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SENATE BILL 140

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Mary Kay Papen

AN ACT

RELATING TO CORRECTIONS; PROVIDING RESTRICTIONS ON THE USE OF ISOLATED CONFINEMENT; REQUIRING REPORTING; MAKING AN APPROPRIATION.

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

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

2 C. "isolated confinement" means confinement of an
3 inmate in a cell or similar living quarters in a correctional
4 facility for twenty-two or more hours each day, which
5 confinement severely restricts the inmate's activity, movement
6 and social interaction, whether the confinement is instituted
7 pursuant to disciplinary, administrative, inmate classification
8 or other action; and

9 D. "serious mental illness" means a substantial
10 disorder of thought or mood that significantly impairs
11 judgment, behavior, capacity to recognize reality or ability to
12 cope with the ordinary demands of life and includes having
13 current symptoms or receiving current treatment for:

14 (1) the following conditions that meet the
15 diagnostic criteria published in the *Diagnostic and Statistical*
16 *Manual of Mental Disorders*, fifth edition, also known as DSM-V,
17 published by the American psychiatric association:

18 (a) schizophrenia, and all subtypes of
19 schizophrenia;

20 (b) delusional disorder;

21 (c) schizophreniform disorder;

22 (d) schizoaffective disorder;

23 (e) brief psychotic disorder;

24 (f) substance-induced psychotic
25 disorder, excluding intoxication and withdrawal;

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1 (g) psychotic disorder not otherwise
2 specified;

3 (h) major depressive disorders; and

4 (i) bipolar disorder I and II;

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

7 (3) diagnosis with a serious mental illness
8 that is frequently characterized by breaks with reality or
9 perceptions of reality that lead the person to significant
10 functional impairment;

11 (4) diagnosis with an organic brain syndrome
12 that results in a significant functional impairment if not
13 treated;

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

17 (6) diagnosis with mental retardation with
18 significant functional impairment.

19 SECTION 3. [NEW MATERIAL] RESTRICTIONS ON THE USE OF
20 ISOLATED CONFINEMENT.--

21 A. Inmates who are younger than eighteen years of
22 age shall not be placed in isolated confinement.

23 B. Inmates who have a serious mental illness shall
24 not be placed in isolated confinement.

25 SECTION 4. [NEW MATERIAL] CORRECTIONAL FACILITIES--

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1 TRANSPARENCY AND REPORTING.--Beginning July 1, 2016 and every
2 three months thereafter, every correctional facility shall
3 submit to the county commission of the county in which the
4 correctional facility is located and to the legislature a
5 report that includes:

6 A. the name and age of every inmate who was placed
7 in isolated confinement during the previous three months,
8 including every inmate who is in isolated confinement at the
9 time the report is submitted;

10 B. the reason isolated confinement was instituted
11 for each inmate named in the report; and

12 C. the number of days each inmate spent in isolated
13 confinement during the previous three months.

14 SECTION 5. [NEW MATERIAL] PRIVATE CORRECTIONAL
15 FACILITIES--ANTICORRUPTION AND REPORTING.--Beginning July 1,
16 2016 and every three months thereafter, every private
17 correctional facility shall submit to the county commission of
18 the county in which the private correctional facility is
19 located and to the legislature a report of all monetary
20 settlements that were paid to inmates or former inmates as a
21 result of lawsuits filed by the inmates or former inmates
22 against the private correctional facility or its employees.

23 SECTION 6. [NEW MATERIAL] REPORTS FILED WITH LEGISLATIVE
24 LIBRARY.--On the date that a report is submitted pursuant to
25 Sections 4 and 5 of the Isolated Confinement Act, a copy of the

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1 report shall be submitted to the legislative council service
2 library.

3 SECTION 7. APPROPRIATION.--

4 A. Twenty-five thousand dollars (\$25,000) is
5 appropriated from the general fund to the corrections
6 department for expenditure in fiscal year 2017 for preparation
7 of reports required pursuant to the Isolated Confinement Act.
8 Any unexpended or unencumbered balance remaining at the end of
9 fiscal year 2017 shall revert to the general fund.

10 B. Seventy-five thousand dollars (\$75,000) is
11 appropriated from the general fund to the local government
12 division of the department of finance and administration for
13 expenditure in fiscal year 2017 for preparation of reports
14 required pursuant to the Isolated Confinement Act. Any
15 unexpended or unencumbered balance remaining at the end of
16 fiscal year 2017 shall revert to the general fund.

17 SECTION 8. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2016.