IN THE XXX OF XXX COUNTY, NEBRASKA
STATE OF NEBRASKA

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| STATE OF NEBRASKA, IN THE INTEREST OF JUVENILEA JUVENILE  | CASE NO. XXX**MOTION TO REMOVE JUVENILE FROM ROOM CONFINEMENT**  |
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Juvenile, [Juvenile’s Initials], by and through their attorney, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, respectfully files this motion to remove [Initials] from room confinement and in support thereof, avers the following:

 **Factual Background**

1. On [November 11, 20XX], [Initials] was committed to the **[**the facility] in [City, State].
2. [Initials] is [fifteen] years old.
3. On [November 11, 20XX], [Initials] arrived at **[**the facility].
4. Since arriving at **[**the facility], [Initials] has been placed in solitary confinement, also called room confinement, on approximately [8] occasions.
5. Include description of facility practice of room confinement. Example: [Initials] has been confined for five hours per day in a single cell—for four days at a time—locked behind a solid metal door, with no furniture other than a low bed and a combination toilet/sink, with constant illumination, even at night, and with extremely limited access to personal property; hands shackled to a waist belt during the limited times out of the cell; without access to educational and rehabilitative programming; and without access to meaningful exercise and social interaction.

**CLAIMS**

**[THE FACILITY]’S USE OF SOLITARY CONFINEMENT IS IN VIOLATION OF NEBRASKA STATUTE 83-4,134.02.**

1. [The facility]’s use of solitary confinement violates [Initials]’s rights under Nebraska Statute 83-4,134.02.
2. Section 83-4,134.02 contains an itemized list of circumstances and reasons for which room confinement should not be used and includes [as a punishment or a disciplinary sanction; as a response to a staffing shortage; or as retaliation against the juvenile by staff.]
3. Section 83-4,134.02mandates that room confinement only be used after “all other less-restrictive alternatives have been exhausted and the juvenile poses an immediate and substantial risk of harm to self or others.”
4. Section 83-4,134.01(2)(a) requires that “[r]oom confinement of a juvenile for longer than one hour during a twenty-four-hour period shall be documented and approved in writing by a supervisor in the juvenile facility” and shall include “the date of the occurrence; the race, ethnicity, age, and gender of the juvenile; the reason for placement of the juvenile in room confinement; an explanation of why less restrictive means were unsuccessful; the ultimate duration of the placement in room confinement; facility staffing levels at the time of confinement; and any incidents of self-harm or suicide committed by the juvenile while he or she was isolated.”
5. Section 83-4,134.02 requires that a juvenile “not be held in room confinement longer than the minimum time required to eliminate the substantial and immediate risk of harm to self or others and shall be released from room confinement as soon as the substantial and immediate risk of harm to self or others is resolved” and that a juvenile “shall only be held in room confinement for a period that does not compromise or harm the mental or physical health of the juvenile.”
6. Additionally, Section 83-4,134.02 requires that a juvenile in confinement “be released immediately upon regaining sufficient control so as to no longer engage in behavior that threatens substantial and immediate risk of harm to self or others.”
7. Section 83-4,134.02 requires notice of a juvenile’s placement in confinement to both the juvenile’s parent or guardian and attorney of record within one business day of placement in confinement.
8. Section 83-4,134.02 requires that “[a]ll rooms used for room confinement shall have adequate and operating lighting, heating and cooling, and ventilation for the comfort of the juvenile. Rooms shall be clean and resistant to suicide and self-harm. Juveniles in room confinement shall have access to drinking water, toilet facilities, hygiene supplies, and reading materials approved by a licensed mental health professional.”
9. Section 83-4,134.02 requires that “[j]uveniles in room confinement shall have the same access as provided to juveniles in the general population of the facility to meals, contact with parents or legal guardians, legal assistance, and access to educational programming.”
10. Section 83-4,134.02 requires that “[j]uveniles in room confinement shall have access to appropriate medical and mental health services. Mental health staff shall promptly provide mental health services as needed.”
11. Section 83-4,134.02 requires that “[j]uveniles in room confinement shall be continuously monitored by staff of the facility. Continuous monitoring may be accomplished through regular in-person visits to the confined juvenile which may also be supplemented by electronic video monitoring.”
12. Insert relevant facts about how the applicable provisions above have been violated.

**[THE FACILITY]’S USE OF SOLITARY CONFINEMENT VIOLATES [Initials]’s RIGHTS UNDER THE FOURTEENTH AMENDMENT**

1. The Fourteenth Amendment of the United States Constitution protects the substantive due process rights of [Initials], including a right to a rehabilitative environment and rehabilitative treatment.
2. This use of solitary confinement deprives [Initials] of their substantive due process right to rehabilitative treatment and a rehabilitative environment, in violation of the Fourteenth Amendment.
3. [The Facility]’s use of solitary confinement on [Initials] was [include one of the following]: 1) intended to punish [him/her] add explanation as to how], 2) served no legitimate government purpose [add explanation that it did not improve safety as [Initial] was not a threat to [himself/herself] or others, 3) objectively, was not rationally related to a legitimate nonpunitive governmental purpose [explanation] 4) that the actions appear excessive in relation to that purpose [explanation].

**[THE FACILITY]’S USE OF SOLITARY CONFINEMENT VIOLATES [Initials]’s EIGHTH AMENDMENT RIGHT AGAINST CRUEL AND UNUSUAL PUNISHMENT**

1. The Eighth Amendment of the United States Constitution forbids facilities from subjecting those in custody to cruel and unusual punishment.
2. [The facility] has subjected [Initials] to harmful conditions including: [describe specific solitary conditions], and [list other harmful conditions].
3. [The facility] has subjected [Initials] to conditions that, in light of contemporary standards of decency, pose an unreasonable and substantial risk of serious damage to [his/her] health including [Initial]’s emotional, psychological, and physical health.
4. **[**The facility] has used solitary confinement against [Initials] with deliberate indifference, in that it knows or should know of the substantial risk of serious harm to [Initials] caused by its excessive use of solitary confinement [and other conditions, if applicable], but continues to subject [Initials] to such confinement and has failed to take reasonable steps to prevent the harm.
5. The risk of solitary confinement of juveniles is clear and should be known to [the facility]. Such an obvious risk is sufficient to conclude [The facility] was aware of the risk and acted with deliberate indifference.
6. By imposing solitary confinement, **[**the facility] has subjected [Initials] to cruel and unusual punishment, in violation of the Eight Amendment.

WHEREFORE, Petitioner, respectfully, requests that Your Honor order [the facility] to immediately remove [Initials] from solitary confinement and not to place [Initials] in solitary confinement or any type of involuntary isolation except during sleeping hours.

 Respectfully Submitted,