



Legislative Council Staff

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Revised Fiscal Note

(replaces fiscal note dated March 22, 2021)

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

Date: May 4, 2021
Bill Status: Senate Judiciary
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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 restricts local jails from using restrictive housing placements unless certain conditions are met. Beginning in FY 2021-22, the bill may increase state expenditures and will increase local expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The revised fiscal note reflects the reengrossed bill.

Summary of Legislation

The bill prohibits local jails from performing restrictive housing placements unless certain situations occur; creates requirements for restrictive housing placements; requires professional assessment for individuals placed in restrictive housing within 24 hours of placement; and requires records to be kept on restrictive housing placements and inmate mental health and submitted quarterly to the Department of Public Safety (DPS). These provisions are 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 situations where the individual refused treatment or is determined not to meet the criteria for admission by a health-care facility; the individual poses an imminent danger to themselves or others; and no other less restrictive option is available and the individual is not responding to ongoing de-escalation techniques.

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 its medical or mental health professionals in writing within one hour of placing an individual in restrictive housing;
- 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 every 15 minutes, check on an individual involuntarily placed in restrictive housing;
- every 24 hours, assess the individual involuntarily placed in restrictive housing;
- provide the individual a clear explanation of the reason the individual has been placed in restrictive housing, the monitoring procedures that the local jail will employ to check the individual, the date and the time, when the individual's next court date is, and the behavioral criteria the individual must demonstrate to be released from restrictive housing;
- not hold the individual in restrictive housing for more than 15 days in a 30-day time period without a written court order; and
- supply the individual with basic hygiene necessities; exchanges of clothing, bedding, and linen; access to writing letters or receiving letters; opportunities for visitation; access to legal materials; access to reading materials; a minimum of one hour of outdoor exercise 5 days a week outside of the cell; telephone privileges; and access to programs and services.

Assessments and screenings. A medical or mental health professional is required to assess any individual placed in restrictive housing within 24 hours of placement. Local jails are required to use an adequate screening tool to complete a health screening of each inmate when the inmate arrives at the jail.

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).

State Expenditures

The bill may increase state General Fund expenditures in the Judicial Department, and will increase workload in the DPS. 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.

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 24 hours of placement.

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 takes effect upon signature of the Governor, 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