

HOUSE BILL 364

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Antonio Maestas and Elizabeth "Liz" Thomson and
Andrea Romero and Mary Kay Papen

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

underscored material = new
[bracketed material] = delete

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.--

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.

21 C. An inmate in a facility operated by the
22 corrections department or its contractors shall not be housed
23 in restricted housing for more than fifteen consecutive days
24 and not to exceed a total of forty-five days in a twelve-month
25 period.

.211086.2

underscored material = new
[bracketed material] = delete

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

5 A. the inmate is:

6 (1) known by the correctional facility to have
7 been diagnosed by a qualified health care professional as
8 having a serious mental disability; or

9 (2) clearly exhibiting self-injurious
10 behavior, grossly abnormal and irrational behaviors, delusions
11 or suicidal behavior;

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

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

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

.211086.2

underscored material = new
[bracketed material] = delete

1 (2) prepare a written action plan describing
2 how the facility will transition the inmate out of restricted
3 housing at the earliest opportunity; and

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

7 SECTION 5. [NEW MATERIAL] CORRECTIONAL FACILITIES--
8 TRANSPARENCY AND REPORTING.--

9 A. Every three months, every correctional facility
10 shall:

11 (1) produce a report that includes:

12 (a) the age, gender and ethnicity of
13 every inmate who was placed in restricted housing during the
14 previous three months, including every inmate who is in
15 restricted housing at the time the report is produced;

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

18 (c) the dates on which each inmate was
19 placed in and released from restricted housing during the
20 previous three months; and

21 (2) submit a report prepared in accordance
22 with this subsection to the:

23 (a) legislature, if the correctional
24 facility is a prison; and

25 (b) board of county commissioners of the

.211086.2

underscoring material = new
[bracketed material] = delete

1 county in which the correctional facility is located, if the
2 facility is a jail.

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

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

17 SECTION 7. [NEW MATERIAL] REPORTS FILED WITH LEGISLATIVE
18 LIBRARY.--On the date that a report is submitted to a board of
19 county commissioners pursuant to Section 5 or 6 of the
20 Restricted Housing Act, a copy of the report shall be submitted
21 electronically to the legislative council service library.

22 SECTION 8. EFFECTIVE DATE.--

23 A. The effective date of the provisions of Sections
24 1 through 3 and 5 through 7 of this act is July 1, 2019.

25 B. The effective date of the provisions of Section

underscoring material = new
~~[bracketed material] = delete~~

1 4 of this act is July 1, 2020.

2 - 6 -

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

.211086.2