

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 175

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

AN ACT

RELATING TO CORRECTIONS; ENACTING THE ISOLATED CONFINEMENT ACT;  
PROVIDING RESTRICTIONS ON THE USE OF ISOLATED CONFINEMENT;  
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 "Isolated Confinement Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
Isolated Confinement Act:

A. "correctional facility" means a jail, prison or  
other detention facility, whether operated by a government or  
private contractor, that is used for the confinement of adult  
or juvenile persons who are charged with or convicted of a  
violation of a law or ordinance;

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

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

2 C. "isolated confinement", whether instituted  
3 pursuant to disciplinary, administrative, inmate classification  
4 or other action, means confinement of an inmate in a cell or  
5 similar living quarters in a correctional facility for twenty-  
6 two or more hours each day; and

7 D. "serious mental disability" means having current  
8 symptoms or receiving current treatment for:

9 (1) the following conditions that meet the  
10 diagnostic criteria published in the Diagnostic and Statistical  
11 Manual of Mental Disorders, fifth edition, also known as DSM-V,  
12 or the most recent edition of that publication, published by  
13 the American psychiatric association:

14 (a) schizophrenia, and all subtypes of  
15 schizophrenia;

16 (b) delusional disorder;

17 (c) schizophreniform disorder;

18 (d) schizoaffective disorder;

19 (e) brief psychotic disorder;

20 (f) substance-induced psychotic  
21 disorder, excluding intoxication and withdrawal;

22 (g) psychotic disorder not otherwise  
23 specified;

24 (h) major depressive disorders; and

25 (i) bipolar disorder I and II;

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1 (2) diagnosis with a mental disorder that  
2 includes being actively suicidal;

3 (3) diagnosis with a serious mental illness  
4 that is frequently characterized by breaks with reality or  
5 perceptions of reality that lead the person to significant  
6 functional impairment;

7 (4) diagnosis with an organic brain syndrome  
8 that results in a significant functional impairment if not  
9 treated;

10 (5) diagnosis with a severe personality  
11 disorder that is manifested by frequent episodes of psychosis  
12 or depression and that results in significant impairment; and

13 (6) diagnosis with intellectual disability  
14 with significant functional impairment.

15 SECTION 3. [NEW MATERIAL] RESTRICTIONS ON THE USE OF  
16 ISOLATED CONFINEMENT.--

17 A. Beginning July 1, 2017, an inmate who is younger  
18 than eighteen years of age shall not be placed in isolated  
19 confinement.

20 B. Beginning July 1, 2017, an inmate who is a  
21 pregnant woman shall not be placed in isolated confinement.

22 C. Beginning January 1, 2018, an inmate who has a  
23 known serious mental disability shall not be placed in isolated  
24 confinement, except as provided in this subsection. If a  
25 warden, jail administrator or person in charge of a facility

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1 finds that an inmate with a serious mental disability needs to  
2 be placed in isolated confinement because of a situation that  
3 involves imminent threat of physical harm to the inmate or  
4 another person, the inmate may be placed in isolated  
5 confinement for no longer than forty-eight hours and the  
6 warden, jail administrator or person in charge of the facility  
7 shall:

8 (1) make a written record of the facts and  
9 circumstances that necessitated the inmate's placement in  
10 isolated confinement;

11 (2) prepare a written action plan describing  
12 how the facility will transition the inmate out of isolated  
13 confinement at the earliest opportunity; and

14 (3) notify the facility's medical professional  
15 in writing that the inmate was placed in isolated confinement  
16 in accordance with this subsection.

17 SECTION 4. [NEW MATERIAL] CORRECTIONAL FACILITIES--  
18 TRANSPARENCY AND REPORTING.--Beginning July 1, 2017, and every  
19 three months thereafter, every correctional facility shall:

20 A. produce a report that includes:

21 (1) the age, gender and ethnicity of every  
22 inmate who was placed in isolated confinement during the  
23 previous three months, including every inmate who is in  
24 isolated confinement at the time the report is produced;

25 (2) the reason isolated confinement was

1 instituted for each inmate listed in the report; and

2 (3) the dates on which each inmate was placed  
3 in and released from isolated confinement during the previous  
4 three months; and

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

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

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

12 SECTION 5. [NEW MATERIAL] PRIVATE CORRECTIONAL  
13 FACILITIES--ANTICORRUPTION AND REPORTING.--Beginning July 1,  
14 2017, and every three months thereafter, every private  
15 correctional facility shall submit to the board of county  
16 commissioners of the county in which the private correctional  
17 facility is located and to the legislature a report of all  
18 monetary settlements that were paid to inmates or former  
19 inmates as a result of lawsuits filed by the inmates or former  
20 inmates against the private correctional facility or its  
21 employees.

22 SECTION 6. [NEW MATERIAL] REPORTS FILED WITH LEGISLATIVE  
23 LIBRARY.--On the date that a report is submitted to a board of  
24 county commissioners pursuant to Section 4 or 5 of the Isolated  
25 Confinement Act, a copy of the report shall be submitted to the

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1 legislative council service library.

2 SECTION 7. EFFECTIVE DATE.--The effective date of the  
3 provisions of this act is July 1, 2017.

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