



Larry S. Royster  
Clerk, Michigan Supreme Court  
P.O. Box 30052  
Lansing, MI 48909

**RE: Proposed Amendment MCR 6.907 & 6.909 & 6.933**

December 31, 2023

Dear Chief Justice Clement, the Justices of the Michigan Supreme Court, and Clerk Royster:

We write in support of proposed amendments to MCR 6.907, 6.933, and 6.909. The amendments would make it so “best efforts” are made to prevent placing youth in isolation at an adult facilities. We have read and also support the proposed amendments from the Children’s Law Section, that give additional court oversight by adding, after each statement of “best efforts,” that “If the youthful inmate is placed in isolation, the jail must immediately notify the assigned judge or on-call judge or magistrate and indicate the reasons for placement in isolation, and the court must provide the youthful inmate with an opportunity for a hearing within 24 hours.”

These proposed amendments would limit the possibility of youth suffering the serious harm of solitary confinement, bring Michigan into compliance with federal regulations, and are in the mainstream of changes that other states have made to protect the health and safety of young people.

The proposed amendments help limit the harm to youth of isolation. Youth detained in solitary confinement are known to experience depression, hallucinations, anxiety attacks, obsessive thinking, and paranoia - the lasting effects of which can cause serious psychological damage.<sup>1</sup> Children who experience isolation have reported psychological harms including an impaired sense of identity, a hypersensitivity to stimuli, confusion, and even memory loss.<sup>2</sup>

Isolation in detention can cause developmental and emotional harm to young people. Youth, due to their development, have fewer psychological resources than adults do to deal with

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<sup>1</sup> *Minors in Custody – Solitary Confinement*, Child Crime Prevention & Safety Center, <https://childsafety.losangelescriminallawyer.pro/minors-in-custody-solitary-confinement.html>.

<sup>2</sup> Sandra Simkins et al., *The Harmful Use of Isolation in Juvenile Facilities: The Need for Post-Deposition Representation*, 38 WASH. U. J. OF L. & POLICY 241, 254 (2012).

the anxiety of isolation.<sup>3</sup> Youths are particularly susceptible to be affected by the stress of solitary and may experience psychological harms because their brain is still developing.<sup>4</sup> Some youth have expressed lifelong anxiety and a fear of crowds associated with the psychological damage from their stints in isolation.<sup>5</sup>

Suicide, which is prevalent among youth in correctional facilities, has been linked with detention in solitary confinement.<sup>6</sup> One report found that 62% of incarcerated youth that had committed suicide were found to have been in solitary confinement at some point.<sup>7</sup>

The harm of isolation can be made worse because youth in the juvenile system already have disproportionately experienced mental illness or trauma, or have a disability. Of incarcerated youth, 70% of incarcerated youth have a pre-existing mental disorder, and 95% of incarcerated youth have experienced some form of trauma.<sup>8</sup> Youth with certain special education classifications can have an even more negatively pronounced experience in solitary confinement.<sup>9</sup>

Because of the harms caused, health organizations, including the American Psychiatric Association<sup>10</sup> and the American Academy of Child and Adolescent Psychology<sup>11</sup> have voiced their opposition to juvenile solitary confinement.

Family court judges and correctional authorities also support limits on youth in isolation because of the harm it causes. The National Council of Juvenile and Family Court Judges (NCJFCJ) issued a resolution in 2016 to reduce the use of solitary confinement for juveniles.<sup>12</sup> In 2021, the National Commission on Correctional Healthcare (NCCH) published guidelines advising juvenile centers to employ isolation in extremely limited circumstances.<sup>13</sup> In that same

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<sup>3</sup> *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States*, HUMAN RIGHTS WATCH, 23, (2012), <https://perma.cc/NNN9-R9AZ>.

<sup>4</sup> Amy Roe, *Solitary Confinement is Especially Harmful to Juveniles and Should Not Be Used to Punish Them*, ACLU WASHINGTON (Nov. 17, 2017).

<sup>5</sup> *Youth in Solitary Confinement*, MST SERVICES, (Sep. 26, 2019), see also *Growing Up Locked Down*, supra at 25-26.

<sup>6</sup> *Solitary Confinement of Juvenile Offenders*, AACAP (Apr. 2012), [https://www.aacap.org/aacap/policy\\_statements/2012/solitary\\_confinement\\_of\\_juvenile\\_offenders.aspx](https://www.aacap.org/aacap/policy_statements/2012/solitary_confinement_of_juvenile_offenders.aspx).

<sup>7</sup> Dimon, *How Solitary Confinement Hurts the Teenage Brain*, THE ATLANTIC (June 30, 2014).

<sup>8</sup> Joseph Calvin Gagnon, *The Solitary Confinement of Incarcerated American Youth During COVID-19*, NATIONAL LIBRARY OF MEDICINE (Jun. 10, 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7286258/>.

<sup>9</sup> *Id.*

<sup>10</sup> *APA Official Actions: Position Statement on Solitary Confinement (Restricted Housing) of Juveniles*, APA (Jul. 2018).

<sup>11</sup> *Supra* note 6.

<sup>12</sup> *NCJFCJ Resolves to Reduce the Use of Solitary Confinement for Youth*, NCJFCJ (Sep. 20, 2016), <https://www.ncjfcj.org/news/ncjfcj-resolves-to-reduce-the-use-of-solitary-confinement-for-youth/>.

<sup>13</sup> *Restrictive Housing in Juvenile Settings*, NCCHC (Feb. 3, 2021), <https://www.ncchc.org/position-statements/restrictive-housing-in-juvenile-settings-2021/>.

year, the American Academy of Pediatrics endorsed the NCCH's position to seriously limit isolation amongst youth offenders.<sup>14</sup>

Further, due to the psychological impacts of solitary confinement,<sup>15</sup> children face an increased struggle to be effectively reintegrated into society after incarceration. The harm of isolation also upends the goals of effective reentry and reduced recidivism.

Youth of color, LGBTQ+ youth, and youth with disabilities are affected by solitary confinement policies. For example, one Florida study found that, "Florida Black youth had 68.8% greater odds of being placed in solitary confinement than White youth even after controlling for relevant predictive factors such as risk to reoffend."<sup>16</sup> LGBTQ+ youth are often placed in solitary to be kept safe from victimization.<sup>17</sup> For youth with disabilities, not only can solitary compound mental illness for youth with psychological impairments, but stress, limited access to healthcare, and lack of physical therapy can affect the health of patients with physical disabilities.<sup>18</sup>

In addition to harm reduction, the court rule change brings Michigan into compliance with federal regulation and is consistent with other jurisdictions' treatment of youth. The proposed amendments would join other states and child experts in their efforts to reduce the isolation of children and reduce the harms created by solitary confinement. For the reasons stated above, we support the proposed amendments to MCR 6.907 & 6.909 & 6.933.

Respectfully submitted,



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<sup>14</sup> *American Academy of Pediatrics Endorses NCCHC Position Statement on Restricted Housing for Youths*, NCCHC (Oct. 26, 2021), <https://www.ncchc.org/american-academy-of-pediatrics-endorses-ncchc-position-statement-on-restricted-housing-for-youths/>.

<sup>15</sup> *Supra* note 1.

<sup>16</sup> *The Role Of Race And Ethnicity In Determining Solitary Confinement Placements In Juvenile Detention Facilities*, FLORIDA STATE UNIVERSITY COLLEGE OF CRIMINOLOGY & CRIMINAL JUSTICE (April 17, 2019), [http://purl.flvc.org/fsu/fd/2019\\_Spring\\_Ogle\\_fsu\\_0071E\\_15139](http://purl.flvc.org/fsu/fd/2019_Spring_Ogle_fsu_0071E_15139).

<sup>17</sup> *LGBTQ Youths in the Juvenile Justice System*, OJJDP 6 (Aug. 2014), <https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/lgbtqyouthsinthejuvenilejusticesystem.pdf>.

<sup>18</sup> Jamelia Morgan, *Caged In: Solitary Confinement's Devastating Harm on Prisoners With Physical Disabilities*, ACLU 26 (2017), [https://www.aclu.org/sites/default/files/field\\_document/010916-aclu-solitarydisabilityreport-single.pdf](https://www.aclu.org/sites/default/files/field_document/010916-aclu-solitarydisabilityreport-single.pdf).