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Fiscal Note

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

Date: March 22, 2021
Bill Status: House Judiciary
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 |

This bill requires local jails to keep records on restrictive housing placements and inmate mental health and submit these quarterly to the Department of Public Safety. The bill also prohibits county jails from performing restrictive housing placements if the inmate meets certain mental or physical health conditions or is under 18 years of age. The bill will increase local expenditures and, minimally, state expenditures, beginning in FY 2021-22.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

This bill requires county jails to keep records on restrictive housing placements and inmate mental health and submit these quarterly to the Department of Public Safety (DPS). The bill also prohibits county jails from performing restrictive housing placements if an inmate meets certain mental or physical health conditions or is under 18 years of age. These provisions are detailed below.

Restrictive housing and mental health records on county jail inmates. Beginning July 1, 2021, county jails must keep and maintain records regarding each inmate placed in restrictive housing, including: demographic information; whether the inmate has a serious mental health condition; the placement classification of the inmate before being placed in restrictive housing; the basis for placement; dates and times of placements; alternatives attempted or reasons why no alternatives were attempted; whether the inmate or anyone assisting the inmate was injured or died during restrictive housing placement and the manner and cause; any medical or mental health diagnoses and treatment provided by the county jail that occurred while the inmate was in restrictive housing; and whether the inmate was referred or certified for a mandatory mental health hold or a substance abuse hold.

In addition, county jails must keep and maintain quarterly records of certain data regarding inmate mental health, including: the number of inmates that have an identified mental health condition, substance use condition, or both; number of inmates that have been transferred to a hospital or local crisis facility for an evaluation and the outcome—including whether the inmate was certified, whether the hold exceeded 24 hours, and if symptoms were still present upon transfer back to the jail; any orders entered by the court for an evaluation based upon the petition; any orders of certification entered by the court as a result of the filing of a petition; and if the inmate was not certified as a result of a mental health evaluation, the reason for not certifying that inmate.

Each county jail must provide these records to the DPS on a quarterly basis for the department to make publicly available beginning July 1, 2021.

Restrictive housing prohibitions. Beginning July 1, 2022, the bill prohibits a county 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 county jail is also required to produce written policies and procedures in accordance with these restrictions and to post them online.

State Expenditures

Beginning in FY 2021-22, the Division of Criminal Justice in the DPS will post quarterly reporting online. This workload can be accomplished within existing resources and no change in appropriations is required.

Local Government

County jails will have fiscal impacts related to data reporting. County jails with a bed capacity of 400 or more will have fiscal impacts related to limiting solitary confinement.

Data reporting. County jails will require computer programming, software, and training to meet the data reporting requirements under the bill. Costs will vary depending on the current systems used in a county jail. For informational purposes, Boulder County spent approximately \$145,000 to build a similar system required under SB 20-217.

Limiting solitary confinement. To the extent that county jails use hospital facilities in lieu of solitary confinement, transportation and health care costs may increase. Conversely, litigation costs related to the use of solitary confinement may decrease.

Technical Note

The bill's July 1, 2021, effective date for the reporting requirement does not allow the DPS enough time to implement the data collection process with county jails, nor county jails enough time to perform computer programming updates. An effective date of September or October 2021 would alleviate that issue.

Effective Date

The bill takes effect July 1, 2021, except that Section 1, limiting the use of restrictive placements in large local jails, takes effect July 1, 2022.

State and Local Government Contacts

Corrections
Public Safety

Counties
Sheriffs

Municipalities