AN ACT

RELATING TO CORRECTIONS; ENACTING THE RESTRICTED HOUSING ACT; PROVIDING RESTRICTIONS ON THE USE OF RESTRICTED HOUSING; REQUIRING REPORTING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--This act may be cited as the "Restricted Housing Act".

SECTION 2. DEFINITIONS.--As used in the Restricted Housing Act:

A. "correctional facility" means a jail, prison or other detention facility that is used for the confinement of adult or juvenile persons, whether operated by the state or a political subdivision of the state or a private contractor on behalf of the state or a political subdivision of the state;

B. "inmate" means an adult or juvenile person who is under sentence to or confined in a correctional facility;

C. "restricted housing", whether instituted pursuant to disciplinary, administrative, inmate classification or other action, means confinement of an inmate locked in a cell or similar living quarters in a correctional facility for twenty-two or more hours each day without daily, meaningful and sustained human interaction; and

D. "serious mental disability" means:

(2) the restriction on placement in restricted housing shall not apply during the first five consecutive days of the inmate's confinement in the correctional facility;

(3) if a warden, jail administrator or person in charge of a correctional facility finds that an inmate with a serious mental disability needs to be placed in restricted housing to prevent an imminent threat of physical harm to the inmate or another person, the inmate may be placed in restricted housing for no longer than forty-eight hours, and the warden, jail administrator or other person in charge of a correctional facility shall:

(a) make a written record of the facts and circumstances that necessitated the inmate's placement in restricted housing;

(b) prepare a written action plan describing how the facility will transition the inmate out of restricted housing at the earliest opportunity; and

(c) notify the facility's health services administrator in writing that the inmate was placed in restricted housing in accordance with this subsection; and

(4) if, after fulfilling the requirements of Paragraph (3) of this subsection, a warden, jail administrator or person in charge of a correctional facility finds that an inmate with a serious mental disability poses

an ongoing and realistic threat of physical harm to another person, the inmate may be placed in restricted housing for longer than forty-eight consecutive hours only if:

(a) other methods for ensuring the safety of the threatened person have been considered and determined insufficient, impractical or inappropriate;

(b) the inmate is placed in restricted housing for the shortest time period and under the least restrictive conditions practicable;

(c) the correctional facility provides regular access to medical and mental health care for the inmate; and

(d) the warden, administrator or person in charge of the correctional facility: 1) makes a written record of the facts and circumstances that necessitated the inmate's continued placement in restricted housing; 2) makes a written action plan describing how the correctional facility will transition the inmate out of restricted housing at the earliest opportunity, including a projected time line; and 3) notifies the correctional facility's health services administrator in writing that the inmate continues to be placed in restricted housing in accordance with this section.

B. For purposes of this section, "qualified health care professional" means a physician, licensed psychologist, prescribing psychologist, certified nurse practitioner,

clinical nurse specialist with a specialty in mental health or a physician assistant with a specialty in mental health.

SECTION 5. CORRECTIONAL FACILITIES--TRANSPARENCY AND REPORTING.--

A. Every three months, every correctional facility shall:

(1) produce a report that includes:

(a) the age, gender and ethnicity of every inmate who was placed in restricted housing during the previous three months, including every inmate who is in restricted housing at the time the report is produced;

(b) the reason restricted housing was instituted for each inmate listed in the report; and

(c) the dates on which each inmate was placed in and released from restricted housing during the previous three months; and

(2) submit a report prepared in accordance with this subsection to the:

(a) legislature, if the correctional facility is a prison; and

(b) board of county commissioners of the county in which the correctional facility is located, if the facility is a jail.

B. The corrections department shall post to its public website every report produced pursuant to Subsection A

of this section.

SECTION 6. PRIVATE CORRECTIONAL FACILITIES--ANTICORRUPTION AND REPORTING.--Every three months, every private correctional facility shall submit to the board of county commissioners of the county in which the private correctional facility is located and to the legislature a report of all monetary settlements that were paid to inmates, former inmates or inmates' estates as a result of lawsuits filed by the inmates, former inmates or inmates' estates against the private correctional facility or its employees related to the use of restricted confinement or any other reason.

SECTION 7. REPORTS FILED WITH LEGISLATIVE LIBRARY.--On the date that a report is submitted to a board of county commissioners pursuant to Section 5 or 6 of the Restricted Housing Act, a copy of the report shall be submitted electronically to the legislative council service library.

SECTION 8. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 3 and 5 through 7 of this act is July 1, 2019.

B. The effective date of the provisions of Section 4 of this act is July 1, 2020.