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Legislative Summary

BILL S-205:
AN ACT TO AMEND THE CORRECTIONS AND CONDITIONAL RELEASE ACT

45-1-S205-E

29 April 2026

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Library and Research Services

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(Preliminary version)

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LEGISLATIVE SUMMARY OF BILL S-205: AN ACT TO AMEND THE CORRECTIONS AND CONDITIONAL RELEASE ACT

1 BACKGROUND

On 28 May 2025, Senator Kim Pate introduced Bill S-205, An Act to amend the Corrections and Conditional Release Act (alternative title: Providing Alternatives to Isolation and Ensuring Oversight and Remedies in the Correctional System Act (Tona's Law)),[1] in the Senate.

The bill passed second reading on 21 October 2025 and was referred to the Standing Senate Committee on Legal and Constitutional Affairs (LCJC) for study. LCJC reported the bill back to the Senate on 24 March 2026, with amendments. The amended bill passed third reading in the Senate on 28 April 2026.

Bill S-205 amends the *Corrections and Conditional Release Act* (CCRA)[2] to:

- limit an individual's period of detention in a structured intervention unit (SIU) to 48 hours, absent a court order;
- allow more opportunities for individuals from marginalized groups to benefit from the provision of plans and support services related to release into the community; and
- provide a mechanism for sentence reduction where there has been unfairness in the administration of an individual's sentence, among other things.[3]

Bill S-205 closely mirrors Bill S-230, An Act to amend the Corrections and Conditional Release Act,[4] which was introduced in the 44th Parliament. Bill S-230 passed third reading in the Senate but died on the *Order Paper* with the dissolution of Parliament in March 2025. The main difference between the two bills was at clause 4, where Bill S-205 originally specified the criteria for determining that a person has "disabling mental health issues." This clause was removed during clause-by-clause consideration at LCJC.

1.1 BILL C-83 AND STRUCTURED INTERVENTION UNITS

Bill C-83, which received Royal Assent on 21 June 2019 and became *An Act to amend the Corrections and Conditional Release Act and another Act*,[5] removed the use of administrative segregation and disciplinary segregation from the federal correctional system. The bill responded in part to decisions from the Ontario Court of Appeal and the British Columbia Court of Appeal that found that elements of the use of administrative segregation violated sections of the *Canadian Charter of Rights and Freedoms*.[6]

Previously, the CCRA had set out that the purpose of administrative segregation was to "maintain the security of the penitentiary or the safety of any person by not allowing an inmate to associate with other inmates."[7] Administrative segregation could only be justified to ensure the security of the inmate or others in the penitentiary, or to prevent interference in a criminal or disciplinary investigation.

Bill C-83 replaced administrative segregation with "structured intervention units" (SIUs). As now set out in section 32 of the CCRA, the purpose of an SIU is to:

> (a) provide an appropriate living environment for an inmate who cannot be in the mainstream inmate population for security or other reasons; and
>
> (b) provide the inmate with an opportunity for meaningful human contact and an opportunity to participate in programs and have access to services that respond to the inmate's specific needs and the risks posed by the inmate.

The justification for placing an inmate in an SIU is essentially the same as for administrative segregation. According to section 34(1), there must be reasonable grounds to believe that allowing the inmate to remain in the general population:

- would risk the safety of the penitentiary or another person;
- would risk the inmate's safety; or
- would interfere with an investigation that could lead to a criminal charge or a serious disciplinary offence.

Approximately 1.9% of federal prison inmates are held in SIUs on any given day.[8]

A person held in an SIU has the right to at least four hours out of their cell each day, and at least two hours of interaction with others through leisure time, programs, interventions or services (section 36). These rights may not apply or may be limited where the person refuses to exercise them, or in certain circumstances, such as where there are security concerns (section 37).

The use of SIUs is subject to external oversight by independent external decision-makers[9] (IEDMs). A review by an IEDM is triggered when:

- a person's time spent either out of cell or with human contact does not meet the required standard;[10]
- a committee of senior staff members does not agree with the recommendation of a registered health care professional that the person should not remain in an SIU or that their SIU conditions should be altered; or
- a person is in an SIU for longer than 90 consecutive days.

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2 DESCRIPTION AND ANALYSIS

Bill S-205 consists of 10 clauses, following its amendment at LCJC. Key clauses and provisions are discussed in the following section.

2.1 STRUCTURED INTERVENTION UNITS (CLAUSES 2 AND 5)

Section 31 of the CCRA states that the Correctional Service Canada Commissioner (the Commissioner) may designate any penitentiary or any area in a penitentiary as an SIU. Clause 2 of Bill S-205 amends section 2(1) of the CCRA to define an SIU as anything designated under section 31 *or* "any area of a penitentiary where a person is separated from the general penitentiary population and is required to spend less time outside of their cell or engaging in activities relative to inmates in the general penitentiary population."

Clause 5 limits the length of time an inmate can be held in an SIU to no more than 48 hours, unless authorized by a superior court order.[11] Correctional Service Canada (CSC) may apply for a court order, and the court may grant it only where continued confinement is justified based on the purpose of SIUs, namely, to provide an appropriate living environment when the inmate cannot be in the general population for security or other reasons, and to provide appropriate and meaningful human contact.

2.2 MENTAL HEALTH ASSESSMENTS (CLAUSES 3, 4 AND 6)

Section 29 of the CCRA authorizes the transfer of an inmate from a penitentiary to a hospital, including a mental health facility, under certain circumstances. Three different provisions under Bill S-205, namely clauses 3, 4 and 6, would have amended the CCRA to specify instances in which inmates must be transferred from a penitentiary to a hospital, including a mental health facility. During LCJC's clause-by-clause consideration of Bill S-205, these clauses were either amended or voted down to remove these transfer requirements.

Clause 3 as originally drafted made technical amendments to section 15.1(2.01) of the CCRA. It did not change the substance of the section, which requires that an offender entering a penitentiary receive a mental health assessment within 30 days after their arrival. Clause 3 also added a requirement to transfer an inmate to a hospital for a mental health assessment, if a qualified medical professional could not provide an assessment in the penitentiary within the required timeframe. Clause 6 as originally drafted would have added the same requirement for the transfer of individuals held in SIU where a mental health assessment was not available within 24 hours.

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Clause 4 as originally drafted would have added new section 29.02, which required that an individual be transferred to a hospital, including a mental health facility, if a registered health care professional had assessed the individual and concluded that they had a disabling mental health issue.[12] Unlike former Bill S-230, Bill S-205 clarified that the criteria for this assessment were the same as for the assessment of whether a person's health was suffering due to being confined in an SIU. These included the person:

> (a) refusing to interact with others;
>
> (b) engaging in self-injurious behaviour;
>
> (c) showing symptoms of a drug overdose; and
>
> (d) showing signs of emotional distress or exhibiting behaviour that suggests that they are in urgent need of mental health care.[13]

2.3 INDIGENOUS AND MARGINALIZED POPULATIONS (CLAUSES 7, 8 AND 9)

Clause 7 adds a definition of a "disadvantaged or minority population."

Existing section 81 of the CCRA allows the Minister of Public Safety (the minister) to enter into an agreement with an Indigenous organization or Indigenous governing body to provide correctional services. Clause 8 amends section 81 to add community groups or organizations that serve a disadvantaged or minority population, or any other group that provides community-based support services, as potential correctional services providers. Clause 9 makes similar amendments to section 84, expanding the types of groups that could support an individual's release and reintegration into a community. It also adds an obligation for the CSC to inform individuals in custody about these groups if relevant.

The CCRA currently provides for the transfer of an inmate to an organization described above, with the consent of the offender and the organization. Clause 8 requires the minister to proactively identify groups that could provide correctional services, and seek to transfer inmates to those contracted organizations where appropriate. New section 81(5) states that where both the person and the organization agree to the transfer, the Commissioner must allow it unless a court finds that the transfer would be contrary to the interests of justice.

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2.4 UNFAIRNESS IN THE ADMINISTRATION OF A SENTENCE (CLAUSE 10)

Clause 10 adds new section 198.1, which states that an individual can apply to a court to have their sentence of incarceration or parole ineligibility reduced to compensate for a discriminatory, unfair or unreasonable administrative decision, exercise of discretion, or other act or omission by the CSC while they were incarcerated. This includes decisions, acts or omissions that were illegal or contrary to policy. While not specified in the bill, this could include inappropriate confinement in an SIU. An individual must apply within 60 days of a triggering event, as described in new section 198.1(2).

NOTES

1. Bill S-205, An Act to amend the Corrections and Conditional Release Act, 45th Parliament, 1st Session.
2. *Corrections and Conditional Release Act* (CCRA), S.C. 1992, c. 20.
3. Note that the CCRA uses the term "inmate" to refer to a person who is incarcerated or serving a sentence in a penitentiary. Bill S-205 uses the terms person, person who is committed to a penitentiary, person who is sentenced, transferred or committed to a penitentiary, etc. This document uses these terms interchangeably.
4. Bill S-230, An Act to amend the Corrections and Conditional Release Act, 44th Parliament, 1st Session.
5. *An Act to amend the Corrections and Conditional Release Act and another Act*, S.C. 2019, c. 27; see Lyne Casavant and Maxime Charron-Tousignant, *Legislative Summary of Bill C-83: An Act to amend the Corrections and Conditional Release Act and another Act*, Publication no. 42-1-C83-E, Library of Parliament, 27 August 2019.
6. *Corporation of the Canadian Civil Liberties Association v. Her Majesty the Queen*, 2017 ONSC 7491 (CanLII); *Canadian Civil Liberties Association v. Canada (Attorney General)*, 2019 ONCA 243 (CanLII); *British Columbia Civil Liberties Association v. Canada (Attorney General)*, 2018 BCSC 62 (CanLII); and *British Columbia Civil Liberties Association v. Canada (Attorney General)*, 2019 BCCA 228 (CanLII).
7. *Corrections and Conditional Release Act*, S.C. 1992, c. 20, s. 31(1) (version in force from 18 December 2018 to 20 June 2019).
8. Public Safety Canada, "Summary of How SIUs Are Operating," *Solitary Confinement and the Structured Intervention Units in Canada's Penitentiaries – The Final Report of the SIU IAP*, 5 December 2024.
9. *Corrections and Conditional Release Act*, S.C. 1992, c. 20, ss. 37.6–37.9. Independent external decision-makers (IEDMs) are appointed by the Minister of Public Safety. Correctional Service Canada (CSC) must provide relevant information to the IEDMs to assist them when reviewing a case. The IEDMs can also communicate with the inmate or rely on the inmate's written representations.
10. *Corrections and Conditional Release Act*, S.C. 1992, c. 20, s. 37.84(1). An IEDM review is triggered when an inmate does not have access to at least four hours outside their cell and at least two hours of human contact for five consecutive days, or for a total of 15 days during a 30-day period.
11. This amendment was included in the Standing Senate Committee on Social Affairs, Science and Technology's report on Bill C-83, but was later rejected in the House of Commons.
12. Correction Service of Canada, *National prevalence of mental disorders among incoming federally sentenced men.* Approximately 40% of men offenders in federal penitentiaries have at least one current mental disorder. This number does not include addiction disorders, which would capture another 30% of men offenders.
13. *Corrections and Conditional Release Act*, S.C. 1992, c. 20, s. 37.11.