



Legislative Council Staff

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Final Fiscal Note

Drafting Number: LLS 21-0349
Prime Sponsors: Rep. Amabile
Sen. Lee

Date: August 13, 2021
Bill Status: Signed into Law
Fiscal Analyst: Erin Reynolds | 303-866-4146
Erin.Reynolds@state.co.us

Bill Topic: REGULATION OF RESTRICTIVE HOUSING IN JAILS

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill regulates local jails' use of restrictive housing placements. Beginning in FY 2021-22, the bill may increase state expenditures, will increase state workload, and will increase local expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the enacted bill.

Summary of Legislation

The bill regulates local jails' use of restrictive housing by limiting its use unless certain conditions are met; requiring professional assessment for individuals placed in restrictive housing; and requiring jails to keep records on restrictive housing placements and inmate mental health and submit those quarterly to the Department of Public Safety (DPS), among other provisions, as detailed below.

Restrictive housing prohibitions and exceptions. Beginning July 1, 2022, the bill prohibits a local jail with a bed capacity of over 400 beds from involuntarily placing an inmate in restrictive housing if the inmate meets certain mental or physical health conditions or is under 18 years of age. The prohibition does not apply in certain situations, as outlined in the bill.

Requirements for restrictive housing placements. When an individual is placed in restrictive housing, the local jail is required to:

- document the facts and circumstances that led to placing the individual into restrictive housing;
- notify the jail's medical or mental health professional staff in writing within 12 hours of placement;
- notify the individual's appointed or retained legal representative, designated emergency contact, or legal guardian within 12 hours of the individual's involuntary placement and removal in restrictive housing;

- at least twice per hour, have medical professionals or jail staff check on the individual;
- every 24 hours, have medical professionals assess the individual for any psychiatric or medical contraindications to the placement;
- at least every 48 hours, have medical professionals assess the need for ongoing placement and document the assessment;
- provide the individual and their legal representation a clear explanation of the reason the individual has been placed in restrictive housing and the monitoring procedures that the local jail will employ to check the individual;
- not hold the individual in restrictive housing for more than 15 days in a 30-day time period without a written court order, following procedures outlined in the bill; and
- supply the individual with basic hygiene necessities; exchanges of clothing and bedding on the same basis as other individuals in the general jail population; access to writing or receiving letters; opportunities for visitation; access to legal materials; access to reading materials; access to outdoor exercise at least one hour per week, weather permitting; telephone privileges to access the judicial process and to be informed of family emergencies; and access to programs and services—if the local jail does not make a certain allowance, it must document the item, program, or service denied and the reason.

Additionally, the bill allows jails to place individuals in confinement for the completion of administrative security tasks; requires jails to document medical professional findings and time out of cell; and requires jails to produce written policies in accordance with the bill and to post these on their websites.

Health screenings. Local jails are required to use an adequate screening tool to complete a health screening of each inmate upon arrival, as outlined in the bill.

Reporting. Beginning January 1, 2022, and quarterly thereafter, local jails are required to submit anonymized information about restrictive housing placements and mental health assessments to the Division of Criminal Justice in the Department of Public Safety (DPS).

Jail-based behavioral health services funding. The bill permits existing jail-based behavioral health funding to be used to implement certain requirements under the bill. Facility changes must be approved by the Office of Behavioral Health in the Department of Human Services.

State Expenditures

The bill may increase state General Fund expenditures in the Judicial Department, and will increase workload in the DPS and the Department of Human Services. These impacts are discussed below.

Judicial Department. The bill is expected to create additional trial court workload where court orders are sought to hold an individual in restrictive housing for more than 15 days in a 30-day time period. It is unknown how often court orders will be sought for this purpose. If 12 county jails with a capacity of 400 or more generated 4 hearings per month with each hearing lasting 1 hour, this would increase required staffing by 0.3 FTE Judicial Officer with 0.9 FTE support staff to accommodate this new caseload. The department will monitor related caseload and, if resources are required, request those through the annual budget process.

Department of Public Safety. Beginning in FY 2021-22, the Division of Criminal Justice will post quarterly reporting online. No change in appropriations is required.

Department of Human Services. The Office of Behavioral Health may see an increase in workload to accept and manage any additional contracts with local jails for jail-based behavioral health funding, as permitted under the bill, which can be accomplished by existing program staff.

Local Government

Workload and costs will increase for local jails with a bed capacity of 400 or more to meet the bill's requirements for restrictive housing placements, professional assessments, and data reporting.

Restrictive housing placements. The bill's restrictive housing provisions will increase workload and expenditures for jails. Workload will increase to document restrictive housing placements; provide immediate notification to mental health and legal professionals; perform visual check-ins on the individual every 15 minutes; and assess the individual every 24 hours. Costs will increase to supply individuals with the materials and services required under the bill.

Professional health assessments. Costs will increase for jails to provide inmates with a health screening upon intake, and to be assessed by a medical or mental health professional within the timeframes in the bill.

Reporting. Costs will increase to provide quarterly reporting about restrictive housing placements and mental health assessments to the Division of Criminal Justice.

Effective Date

The bill was signed into law on June 24, 2021, and took effect on that date, except that Section 2 takes effect January 1, 2022, and Section 1 takes effect July 1, 2022.

State and Local Government Contacts

Corrections
Judicial
Public Defender
Sheriffs

Counties
Law
Public Safety

District Attorneys
Municipalities
Regulatory Agencies