

1 SENATE BILL 399

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Antonio Maestas

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10 AN ACT

11 RELATING TO CORRECTIONS; AMENDING THE RESTRICTED HOUSING ACT;
12 EXPANDING THE AGE LIMIT ON SOLITARY CONFINEMENT; REDUCING THE
13 NUMBER OF HOURS AND DAYS AN INMATE MAY BE HELD IN SOLITARY
14 CONFINEMENT.

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

17 SECTION 1. Section 33-16-2 NMSA 1978 (being Laws 2019,
18 Chapter 194, Section 2) is amended to read:

19 "33-16-2. DEFINITIONS.--As used in the Restricted Housing
20 Act:

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

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1 B. "inmate" means an adult or juvenile person who
2 is under sentence to or confined in a correctional facility;

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

10 D. "serious mental disability" means:

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

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

17 SECTION 2. Section 33-16-3 NMSA 1978 (being Laws 2019,
18 Chapter 194, Section 3) is amended to read:

19 "33-16-3. RESTRICTIONS ON THE USE OF RESTRICTED
20 HOUSING.--

21 A. An inmate who is younger than [~~eighteen~~] twenty-
22 one years of age or older than fifty-five years of age shall
23 not be placed in restricted housing.

24 B. An inmate who is known to be pregnant or in the
25 first eight weeks of the postpartum recovery period after

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1 giving birth shall not be placed in restricted housing.

2 C. An inmate who belongs to a vulnerable
3 population, including inmates who identify as lesbian, gay,
4 bisexual, transgender or queer, shall not be placed in
5 restricted housing involuntarily or for protective custody.

6 D. An inmate in a facility operated by the
7 corrections department or its contractors shall not be housed
8 in restricted housing for more than fifteen consecutive days or
9 more than ninety total days in a twelve-month period.

10 E. If a warden, jail administrator or person in
11 charge of a correctional facility finds that an inmate requires
12 housing in restricted housing for more than ninety total days
13 in a twelve-month period, the warden, jail administrator or
14 person in charge of the correctional facility shall:

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

18 (2) prepare a written action plan describing
19 how the facility will transition the inmate out of restricted
20 housing at the earliest opportunity.

21 F. An inmate in a county jail, town jail, village
22 jail or other political subdivision jail shall not be held in
23 restricted housing during the first three days of incarceration
24 in that jail except when the findings of a suicide screening
25 instrument conclude that the inmate is not likely to engage in

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1 harm to self."

2 SECTION 3. Section 33-16-5 NMSA 1978 (being Laws 2019,
3 Chapter 194, Section 5) is amended to read:

4 "33-16-5. CORRECTIONAL FACILITIES--TRANSPARENCY AND
5 REPORTING.--

6 A. Every three months, every correctional facility
7 shall:

8 (1) produce a report that includes:

9 (a) the age, gender, ~~[and]~~ ethnicity,
10 name and inmate identification number of every inmate who was
11 placed in restricted housing during the previous three months,
12 including every inmate who is in restricted housing at the time
13 the report is produced; and

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

16 ~~(c)]~~ (b) the dates on which each inmate
17 was placed in and released from restricted housing during the
18 previous three months; and

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

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

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

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