

HOUSE FLOOR SUBSTITUTE FOR  
HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 175

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

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

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

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

8 D. "serious mental disability" means:

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

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

15 SECTION 3. [NEW MATERIAL] RESTRICTIONS ON THE USE OF  
16 RESTRICTED HOUSING--JUVENILES AND PREGNANT WOMEN.--

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

19 B. An inmate who is known to be pregnant shall not  
20 be placed in restricted housing after the first five days of  
21 the inmate's confinement.

22 SECTION 4. [NEW MATERIAL] RESTRICTIONS ON THE USE OF  
23 RESTRICTED HOUSING--INMATE WITH SERIOUS MENTAL DISABILITY.--An  
24 inmate with a serious mental disability shall not be placed in  
25 restricted housing; provided that:

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1           A. the inmate:

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

5                   (2) is clearly exhibiting self-injurious  
6 behavior, grossly abnormal and irrational behaviors, delusions  
7 or suicidal behavior, unless a health care professional  
8 determines that the individual does not have a serious mental  
9 disability;

10           B. the restriction on placement in restricted  
11 housing shall not apply during the first five consecutive days  
12 of the inmate's confinement in the correctional facility; and

13           C. if a warden, jail administrator or person in  
14 charge of a correctional facility finds that an inmate with a  
15 serious mental disability needs to be placed in restricted  
16 housing to prevent an imminent threat of physical harm to the  
17 inmate or another person, the inmate may be placed in  
18 restricted housing for no longer than forty-eight hours, and  
19 the warden, jail administrator or other person in charge of a  
20 correctional facility shall:

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

24                   (2) prepare a written action plan describing  
25 how the facility will transition the inmate out of restricted

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1 housing at the earliest opportunity; and

2 (3) notify the facility's medical professional  
3 in writing that the inmate was placed in restricted housing in  
4 accordance with this subsection.

5 SECTION 5. [NEW MATERIAL] CORRECTIONAL FACILITIES--  
6 TRANSPARENCY AND REPORTING.--Every three months, every  
7 correctional facility shall:

8 A. produce a report that includes:

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

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

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

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

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

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

25 SECTION 6. [NEW MATERIAL] PRIVATE CORRECTIONAL

1 FACILITIES--ANTICORRUPTION AND REPORTING.--Every three months,  
 2 every private correctional facility shall submit to the board  
 3 of county commissioners of the county in which the private  
 4 correctional facility is located and to the legislature a  
 5 report of all monetary settlements that were paid to inmates or  
 6 former inmates as a result of lawsuits filed by the inmates or  
 7 former inmates against the private correctional facility or its  
 8 employees.

9 SECTION 7. [NEW MATERIAL] REPORTS FILED WITH LEGISLATIVE  
 10 LIBRARY.--On the date that a report is submitted to a board of  
 11 county commissioners pursuant to Section 5 or 6 of the  
 12 Restricted Housing Act, a copy of the report shall be submitted  
 13 to the legislative council service library.

14 SECTION 8. EFFECTIVE DATE.--

15 A. The effective date of the provisions of Sections  
 16 1 through 3 and 5 through 7 of this act is July 1, 2017.

17 B. The effective date of the provisions of Section  
 18 4 of this act is July 1, 2018.

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