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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. SHORT TITLE.--This act may be cited as the  
"Restricted Housing Act".

SECTION 2. 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                   (1) a serious mental illness, including  
2 schizophrenia, psychosis, major depression and bipolar  
3 disorder; or

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

7           **SECTION 3. RESTRICTIONS ON THE USE OF RESTRICTED**  
8 **HOUSING.--**

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

11           B. An inmate who is known to be pregnant shall not  
12 be placed in restricted housing.

13           **SECTION 4. RESTRICTIONS ON THE USE OF RESTRICTED**  
14 **HOUSING--INMATE WITH SERIOUS MENTAL DISABILITY.--**

15           A. An inmate with a serious mental disability  
16 shall not be placed in restricted housing; provided that:

17                   (1) the inmate is:

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

21                           (b) clearly exhibiting self-injurious  
22 behavior, grossly abnormal and irrational behaviors,  
23 delusions or suicidal behavior unless a qualified health care  
24 professional has determined that the behavior is unrelated to  
25 a serious mental disability;

1                   (2) the restriction on placement in  
2 restricted housing shall not apply during the first five  
3 consecutive days of the inmate's confinement in the  
4 correctional facility;

5                   (3) if a warden, jail administrator or  
6 person in charge of a correctional facility finds that an  
7 inmate with a serious mental disability needs to be placed in  
8 restricted housing to prevent an imminent threat of physical  
9 harm to the inmate or another person, the inmate may be  
10 placed in restricted housing for no longer than forty-eight  
11 hours, and the warden, jail administrator or other person in  
12 charge of a correctional facility shall:

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

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

19                   (c) notify the facility's health  
20 services administrator in writing that the inmate was placed  
21 in restricted housing in accordance with this subsection; and

22                   (4) if, after fulfilling the requirements of  
23 Paragraph (3) of this subsection, a warden, jail  
24 administrator or person in charge of a correctional facility  
25 finds that an inmate with a serious mental disability poses

1 an ongoing and realistic threat of physical harm to another  
2 person, the inmate may be placed in restricted housing for  
3 longer than forty-eight consecutive hours only if:

4 (a) other methods for ensuring the  
5 safety of the threatened person have been considered and  
6 determined insufficient, impractical or inappropriate;

7 (b) the inmate is placed in restricted  
8 housing for the shortest time period and under the least  
9 restrictive conditions practicable;

10 (c) the correctional facility provides  
11 regular access to medical and mental health care for the  
12 inmate; and

13 (d) the warden, administrator or person  
14 in charge of the correctional facility: 1) makes a written  
15 record of the facts and circumstances that necessitated the  
16 inmate's continued placement in restricted housing; 2) makes  
17 a written action plan describing how the correctional  
18 facility will transition the inmate out of restricted housing  
19 at the earliest opportunity, including a projected time line;  
20 and 3) notifies the correctional facility's health services  
21 administrator in writing that the inmate continues to be  
22 placed in restricted housing in accordance with this section.

23 B. For purposes of this section, "qualified health  
24 care professional" means a physician, licensed psychologist,  
25 prescribing psychologist, certified nurse practitioner,

1 clinical nurse specialist with a specialty in mental health  
2 or a physician assistant with a specialty in mental health.

3 SECTION 5. CORRECTIONAL FACILITIES--TRANSPARENCY AND  
4 REPORTING.--

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

7 (1) produce a report that includes:

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

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

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

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

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

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

24 B. The corrections department shall post to its  
25 public website every report produced pursuant to Subsection A

1 of this section.

2 SECTION 6. PRIVATE CORRECTIONAL FACILITIES--

3 ANTICORRUPTION AND REPORTING.--Every three months, every  
4 private correctional facility shall submit to the board of  
5 county commissioners of the county in which the private  
6 correctional facility is located and to the legislature a  
7 report of all monetary settlements that were paid to inmates,  
8 former inmates or inmates' estates as a result of lawsuits  
9 filed by the inmates, former inmates or inmates' estates  
10 against the private correctional facility or its employees  
11 related to the use of restricted confinement or any other  
12 reason.

13 SECTION 7. REPORTS FILED WITH LEGISLATIVE LIBRARY.--On

14 the date that a report is submitted to a board of county  
15 commissioners pursuant to Section 5 or 6 of the Restricted  
16 Housing Act, a copy of the report shall be submitted  
17 electronically to the legislative council service library.

18 SECTION 8. EFFECTIVE DATE.--

19 A. The effective date of the provisions of  
20 Sections 1 through 3 and 5 through 7 of this act is July 1,  
21 2019.

22 B. The effective date of the provisions of Section  
23 4 of this act is July 1, 2020. \_\_\_\_\_