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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--JUVENILES AND PREGNANT WOMEN.--**

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 after the first five days of  
13 the inmate's confinement.

14                   **SECTION 4. RESTRICTIONS ON THE USE OF RESTRICTED**  
15 **HOUSING--INMATE WITH SERIOUS MENTAL DISABILITY.--An inmate**  
16 **with a serious mental disability shall not be placed in**  
17 **restricted housing; provided that:**

18                   A. the inmate:

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

22                               (2) is clearly exhibiting:

23                                       (a) self-injurious behavior;

24                                       (b) delusions;

25                                       (c) suicidal behavior; or

1 (d) grossly abnormal and irrational  
2 behaviors;

3 B. the restriction on placement in restricted  
4 housing shall not apply:

5 (1) if a health care professional determines  
6 that an inmate exhibiting a behavior described in Paragraph  
7 (2) of Subsection A of this section does not have a serious  
8 mental disability; or

9 (2) during the first five consecutive days  
10 of the inmate's confinement in the correctional facility; and

11 C. if a warden, jail administrator or person in  
12 charge of a correctional facility finds that an inmate with a  
13 serious mental disability:

14 (1) needs to be placed in restricted housing  
15 to prevent an imminent threat of physical harm to the inmate  
16 or another person, the inmate may be placed in restricted  
17 housing for no longer than forty-eight hours, and the warden,  
18 jail administrator or other person in charge of a  
19 correctional facility shall:

20 (a) make a written record of the facts  
21 and circumstances that necessitated the inmate's placement in  
22 restricted housing;

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

1 (c) notify the facility's medical  
2 professional in writing that the inmate was placed in  
3 restricted housing in accordance with this subsection; or

4 (2) poses an extreme and ongoing threat of  
5 physical harm to another person, the inmate may be placed in  
6 restricted housing for longer than forty-eight consecutive  
7 hours only if:

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

11 (b) the facility makes a good faith  
12 effort to provide regular access to medical and mental health  
13 care for the inmate; and

14 (c) the warden, administrator or person  
15 in charge of the facility prepares a written action plan that  
16 includes a time line and that describes how the facility will  
17 transition the inmate out of restricted housing at the  
18 earliest opportunity.

19 **SECTION 5. CORRECTIONAL FACILITIES--TRANSPARENCY AND**  
20 **REPORTING.--**Every three months, every correctional facility  
21 shall:

22 A. produce a report that includes:

23 (1) the age, gender and ethnicity of every  
24 inmate who was placed in restricted housing during the  
25 previous three months, including every inmate who is in

1 restricted housing at the time the report is produced;

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

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

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

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

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

14 **SECTION 6. PRIVATE CORRECTIONAL FACILITIES--**  
15 **ANTICORRUPTION AND REPORTING.--**Every three months, every  
16 private correctional facility shall submit to the board of  
17 county commissioners of the county in which the private  
18 correctional facility is located and to the legislature a  
19 report of all monetary settlements that were paid to inmates  
20 or former inmates as a result of lawsuits filed by the  
21 inmates or former inmates against the private correctional  
22 facility or its employees.

23 **SECTION 7. REPORTS FILED WITH LEGISLATIVE LIBRARY.--**On  
24 the date that a report is submitted to a board of county  
25 commissioners pursuant to Section 5 or 6 of the Restricted

1 Housing Act, a copy of the report shall be submitted to the  
2 legislative council service library.

3 SECTION 8. EFFECTIVE DATE.--

4 A. The effective date of the provisions of  
5 Sections 1 through 3 and 5 through 7 of this act is July 1,  
6 2017.

7 B. The effective date of the provisions of Section  
8 4 of this act is July 1, 2018. \_\_\_\_\_

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