



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 23-0162	Date:	January 30, 2023
Prime Sponsors:	Rep. Amabile Sen. Fields; Rodriguez	Bill Status:	House Judiciary
		Fiscal Analyst:	Erin Reynolds 303-866-4146 erin.reynolds@coleg.gov

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, and creates involuntary medication committees. It increases state expenditures on an ongoing basis beginning in FY 2023-24.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$20 million to the Department of Corrections.

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

This fiscal note is provided pursuant to Joint Rule 22 (b)(2) and reflects strike-below Amendment L.002. The fiscal note is preliminary and will be updated as more information becomes available.

**Table 1
State Fiscal Impacts Under HB 23-1013**

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-
Expenditures	General Fund	\$19,990,686	\$20,092,612
	Total FTE	202.5 FTE	221.0 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$2,998,603	\$3,013,892

Summary of Legislation

The bill prohibits the use of clinical restraints on state inmates unless the use of restraints prevents the individual from harming themselves or others, the correctional facility has exhausted all less-restrictive alternatives, and the restraint is ordered by a mental health provider. When restraints are used, correctional facilities must limit the time of use, make regular assessments of the restrained inmate, use only allowable restraint equipment, and minimize risk to the inmate. The bill outlines specific examination and reporting requirement intervals.

Upon intake, the bill requires correctional facilities to perform an assessment and make a behavior management plan as necessary.

The bill prohibits the use of involuntary medication. Each facility is required to convene an involuntary medication committee to approve prescribed medication. Inmates may be referred to the Judicial Department for legal representation in these hearings.

By March 1, 2025, and each year thereafter, the Department of Corrections (DOC) must make a legislative report on the use of restraints and involuntary medication in the preceding calendar year, following criteria outlined in the bill.

Background and Assumptions

Between January and August 2022, the DOC logged approximately 47 four-point restraint events. The department does not currently track ambulatory restraints, but information from the DOC indicates that this type of restraint occurs on a regular basis in a variety of correctional settings. There are currently 90 individuals in the DOC who are receiving involuntary medications.

State Expenditures

The bill increases state General Fund expenditures in the DOC by about \$20 million per year, as shown in Table 2 and detailed below. Potential costs for the Judicial Department will be addressed through the annual budget process.

Table 2
Expenditures Under HB 23-1013

Cost Components	FY 2023-24	FY 2024-25
Department of Corrections		
Personal Services	\$14,391,718	\$15,700,053
Operating Expenses	\$298,350	\$298,350
Capital Outlay Costs	\$1,474,070	-
Restraint Materials and Training	\$49,380	\$8,200
Laptops and Software	\$32,644	-
Employee Insurance and Supplemental Retirement	\$3,744,524	\$4,086,009
Total	\$19,990,686	\$20,092,612
Total FTE	202.5 FTE	221.0 FTE

Department of Corrections

Staff. Assuming that the DOC will be unable to utilize current staff to fulfill the bill's requirement, the department requires additional staffing at "qualified facilities." 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. These facilities include:

- Centennial Correctional Facility in Cañon City, 14.5 FTE;
- Colorado Territorial Correctional Facility in Cañon City, 21.0 FTE;
- Denver Reception and Diagnostic Center in Denver, 15.5 FTE;
- Denver Women's Correctional Facility in Denver, 11.5 FTE; and
- San Carlos Correctional Facility in Pueblo, 24.0 FTE.

At its remaining 14 facilities, the DOC requires additional correctional officers and health professional staffing, totaling 53.0 FTE.

A shift relief factor of 1.6 is applied for all new staff. Standard operating and capital outlay costs are included. While the fiscal note assumes a July 1, 2023, start date, the DOC is experiencing a critical workforce shortage and these positions will likely take time to fill or remain unfilled. Health professional and nursing staff are paid at the midpoint. First-year costs are prorated for the General Fund pay date shift.

Restraint materials and training. The DOC requires soft restraint material for 19 facilities, with an estimated 120 units total. Each DOC facility will train two trainers per facility on the use of these types of restraints.

Laptops and software. The frequency of assessments requires cell-side laptops at each of the 19 DOC facilities.

Legal services. While the bill may require some minimal general counsel regarding the allowable use of clinical restraint or involuntary medication, as well as the review of facility policies, procedures, and documentation procedures, this can be accomplished within existing resources.

Employee insurance and supplemental retirement. Pursuant to fiscal note and Joint Budget Committee policy, centrally appropriated costs for bills involving more than 20 FTE are appropriated in the bill, rather than through the annual budget process. These costs, which include employee insurance and supplemental employee retirement payments for DOC are shown in Table 2.

Judicial Department

The trial courts will monitor the number of court-appointed counsel costs in involuntary medication cases and seek resources through the annual budget process as needed. For informational purposes, it is assumed that each case will require six hours to attend a minimum of two hearings, consult with the client, and travel, estimated at a cost of \$45,900 per case.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1 beginning in FY 2023-24, which will decrease the amount of General Fund available for other purposes.

Effective Date

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

State Appropriations

For FY 2023-23, the bill requires a General Fund appropriation of \$19,990,686 to the Department of Corrections, and 202.5 FTE.

State and Local Government Contacts

Corrections
Law

Information Technology
Public Defender

Judicial