AN ACT relating to solitary confinement of juveniles.

WHEREAS, Kentucky's Department of Juvenile Justice uses juvenile solitary confinement within its facilities which are subject to a variety of policies that were substantially and recently revised in 2018-2019;

WHEREAS, the American Academy of Adolescent and Child Psychiatry, the American Psychological Association, the National Partnership for Juvenile Services, the American Bar Association, and the National Council of Juvenile and Family Court Judges oppose the use of solitary confinement for juveniles; and

WHEREAS, psychological research demonstrates that adolescents are still developing in neurological, cognitive, and emotional domains; and

WHEREAS, solitary confinement can have especially devastating consequences to youth whose developmental immaturity makes them more vulnerable to adverse reactions to prolonged isolation; and

WHEREAS, the effects of solitary confinement can be even worse for children with disabilities or histories of trauma or abuse; and

WHEREAS, solitary confinement among youth is associated with increased risk of self-mutilation, post-traumatic stress disorder, anxiety, depression, paranoia, aggression; and cardiovascular problems; and

WHEREAS, rates of suicide are markedly higher for youth when they are placed in solitary confinement; and

WHEREAS, the United States Department of Justice acknowledged in 2013 that the "isolation of children is dangerous and inconsistent with best practices and that excessive isolation can constitute cruel and unusual punishment"; and

WHEREAS, the federal First Steps Act of 2018, 115 P.L. 391, was signed into law in January 2019 and placed new restrictions on the use of solitary confinement for juveniles; and

WHEREAS, the use of solitary confinement within Kentucky's juvenile justice

facilities should never be used as a means of discipline except in the most extreme, short-term cases;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) (a) As used in this section, "solitary confinement" means the placement of a juvenile in a locked room or cell alone with minimal or no contact with persons other than guards, correctional facility staff, and attorneys.

(b) Using different terminology for the practice described in paragraph (a) of this subsection, such as room confinement, administrative segregation, segregated housing, protective custody, restrictive housing, restricted housing, restricted engagement, close confinement, special management unit, intensive management unit, administrative detention, nonpunitive isolation, temporary isolation reflection cottage, or maximum custody, among others, does not exempt a practice from being solitary confinement.

(c) The use of single person sleeping rooms during ordinary sleeping or rest periods does not constitute solitary confinement.

(d) The short-term placement of juveniles in individual cells for purposes of facility or living unit security issues, or for other short-term facility physical plant safety and maintenance issues, does not constitute solitary confinement.

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

purposes.

(3) The department shall, by December 1, 2020, promulgate administrative regulations for solitary confinement of juveniles in facilities with the goal of limiting its use and duration. Administrative regulations promulgated pursuant to this subsection shall include:

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

(b) A requirement that solitary confinement ends as soon as the juvenile demonstrates physical and emotional control;

(c) A limit on the duration of any solitary confinement to no more than four (4) hours in any twenty-four (24) hour period;

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

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

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

(4) The department shall compile, on a monthly basis until July 1, 2022, the following information with respect to all facilities:

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

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

(c) A determination of whether, for each instance of solitary confinement, the use of solitary confinement lasted more or less than four (4) hours within a twenty-four (24) hour period and, for instances lasting more than four (4) hours, the length of time the youth remained in solitary confinement;

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

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

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

(5) Information collected under subsection (4) of this section shall be compiled into a report and submitted to the Interim Joint Committee on Judiciary and to the Juvenile Justice Oversight Council by December 1 of each year through 2022.