



Legislative Council Staff

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Revised Fiscal Note

(replaces fiscal note dated February 22, 2023)

Drafting Number:	LLS 23-0162	Date:	April 21, 2023
Prime Sponsors:	Rep. Amabile Sen. Fields; Rodriguez	Bill Status:	House Second Reading
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Bill Topic: USE OF RESTRICTIVE PRACTICES IN PRISONS

Summary of Fiscal Impact:

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

This bill modifies how clinical restraints may be used in correctional facilities by requiring the Department of Corrections to adhere to National Commission on Correctional Health Care standards. It also creates involuntary medication committees. It increases state expenditures beginning in FY 2023-24.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$18,872 to the Department of Corrections.

Fiscal Note Status: The fiscal note reflects the introduced bill, which was amended by the House Judiciary Committee and the House Appropriations Committee. It was recommended by the Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems.

Table 1
State Fiscal Impacts Under HB 23-1013

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-
Expenditures	General Fund	\$18,872	-
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$2,831	-

Summary of Legislation

This bill modifies how clinical restraints may be used in correctional facilities by requiring the Department of Corrections (DOC) to adhere to National Commission on Correctional Health Care (NCCHC) standards, and creates involuntary medication committees, as outlined below.

Clinical restraint use. By July 1, 2027, the bill requires the Department of Corrections (DOC) to implement policies and practices that conform to the minimum standards prescribed by the most updated restraint and seclusion standards of the National Commission on Correctional Health Care.

DOC facilities must ensure the use of restraint is documented and maintained in the electronic health record of the inmate, following specific guidelines that include, among other requirements, documenting who issued, modified, and terminated the order, and an explanation of the clinical basis for the use of restraint.

DOC facilities are required to perform an intake evaluation to assess an inmate's risk of self-harm behaviors and initiate appropriate safety planning to address any concerns and attempt to avoid the use of clinical restraints, if possible.

Involuntary medication. The bill prohibits the use of involuntary medication unless certain conditions are met. Each facility is required to convene an involuntary medication committee, and may not prescribe involuntary medication to an inmate for a period in excess of 180 days. The use of involuntary medication must be documented in the inmate's electronic health record.

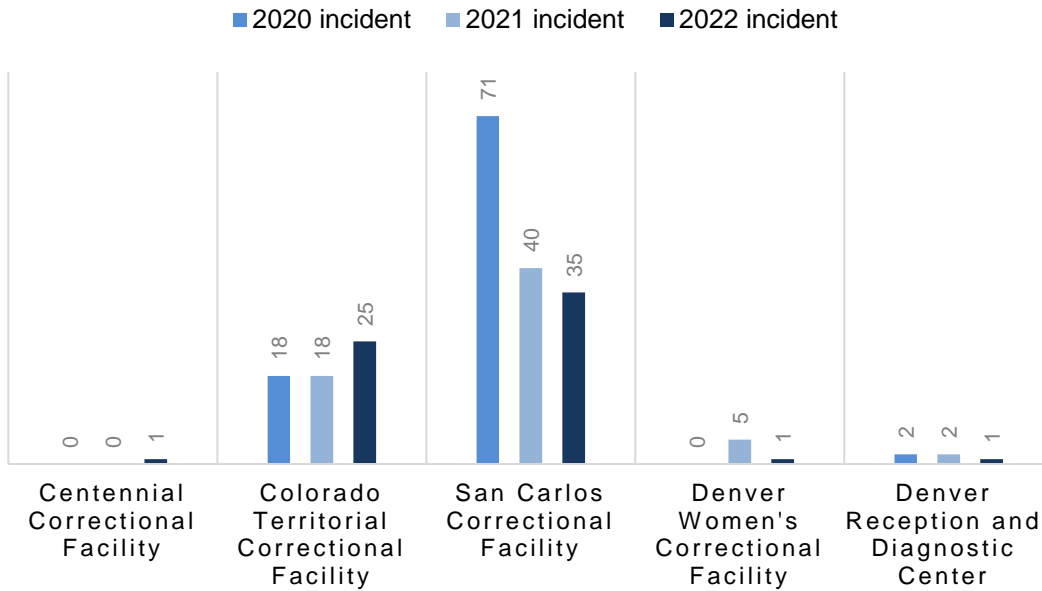
Reporting. By January 1, 2024, the DOC must make an annual legislative report on the use of restraints and involuntary medication in the preceding calendar year, following criteria outlined in the bill. The DOC must also create an implementation plan to meet NCCHC standards and present the plan during its SMART Act hearings beginning in 2024 and each year thereafter.

Background

DOC accreditation. The DOC is currently accredited with the American Correctional Association. It is in contract negotiations to become accredited with the NCCHC, with a contract expected by July 2023. As such, the department has budgeted for the modified use of clinical restraints, which includes additional staffing at facilities that specialize in inmate health. For these facilities, additional staff include correctional officers to facilitate inmate movement, as well as health professionals, nurses, and psychologists to perform assessments, including behavior assessments upon intake. Also included in the budget are soft restraint materials at 19 facilities, with an estimated 68 units total, with replacement costs estimated for one-third of materials each year. Each DOC facility will train 21 instructors on the use of soft restraints, who will then train DOC staff on-site.

Restraint event data. In the past three years, the DOC has averaged 73 four-point restraint events per year in five facilities, as shown in Figure 1. The majority of restraint events occurred at the San Carlos Correctional Facility and Colorado Territorial Correctional Facility, and often involved multiple restraint events with the same individuals. There are 11 total four-point restraint beds at these facilities. Ambulatory restraint events have largely occurred at the same facilities at a lesser rate.

Figure 1
Restraint Events at DOC Facilities



Involuntary medication. There are currently 90 DOC inmates who are receiving involuntary medications, such as mental health medications.

State Expenditures

In FY 2023-24 only, the bill increases state General Fund expenditures by \$18,872 in the Department of Corrections. The DOC requires four laptops and updates to its offender management system to meet the reporting requirements in the bill.

On an ongoing basis, the bill will increase workload in the DOC. As discussed in the Background section, because the DOC is currently seeking NCCHC accreditation, which requires soft restraints to be used and that health staff monitor a restrained inmate every 15 minutes, related staffing and restraint costs are already accounted for in DOC's budget.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Corrections
Law

Information Technology
Public Defender

Judicial