bureau of Prisons;

''(iii) contain a summary of problems relating to reported civil rights violations and violations of this section, including a detailed description of the nature of such problems and a breakdown of where the problems occur among Bureau of Prisons facilities and facilities that contract with the Bureau of Prisons;

''(iv) contain an inventory of the items described in clauses (ii) and (iii) for which action has been taken and the result of such action;

''(v) contain an inventory of the items described in clauses (ii) and (iii) for which action remains to be completed and the period during which each item has remained on such inventory;

''(vi) contain an inventory of the items described in clauses (ii) and (iii) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and shall identify any official of the Bureau of Prisons who is responsible for such inaction;

''(vii) contain recommendations for such legislative or administrative action as may be appropriate to resolve problems identified in clause (iii); and

''(viii) include such other information as the Ombudsman determines necessary.

''(C) SUBMISSION OF REPORTS.—Each report required under this paragraph shall be provided directly to the Committees described in subparagraph (A) without any prior review, comment, or amendment from the Director or any other officer or employee of the Department of Justice or Bureau of Prisons.

''(8) REGULAR MEETINGS WITH THE DIRECTOR OF THE BUREAU OF PRISONS.—The Ombudsman shall meet regularly with the Director to identify problems with reported civil rights violations and the solitary confinement policies and practices of the Bureau of Prisons, including overuse of solitary confinement, and to present recommendations for such administrative action as may be appropriate to resolve problems relating to reported civil rights violations and the solitary confinement policies and practices of the Bureau of Prisons.

''(9) RESPONSIBILITIES OF BUREAU OF PRISONS.—The Director shall establish procedures requiring that, not later than 3 months after the date on which a recommendation is submitted to the Director by the Ombudsman, the Director or other appropriate employee of the Bureau of Prisons issue a formal response to the recommendation.

''(10) NON-APPLICATION OF THE PRISON LITIGATION REFORM ACT.—Inmate reports sent to the Ombudsman shall not be considered an administrative remedy under section 7(a) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(a)).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 303 of title 18, United States Code, is amended by inserting after the item relating to section 4049 the following:

''4050. Solitary confinement.''.

SEC. 3. REASSESSMENT OF INMATE MENTAL HEALTH.

Not later than 180 days after the date of enactment of this Act, the Director of the Bureau of Prisons shall—

(1) assemble a team of licensed mental health professionals, which may include licensed mental health professionals who are not employed by the Bureau of Prisons, to conduct a comprehensive mental health reevaluation for each inmate held in solitary confinement for more than 30 days as of the date of enactment of this Act, including a confidential, face-to-face, out-of-cell interview by a licensed mental health professional; and

(2) adjust the placement of each inmate in accordance with section 4050(c) of title 18, United States Code, as added by section 2.

SEC. 4. DIRECTOR OF BUREAU OF PRISONS.

Section 4041 of title 18, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before the ''The Bureau of Prisons shall be''; and

(2) by adding at the end the following:

''(b) OMBUDSMAN.—The Director of the Bureau of Prisons shall—

''(1) meet regularly with the Ombudsman appointed under section 4050(e) to identify how the Bureau of Prisons can address reported civil rights violations and reduce the use of solitary confinement and correct problems in the solitary confinement policies and practices of the Bureau;

''(2) conduct a prompt and thorough investigation of each referral from the Ombudsman under section 4050(e)(5)(D), after each such investigation take appropriate disciplinary action against any Bureau of Prisons employee who is found to have engaged in misconduct or to have violated Bureau of Prisons policy, and notify the Ombudsman of the outcome of each such investigation; and

''(3) establish procedures requiring a formal response by the Bureau of Prisons to any recommendation of the Ombudsman in the annual report submitted under section 4050(e)(6) not later than 90 days after the date on which the report is submitted to Congress.''.

SEC. 5. DATA TRACKING OF USE OF SOLITARY CONFINEMENT.

Section 4047 of title 18, United States Code, is amended by adding at the end the following:

''(d) PRISON SOLITARY CONFINEMENT ASSESSMENTS.—

''(1) IN GENERAL.—Not later than March 31 of each year, the Director of the Bureau of Prisons shall prepare and transmit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives an annual assessment of the use of solitary confinement by the Bureau of Prisons, as defined in section 4050(a).

''(2) CONTENTS.—Each assessment submitted under paragraph (1) shall include—

''(A) the policies and regulations of the Bureau of Prisons, including any changes in policies and regulations, for determining which inmates are placed in each form of solitary confinement, or housing in which an inmate is separated from the general population in use during the reporting period, and a detailed description of each form of solitary confinement in use, including all maximum and high security facilities, all special housing units, all special management units, all Administrative Maximum facilities, including the United States Penitentiary Administrative Maximum in Florence, Colorado, and all Communication Management Units;

''(B) the number of inmates in the custody of the Bureau of Prisons who are housed in each type of solitary confinement for any period and the percentage of all inmates who

have spent at least some time in each form of solitary confinement during the reporting period;

''(C) the demographics of all inmates housed in each type of solitary confinement described in subparagraph (A), including race, ethnicity, religion, age, and gender;

''(D) the policies and regulations of the Bureau of Prisons, including any updates in policies and regulations, for subsequent reviews or appeals of the placement of an inmate into or out of solitary confinement;

''(E) the number of reviews of and challenges to each type of solitary confinement placement described in subparagraph (A) conducted during the reporting period and the number of reviews or appeals that directly resulted in a change of placement;

''(F) the general conditions and restrictions for each type of solitary confinement described in subparagraph (A), including the number of hours spent in 'isolation,' or restraint, for each, and the percentage of time these conditions involve single-inmate housing;

''(G) the mean and median length of stay in each form of solitary confinement described in subparagraph (A), based on all individuals released from solitary confinement during the reporting period, including maximum and high security facilities, special housing units, special management units, the Administrative Maximum facilities, including the United States Penitentiary Administrative Maximum in Florence, Colorado, Communication Management Units, and any maximum length of stay during the reporting period;

''(H) the number of inmates who, after a stay of 5 or more days in solitary confinement, were released directly from solitary confinement to the public during the reporting period;

''(I) the cost for each form of solitary confinement described in subparagraph (A) in use during the reporting period, including as compared with the average daily cost of housing an inmate in the general population;

''(J) statistics for inmate assaults on correctional officers and staff of the Bureau of Prisons, inmate-on-inmate assaults, and staff-on-inmate use of force incidents in the various forms of solitary confinement described in subparagraph (A) and statistics for such assaults in the general population;

''(K) the policies for mental health screening, mental health treatment, and subsequent mental health reviews for all inmates, including any update to the policies, and any additional screening, treatment, and monitoring for inmates in solitary confinement;

''(L) a statement of the types of mental health staff that conducted mental health assessments for the Bureau of Prisons during the reporting period, a description of the different positions in the mental health staff of the Bureau of Prisons, and the number of part- and full-time psychologists and psychiatrists employed by the Bureau of Prisons during the reporting period;

''(M) data on mental health and medical indicators for all inmates in solitary confinement, including—

''(i) the number of inmates requiring medication for mental health conditions;

''(ii) the number diagnosed with an intellectual disability;

''(iii) the number diagnosed with serious mental illness;

''(iv) the number of suicides;

''(v) the number of attempted suicides and number of inmates placed on suicide watch;

''(vi) the number of instances of self-harm committed by inmates;

''(vii) the number of inmates with physical disabilities, including blind, deaf, and mobility-impaired inmates; and

''(viii) the number of instances of forced feeding of inmates; and

''(N) any other relevant data.''.

SEC. 6. NATIONAL RESOURCE CENTER ON SOLITARY CONFINEMENT REDUCTION AND REFORM.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ''eligible entity'' means an entity, or a partnership of entities, that has demonstrated expertise in the fields of—

(1) solitary confinement, including the reduction and reform of its use; and

(2) providing technical assistance to corrections agencies on how to reduce and reform solitary confinement.

(b) REQUIREMENTS.—Not later than 180 days after the date of enactment of this Act, the Bureau of Justice Assistance shall enter into a cooperative agreement, on a competitive basis, with an eligible entity for the purpose of establishing a coordinating center for State, local, and Federal corrections systems, which shall conduct activities such as—

(1) provide on-site technical assistance and consultation to Federal, State, and local corrections agencies to safely reduce the use of solitary confinement;

(2) act as a clearinghouse for research, data, and information on the safe reduction of solitary confinement in prisons and other custodial settings, including facilitating the exchange of information between Federal, State, and local practitioners, national experts, and researchers;

(3) create a minimum of 10 learning sites in Federal, State, and local jurisdictions that have already reduced their use of solitary confinement and work with other Federal, State, and local agencies to participate in training, consultation, and other forms of assistance and partnership with these learning sites;

(4) conduct evaluations of jurisdictions that have decreased their use of solitary confinement to determine best practices;

(5) conduct research on the effectiveness of alternatives to solitary confinement, such as step-down or transitional programs, strategies to reintegrate inmates into general population, the role of officers and staff culture in reform efforts, and other research relevant to the safe reduction of solitary confinement;

(6) develop and disseminate a toolkit for systems to reduce the excessive use of solitary confinement;

(7) develop and disseminate an online self-assessment tool for State and local jurisdictions to assess their own use of solitary confinement and identify strategies to reduce its use; and

(8) conduct public webinars to highlight new and promising practices.

(c) ADMINISTRATION.—The program under this section shall be administered by the Bureau of Justice Assistance.

(d) REPORT.—On an annual basis, the coordinating center shall report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on its activities and any changes in solitary confinement policy at the Federal, State, or local level that have resulted from its activities.

(e) DURATION.—The Bureau of Justice Assistance shall enter into a cooperative agreement under this section for 5 years.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated—

(1) to the Director of the Bureau of Prisons such sums as may be necessary to carry out sections 2, 3, 4, and 5, and the amendments made by such sections; and

(2) to the Bureau of Justice Assistance such sums as may be necessary to carry out section 6.

SEC. 8. NOTICE AND COMMENT REQUIREMENT.

The Director of the Bureau of Prisons shall prescribe rules, in accordance with section 553 of title 5, United States Code, to carry out this Act and the amendments made by this Act.

SEC. 9. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act shall take effect 18 months after the date of enactment of this Act.

S. 342

Mr. COONS. Mr. President, I rise to speak about an urgent and long overdue reform to address how the United States houses and treats prison inmates in our Federal criminal justice system.

We are losing millions of Americans—disproportionately African-American men—to a criminal justice system that robs them of any meaningful opportunity to find gainful employment or participate in our democracy after they served their time.

Fortunately, Americans across the country have come to recognize that our so-called criminal justice system is broken. Here in the Senate, I am encouraged that many of my colleagues, including Senator DURBIN, Senator BOOKER, and many others have joined together in support of a broad bipartisan bill entitled the Sentencing Reform and Corrections Act. Our criminal justice system should be about justice and rehabilitation, not just punishment. Passing this Sentencing Reform and Corrections Act would be a significant step in that direction. Today I have come to talk about a specific and targeted bill that Senators DURBIN, BOOKER, LEAHY, FRANKEN, and I are introducing.

Far too often Federal inmates find themselves placed in 6-by-8-foot cells for 23 hours a day in solitary confinement, colloquially called restrictive housing units. These units are intended to segregate dangerous prisoners from the rest of the prison population or to punish individuals for crimes or misdeeds committed behind bars, but when one looks at the actual evidence surrounding the use of solitary confinement, they find it doesn't actually stop or reduce crime or bad behavior and it doesn't keep us safer. What it does cause is lasting, often irreparable, harm to those inmates subjected to it, and oftentimes it makes it harder for them to later successfully reenter society after they served their time.

Senator DURBIN, who was to join me and Senator BOOKER on the floor this afternoon but for a change of schedule, first held hearings on this topic when he was Chair of the Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights.

He held a hearing on solitary confinement—the first-ever congressional hearing on the topic—back in 2012. In fact, he held two hearings. He left a note for me that says at one of his first hearings on solitary confinement, one of the witnesses was a man named Anthony Graves, whose testimony forever