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.--

   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.

   C. An inmate in a facility operated by the
   corrections department or its contractors shall not be housed
   in restricted housing for more than fifteen consecutive days
   and not to exceed a total of forty-five days in a twelve-month
   period.
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 is:

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

(2) clearly exhibiting self-injurious
behavior, grossly abnormal and irrational behaviors, delusions
or suicidal behavior;

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 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.--

A. Every three months, every correctional facility shall:

(1) produce a report that includes:

   (a) 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;

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

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

(2) submit a report prepared in accordance with this subsection to the:

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

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

B. The corrections department shall post to its
public website every report produced pursuant to Subsection A
of this section.

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,
former inmates or inmates' estates as a result of lawsuits
filed by the inmates, former inmates or inmates' estates
against the private correctional facility or its employees
related to the use of restricted confinement or any other
reason.

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
electronically 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, 2019.
B. The effective date of the provisions of Section
4 of this act is July 1, 2020.

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