HOUSE FLOOR SUBSTITUTE FOR
HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 175

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

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
is under sentence to or confined in a correctional facility;

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

D. "serious mental disability" means:

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

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

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

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

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

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

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

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

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

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

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

(2) prepare a written action plan describing how the facility will transition the inmate out of restricted housing;
housing at the earliest opportunity; and

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

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

A. produce a report that includes:

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

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

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

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

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

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

SECTION 6. [NEW MATERIAL] PRIVATE CORRECTIONAL
FACILITIES--ANTICORRUPTION AND REPORTING.--Every three months, every private correctional facility shall submit to the board of county commissioners of the county in which the private correctional facility is located and to the legislature a report of all monetary settlements that were paid to inmates or former inmates as a result of lawsuits filed by the inmates or former inmates against the private correctional facility or its employees.

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

SECTION 8. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 3 and 5 through 7 of this act is July 1, 2017.

B. The effective date of the provisions of Section 4 of this act is July 1, 2018.