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HOUSE BILL

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO CORRECTIONS; ENACTING THE RESTRICTED HOUSING ACT;
PROVIDING RESTRICTIONS ON THE USE OF RESTRICTED HOUSING;
REQUIRING REPORTING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Restricted Housing Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Restricted Housing Act:

A. "correctional facility" means a jail, prison or other detention facility that is used for the confinement of adult or juvenile persons, whether operated by the state or a political subdivision of the state or a private contractor on behalf of the state or a political subdivision of the state;

B. "inmate" means an adult or juvenile person who

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1 is under sentence to or confined in a correctional facility;

2 C. "restricted housing", whether instituted
3 pursuant to disciplinary, administrative, inmate classification
4 or other action, means confinement of an inmate locked in a
5 cell or similar living quarters in a correctional facility for
6 twenty-two or more hours each day without daily, meaningful and
7 sustained human interaction; and

8 D. "serious mental disability" means:

9 (1) a serious mental illness, including
10 schizophrenia, psychosis, major depression and bipolar
11 disorder; or

12 (2) having a significant functional impairment
13 along with a brain injury, organic brain syndrome or
14 intellectual disability.

15 SECTION 3. [NEW MATERIAL] RESTRICTIONS ON THE USE OF
16 RESTRICTED HOUSING--JUVENILES AND PREGNANT WOMEN.--

17 A. An inmate who is younger than eighteen years of
18 age shall not be placed in restricted housing.

19 B. An inmate who is known to be pregnant shall not
20 be placed in restricted housing after the first five days of
21 the inmate's confinement.

22 SECTION 4. [NEW MATERIAL] RESTRICTIONS ON THE USE OF
23 RESTRICTED HOUSING--INMATE WITH SERIOUS MENTAL DISABILITY.--An
24 inmate with a serious mental disability shall not be placed in
25 restricted housing; provided that:

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1 A. the inmate is:

2 (1) known by the correctional facility to have
3 been diagnosed by a qualified health care professional as
4 having a serious mental disability; or

5 (2) clearly exhibiting self-injurious
6 behavior, grossly abnormal and irrational behaviors, delusions
7 or suicidal behavior, unless a health care professional
8 determines that the individual does not have a serious mental
9 disability;

10 B. the restriction on placement in restricted
11 housing shall not apply during the first five consecutive days
12 of the inmate's confinement in the correctional facility; and

13 C. if a warden, jail administrator or person in
14 charge of a correctional facility finds that an inmate with a
15 serious mental disability needs to be placed in restricted
16 housing to prevent an imminent threat of physical harm to the
17 inmate or another person, the inmate may be placed in
18 restricted housing for no longer than forty-eight hours, and
19 the warden, jail administrator or other person in charge of a
20 correctional facility shall:

21 (1) make a written record of the facts and
22 circumstances that necessitated the inmate's placement in
23 restricted housing;

24 (2) prepare a written action plan describing
25 how the facility will transition the inmate out of restricted

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1 housing at the earliest opportunity; and

2 (3) notify the facility's medical professional
3 in writing that the inmate was placed in restricted housing in
4 accordance with this subsection.

5 SECTION 5. [NEW MATERIAL] CORRECTIONAL FACILITIES--
6 TRANSPARENCY AND REPORTING.--Every three months, every
7 correctional facility shall:

8 A. produce a report that includes:

9 (1) the age, gender and ethnicity of every
10 inmate who was placed in restricted housing during the previous
11 three months, including every inmate who is in restricted
12 housing at the time the report is produced;

13 (2) the reason restricted housing was
14 instituted for each inmate listed in the report; and

15 (3) the dates on which each inmate was placed
16 in and released from restricted housing during the previous
17 three months; and

18 B. submit a report prepared in accordance with
19 Subsection A of this section to the:

20 (1) legislature, if the correctional facility
21 is a prison; and

22 (2) board of county commissioners of the
23 county in which the correctional facility is located, if the
24 facility is a jail.

25 SECTION 6. [NEW MATERIAL] PRIVATE CORRECTIONAL

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1 FACILITIES--ANTICORRUPTION AND REPORTING.--Every three months,
2 every private correctional facility shall submit to the board
3 of county commissioners of the county in which the private
4 correctional facility is located and to the legislature a
5 report of all monetary settlements that were paid to inmates or
6 former inmates as a result of lawsuits filed by the inmates or
7 former inmates against the private correctional facility or its
8 employees related to the use of restricted confinement or any
9 other reason.

10 SECTION 7. [NEW MATERIAL] REPORTS FILED WITH LEGISLATIVE
11 LIBRARY.--On the date that a report is submitted to a board of
12 county commissioners pursuant to Section 5 or 6 of the
13 Restricted Housing Act, a copy of the report shall be submitted
14 to the legislative council service library.

15 SECTION 8. EFFECTIVE DATE.--

16 A. The effective date of the provisions of Sections
17 1 through 3 and 5 through 7 of this act is July 1, 2019.

18 B. The effective date of the provisions of Section
19 4 of this act is July 1, 2020.