

An Act

HOUSE BILL 21-1211

BY REPRESENTATIVE(S) Amabile, Bacon, Caraveo, Hooton, Michaelson Jenet, Arndt, Benavidez, Bernett, Bird, Cutter, Daugherty, Duran, Exum, Gonzales-Gutierrez, Herod, Jackson, Jodeh, Kennedy, Kipp, Lontine, McCormick, Ricks, Sirota, Valdez A., Woodrow, Boesenecker, McCluskie, Weissman, Garnett;
also SENATOR(S) Lee, Buckner, Gonzales, Hansen, Jaquez Lewis, Kolker, Moreno, Pettersen, Rodriguez, Story, Winter, Zenzinger.

CONCERNING REGULATIONS FOR RESTRICTIVE HOUSING IN LOCAL JAILS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 3 to article 26 of title 17 as follows:

PART 3 RESTRICTIVE HOUSING IN JAILS

17-26-301. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS THAT:

(a) PLACING INDIVIDUALS WITH SERIOUS MENTAL ILLNESS IN

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

RESTRICTIVE HOUSING, ALSO KNOWN AS SOLITARY CONFINEMENT, WITHIN A LOCAL JAIL IS INAPPROPRIATE AND CAUSES FURTHER HARM TO THE INDIVIDUAL;

(b) ACCORDING TO THE NATIONAL COMMISSION ON CORRECTIONAL HEALTH CARE, PROLONGED SOLITARY CONFINEMENT IS CRUEL, INHUMANE, AND DEGRADING TREATMENT AND HARMFUL TO AN INDIVIDUAL'S HEALTH, AND JUVENILES, INDIVIDUALS WITH SERIOUS MENTAL ILLNESS, AND PREGNANT WOMEN SHOULD BE EXCLUDED FROM SOLITARY CONFINEMENT OF ANY DURATION;

(c) THE WORLD HEALTH ORGANIZATION, UNITED NATIONS, AND OTHER INTERNATIONAL BODIES HAVE RECOGNIZED THAT SOLITARY CONFINEMENT IS HARMFUL TO HEALTH;

(d) PSYCHOLOGICAL EFFECTS CAUSED BY PLACEMENT IN ISOLATION CAN INCLUDE SELF-HARM, SUICIDE, PARANOIA, PSYCHOSIS, COGNITIVE DISTURBANCES, PERCEPTUAL DISTORTIONS, OBSESSIVE THOUGHTS, ANXIETY, AND DEPRESSION;

(e) STUDIES HAVE SHOWN THAT THE PSYCHOLOGICAL STRESS CREATED FROM SOLITARY CONFINEMENT COMPARES TO THE DISTRESS OF PHYSICAL TORTURE. ACCORDING TO UNITED STATES DISTRICT JUDGE THELTON HENDERSON, PUTTING AN INDIVIDUAL WITH A SERIOUS MENTAL ILLNESS IN SOLITARY CONFINEMENT IS THE EQUIVALENT OF PUTTING A PERSON WITH ASTHMA IN A PLACE WITH LITTLE AIR.

(f) IN 2012, A TASK FORCE APPOINTED BY THE UNITED STATES ATTORNEY GENERAL CONCLUDED THAT NOWHERE IS THE DAMAGING IMPACT OF INCARCERATION ON VULNERABLE CHILDREN MORE OBVIOUS THAN WHEN IT INVOLVES SOLITARY CONFINEMENT. JUVENILES EXPERIENCE SYMPTOMS OF PARANOIA, ANXIETY, AND DEPRESSION EVEN AFTER VERY SHORT PERIODS OF ISOLATION.

(g) THE UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS STATE THAT SOLITARY CONFINEMENT SHOULD BE PROHIBITED IN CASES INVOLVING CHILDREN AND IN THE CASE OF ADULTS WITH MENTAL OR PHYSICAL DISABILITIES WHEN THEIR CONDITIONS WOULD BE EXACERBATED BY SUCH MEASURES; AND

(h) INTERNATIONAL STANDARDS ESTABLISHED BY THE UNITED NATIONS RULES FOR THE TREATMENT OF WOMEN PRISONERS AND NON-CUSTODIAL MEASURES FOR WOMEN OFFENDERS STATE THAT PREGNANT WOMEN SHOULD NEVER BE PLACED IN SOLITARY CONFINEMENT AS THEY ARE ESPECIALLY SUSCEPTIBLE TO ITS HARMFUL PSYCHOLOGICAL EFFECTS.

(2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT DUE TO THE SUBSTANTIAL NEGATIVE IMPACTS OF PLACING JUVENILES AND ADULTS WITH SPECIFIC HEALTH CONDITIONS IN RESTRICTIVE HOUSING, THE STATE MUST TAKE IMMEDIATE STEPS TO END AND PROHIBIT THE USE OF RESTRICTIVE HOUSING OF JUVENILES AND ADULTS WITH SPECIFIC HEALTH CONDITIONS IN COLORADO JAILS.

17-26-302. Definitions. AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "INTELLECTUAL OR DEVELOPMENTAL DISABILITY" MEANS A DISABILITY ATTRIBUTABLE TO AN INTELLECTUAL OR DEVELOPMENTAL CONDITION, AS DEFINED IN THE LATEST EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF THE AMERICAN PSYCHIATRIC ASSOCIATION, OR RELATED CONDITIONS CONSTITUTING A SEVERE OR PROFOUND DISABILITY.

(2) "LOCAL JAIL" MEANS A JAIL OR AN ADULT DETENTION CENTER OF A COUNTY OR CITY AND COUNTY WITH A CAPACITY OF MORE THAN FOUR HUNDRED BEDS.

(3) "MEDICAL PROFESSIONAL" MEANS A REGISTERED NURSE REGISTERED PURSUANT TO SECTION 12-255-111, A PHYSICIAN ASSISTANT LICENSED PURSUANT TO SECTION 12-240-113, OR A MEDICAL DOCTOR OR DOCTOR OF OSTEOPATHY LICENSED PURSUANT TO ARTICLE 240 OF TITLE 12.

(4) "MENTAL HEALTH PROFESSIONAL" MEANS A MENTAL HEALTH PROFESSIONAL LICENSED OR CERTIFIED PURSUANT TO ARTICLE 245 OF TITLE 12, EXCEPT IT DOES NOT INCLUDE UNLICENSED PSYCHOTHERAPISTS PURSUANT TO ARTICLE 245 OF TITLE 12; AN ADVANCED PRACTICE REGISTERED NURSE REGISTERED PURSUANT TO SECTION 12-255-111 WITH TRAINING IN SUBSTANCE USE DISORDERS OR MENTAL HEALTH; OR A PHYSICIAN ASSISTANT LICENSED PURSUANT TO SECTION 12-240-113 WITH SPECIFIC TRAINING IN SUBSTANCE USE DISORDERS OR MENTAL HEALTH.

(5) "POSTPARTUM PERIOD" MEANS ONE YEAR AFTER A PREGNANCY HAS ENDED.

(6) "RESTRICTIVE HOUSING" MEANS THE STATE OF BEING INVOLUNTARILY CONFINED IN ONE'S CELL FOR APPROXIMATELY TWENTY-TWO HOURS PER DAY OR MORE WITH VERY LIMITED OUT-OF-CELL TIME, MOVEMENT, OR MEANINGFUL HUMAN INTERACTION WHETHER PURSUANT TO DISCIPLINARY, ADMINISTRATIVE, OR CLASSIFICATION ACTION.

(7) "SERIOUS MENTAL ILLNESS" MEANS ONE OR MORE SUBSTANTIAL DISORDERS OF THE COGNITIVE, VOLITIONAL, OR EMOTIONAL PROCESSES THAT GROSSLY IMPAIR JUDGMENT OR CAPACITY TO RECOGNIZE REALITY OR TO CONTROL BEHAVIOR AND THAT SUBSTANTIALLY INTERFERE WITH THE PERSON'S ABILITY TO MEET THE ORDINARY DEMANDS OF LIVING. THESE CAN INCLUDE, BUT ARE NOT LIMITED TO, A PSYCHOTIC DISORDER, BIPOLAR DISORDER, OR MAJOR DEPRESSIVE DISORDER OR ANY DIAGNOSED MENTAL DISORDER, EXCEPT FOR SUBSTANCE USE DISORDERS, CURRENTLY ASSOCIATED WITH SERIOUS IMPAIRMENT OF PSYCHOLOGICAL, COGNITIVE, OR BEHAVIORAL FUNCTIONING.

17-26-303. Placement in restrictive housing in a local jail. (1) A LOCAL JAIL SHALL NOT INVOLUNTARILY PLACE AN INDIVIDUAL IN RESTRICTIVE HOUSING, INCLUDING FOR DISCIPLINARY REASONS, IF THE INDIVIDUAL MEETS ANY ONE OF THE FOLLOWING CONDITIONS:

(a) THE INDIVIDUAL IS DIAGNOSED WITH A SERIOUS MENTAL ILLNESS OR IS EXHIBITING GROSSLY ABNORMAL OR IRRATIONAL BEHAVIORS OR BREAKS WITH REALITY OR PERCEPTIONS OF REALITY INDICATING THE PRESENCE OF A SERIOUS MENTAL ILLNESS;

(b) THE INDIVIDUAL HAS SELF-REPORTED A SERIOUS MENTAL ILLNESS, SUICIDALITY, OR IS EXHIBITING SELF-HARM, UNLESS A LICENSED MENTAL HEALTH PROFESSIONAL OR PSYCHIATRIST EVALUATES THE INDIVIDUAL AND FINDS SERIOUS MENTAL ILLNESS IS NOT PRESENT;

(c) THE INDIVIDUAL HAS A SIGNIFICANT AUDITORY OR VISUAL IMPAIRMENT THAT CANNOT OTHERWISE BE ACCOMMODATED;

(d) THE INDIVIDUAL IS PREGNANT OR IN THE POSTPARTUM PERIOD;

(e) THE INDIVIDUAL IS SIGNIFICANTLY NEUROCOGNITIVELY IMPAIRED BY A CONDITION SUCH AS DEMENTIA OR A TRAUMATIC BRAIN INJURY;

(f) THE INDIVIDUAL IS UNDER EIGHTEEN YEARS OF AGE; OR

(g) THE INDIVIDUAL HAS AN INTELLECTUAL OR DEVELOPMENTAL DISABILITY.

(2) (a) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, AN INDIVIDUAL WHO MEETS ONE OF THE CONDITIONS DESCRIBED IN SUBSECTION (1) OF THIS SECTION MAY BE PLACED IN RESTRICTIVE HOUSING ONLY IF:

(I) ANY INDICATION OF PSYCHOLOGICAL DISTRESS IS PRESENT AND:

(A) THE LOCAL JAIL OFFERED TO TRANSFER THE INDIVIDUAL TO A LOCAL HEALTH-CARE FACILITY FOR TREATMENT, THE INDIVIDUAL AGREED TO THE TRANSFER, THE LOCAL JAIL TRANSFERRED THE INDIVIDUAL TO THE HEALTH-CARE FACILITY, AND THE HEALTH-CARE FACILITY SUBSEQUENTLY DISCHARGED THE INDIVIDUAL;

(B) THE LOCAL JAIL OFFERED TO TRANSFER THE INDIVIDUAL TO A LOCAL HEALTH-CARE FACILITY FOR TREATMENT, THE INDIVIDUAL REFUSED, AND THE JAIL COMMUNICATED WITH A LOCAL HOSPITAL OR OTHER TWENTY-FOUR-HOUR MENTAL HEALTH CRISIS FACILITY TO DETERMINE IF THE FACILITY WOULD ACCEPT THE INDIVIDUAL FOR EVALUATION AND MENTAL HEALTH TREATMENT, THE HEALTH-CARE FACILITY OR MENTAL HEALTH CRISIS FACILITY INDICATED IT WOULD ACCEPT THE INDIVIDUAL FOR MENTAL HEALTH EVALUATION AND TREATMENT, THE JAIL TRANSPORTED THE INDIVIDUAL TO THE FACILITY, AND THE FACILITY SUBSEQUENTLY DISCHARGED THE INDIVIDUAL; OR

(C) THE LOCAL JAIL OFFERED TO TRANSFER THE INDIVIDUAL TO A LOCAL HEALTH-CARE FACILITY FOR TREATMENT, THE INDIVIDUAL REFUSED, AND THE JAIL COMMUNICATED WITH A LOCAL HOSPITAL OR OTHER TWENTY-FOUR-HOUR MENTAL HEALTH CRISIS FACILITY TO DETERMINE IF THE FACILITY WOULD ACCEPT THE INDIVIDUAL FOR EVALUATION AND MENTAL HEALTH TREATMENT, AND THE HEALTH-CARE FACILITY OR MENTAL HEALTH CRISIS FACILITY REFUSED TO ACCEPT THE INDIVIDUAL FOR MENTAL HEALTH EVALUATION AND TREATMENT; AND

(II) THE INDIVIDUAL POSES AN IMMINENT DANGER TO THEMSELVES OR OTHERS OR REMAINS AN IMMINENT DANGER TO THEMSELVES OR OTHERS AFTER BEING DISCHARGED FROM A HEALTH-CARE FACILITY, LOCAL HOSPITAL, OR OTHER TWENTY-FOUR-HOUR MENTAL HEALTH CRISIS FACILITY AND RETURNS TO THE LOCAL JAIL; AND

(III) NO OTHER LESS RESTRICTIVE OPTION IS AVAILABLE AND THE INDIVIDUAL IS NOT RESPONDING TO ONGOING DE-ESCALATION TECHNIQUES.

(b) WHEN AN INDIVIDUAL IS PLACED IN RESTRICTIVE HOUSING PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION, THE LOCAL JAIL SHALL DOCUMENT THE FACTS AND CIRCUMSTANCES, INCLUDING OBSERVATIONS AND FINDINGS OF ALL MEDICAL AND MENTAL HEALTH PROFESSIONALS AND LOCAL JAIL STAFF THAT LEAD TO PLACING THE INDIVIDUAL INTO RESTRICTIVE HOUSING, WHEN THE LOCAL JAIL STAFF'S OBSERVATIONS OCCURRED, ANY EFFORTS TO AVOID PLACEMENT OF THE INDIVIDUAL INTO RESTRICTIVE HOUSING, AND A DESCRIPTION OF ALL ALTERNATIVES AND INTERVENTIONS THAT WERE ATTEMPTED TO AVOID RESTRICTIVE HOUSING. THE LOCAL JAIL SHALL ALSO INCLUDE IN THE DOCUMENTATION ANY INJURIES EXPERIENCED BY THE INDIVIDUAL AND THE LOCAL JAIL STAFF OR OTHER MEDICAL ISSUES EXHIBITED BY THE INDIVIDUAL IN THE PROCESS OF PLACING THE INDIVIDUAL IN RESTRICTIVE HOUSING. IN CIRCUMSTANCES IN WHICH THE LOCAL JAIL WAS UNABLE TO EMPLOY LESS RESTRICTIVE ALTERNATIVES, THE LOCAL JAIL SHALL DESCRIBE THE DANGEROUS, EMERGENT BEHAVIOR THAT PRECLUDED USE OF LESS RESTRICTIVE ALTERNATIVES.

(c) THE LOCAL JAIL SHALL NOTIFY ITS MEDICAL OR MENTAL HEALTH PROFESSIONALS IN WRITING WHEN AN INDIVIDUAL IS INVOLUNTARILY PLACED IN RESTRICTIVE HOUSING WITHIN TWELVE HOURS OF THE PLACEMENT.

(d) THE LOCAL JAIL SHALL NOTIFY THE INDIVIDUAL'S APPOINTED OR RETAINED LEGAL REPRESENTATIVE, DESIGNATED EMERGENCY CONTACT, OR LEGAL GUARDIAN WITHIN TWELVE HOURS OF THE INDIVIDUAL'S INVOLUNTARY PLACEMENT AND REMOVAL IN RESTRICTIVE HOUSING.

(e) AT LEAST TWICE PER HOUR, A MEDICAL OR MENTAL HEALTH PROFESSIONAL OR LOCAL JAIL STAFF SHALL CHECK, FACE-TO-FACE OR THROUGH A WINDOW, ON AN INDIVIDUAL INVOLUNTARILY PLACED IN RESTRICTIVE HOUSING PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION.

IF THE INDIVIDUAL IS VIOLENT, DEMONSTRATING UNUSUAL OR BIZARRE BEHAVIOR, OR HAS INDICATED SUICIDALITY OR SELF-HARM, THE LOCAL JAIL STAFF SHALL MONITOR THE INDIVIDUAL EVERY FIFTEEN MINUTES OR MORE FREQUENTLY, UNLESS A MEDICAL OR MENTAL HEALTH PROFESSIONAL RECOMMENDS MORE FREQUENT OR LESS FREQUENT CHECKS. AT EACH CHECK FOR THESE INDIVIDUALS, THE MEDICAL OR MENTAL HEALTH PROFESSIONAL OR LOCAL JAIL STAFF SHALL DOCUMENT A GENERAL DESCRIPTION OF THE BEHAVIORS OBSERVED.

(f) EVERY TWENTY-FOUR HOURS, A MEDICAL OR MENTAL HEALTH PROFESSIONAL SHALL ASSESS, FACE-TO-FACE, THE INDIVIDUAL PLACED IN RESTRICTIVE HOUSING FOR ANY PSYCHIATRIC OR MEDICAL CONTRAINDICATIONS TO THE PLACEMENT. IF THE MEDICAL OR MENTAL HEALTH PROFESSIONAL OBSERVES ANY CONTRAINDICATIONS, THE PROFESSIONAL SHALL EITHER REFER THE INDIVIDUAL IMMEDIATELY TO A MENTAL HEALTH PROFESSIONAL OR REFER THE INDIVIDUAL FOR EMERGENCY MEDICAL CARE. THE MEDICAL OR MENTAL HEALTH PROFESSIONAL SHALL DOCUMENT EACH ASSESSMENT, INCLUDING THE INDIVIDUAL'S HEALTH STATUS AND BEHAVIOR.

(g) AT LEAST EVERY FORTY-EIGHT HOURS AND MORE FREQUENTLY, IF POSSIBLE, A MENTAL HEALTH PROFESSIONAL SHALL ASSESS THE INDIVIDUAL FACE-TO-FACE FOR THE NEED FOR ONGOING PLACEMENT IN RESTRICTIVE HOUSING AND DOCUMENT THE NEED FOR ONGOING PLACEMENT OR SHALL DOCUMENT AN OPINION THAT RESTRICTIVE HOUSING IS NO LONGER REQUIRED.

(h) FOR ANY INDIVIDUAL WHO MEETS ONE OF THE CONDITIONS DESCRIBED IN SUBSECTION (1) OF THIS SECTION WHO IS PLACED IN RESTRICTIVE HOUSING, IMMEDIATELY AFTER PLACEMENT AND THROUGHOUT THE INDIVIDUAL'S STAY IN RESTRICTIVE HOUSING, THE LOCAL JAIL SHALL 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. THE LOCAL JAIL MUST PROVIDE THIS INFORMATION TO THE INDIVIDUAL'S LEGAL REPRESENTATION AND, IF THE INDIVIDUAL GIVES PERMISSION, TO A FAMILY MEMBER OR OTHER DESIGNATED PERSON.

(i) (I) WHEN AN INDIVIDUAL IS PLACED IN RESTRICTIVE HOUSING PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION, THE LOCAL JAIL SHALL NOT HOLD THE INDIVIDUAL IN RESTRICTIVE HOUSING FOR MORE THAN FIFTEEN DAYS IN A THIRTY-DAY TIME PERIOD WITHOUT A WRITTEN COURT ORDER.

(II) IF A LOCAL JAIL WANTS TO HOLD AN INDIVIDUAL PLACED IN RESTRICTIVE HOUSING PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION FOR MORE THAN FIFTEEN DAYS IN A THIRTY-DAY PERIOD, THE LOCAL JAIL MUST OBTAIN A WRITTEN COURT ORDER. A COURT SHALL GRANT THE COURT ORDER IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

(A) THE INDIVIDUAL POSES AN IMMINENT DANGER TO HIMSELF OR HERSELF OR OTHERS;

(B) NO ALTERNATIVE LESS-RESTRICTIVE PLACEMENT IS AVAILABLE;

(C) THE JAIL HAS EXHAUSTED ALL OTHER PLACEMENT ALTERNATIVES; AND

(D) NO OTHER OPTIONS EXIST, INCLUDING RELEASE FROM CUSTODY.

(III) A JAIL MAY HOLD AN INMATE IN RESTRICTIVE HOUSING THAT MEETS THE CRITERIA OUTLINED IN THIS SUBSECTION (2) FOR AN ADDITIONAL SEVEN DAYS IF THE LOCAL JAIL FILES A MOTION FOR COURT ORDER IN A TIMELY MANNER PRIOR TO THE EXPIRATION OF THE FIFTEEN-DAY RESTRICTIVE HOUSING PLACEMENT AND THE COURT'S DECISION IS STILL PENDING.

(j) THE LOCAL JAIL SHALL SUPPLY THE INDIVIDUAL WITH BASIC HYGIENE NECESSITIES, INCLUDING SHAVING AND SHOWERING AT LEAST THREE TIMES PER WEEK; EXCHANGES OF CLOTHING, BEDDING, AND LINEN ON THE SAME BASIS AS OTHER INDIVIDUALS IN THE GENERAL JAIL POPULATION; ACCESS TO WRITING LETTERS OR RECEIVING LETTERS; OPPORTUNITIES FOR VISITATION; ACCESS TO LEGAL MATERIALS; ACCESS TO READING MATERIALS; A MINIMUM OF ONE HOUR OF EXERCISE FIVE DAYS A WEEK OUTSIDE OF THE CELL; ACCESS TO OUTDOOR EXERCISE AT LEAST ONE HOUR PER WEEK, WEATHER PERMITTING; TELEPHONE PRIVILEGES TO ACCESS THE JUDICIAL PROCESS AND TO BE INFORMED OF FAMILY EMERGENCIES AS DETERMINED BY THE LOCAL JAIL; AND ACCESS TO PROGRAMS AND SERVICES THAT INCLUDE,

BUT ARE NOT LIMITED TO, EDUCATIONAL, RELIGIOUS, AND RECREATIONAL PROGRAMS AND MEDICAL, DENTAL, AND BEHAVIORAL HEALTH SERVICES AND MEDICATIONS, UNLESS PROVIDING THE ITEM, PROGRAM, OR SERVICE WOULD ENDANGER THE SAFETY OF THE INDIVIDUAL, OTHER INMATES OR STAFF, OR THE SECURITY OF THE LOCAL JAIL. IF THE LOCAL JAIL DOES NOT MAKE ANY OF THESE ALLOWANCES, THE LOCAL JAIL SHALL DAILY DOCUMENT THE DENIAL OF EACH ITEM, PROGRAM, OR SERVICE WITH A REASON FOR THE DENIAL.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A LOCAL JAIL MAY PLACE AN INDIVIDUAL ALONE IN A ROOM OR AREA FROM WHICH EGRESS IS PREVENTED IF THE CONFINEMENT IS PART OF A ROUTINE PRACTICE THAT IS APPLICABLE TO SUBSTANTIAL PORTIONS OF THE JAIL POPULATION. THE CONFINEMENT MUST BE IMPOSED ONLY FOR THE COMPLETION OF ADMINISTRATIVE OR SECURITY TASKS AND SHOULD LAST NO LONGER THAN NECESSARY TO ACHIEVE THE TASK SAFELY AND EFFECTIVELY. THE LOCAL JAIL SHALL DOCUMENT WHEN THE SITUATION OCCURS AND FOR HOW LONG.

(4) A MEDICAL OR MENTAL HEALTH PROFESSIONAL SHALL ASSESS ANY INDIVIDUAL PLACED IN RESTRICTIVE HOUSING WITHIN TWENTY-FOUR HOURS OF PLACEMENT. THE PROFESSIONAL SHALL ASSESS FOR ANY PSYCHIATRIC OR MEDICAL CONTRAINDICATIONS TO THE PLACEMENT. THE LOCAL JAIL SHALL DOCUMENT FINDINGS AND OBSERVED BEHAVIORS OF THE INDIVIDUAL.

(5) THE LOCAL JAIL SHALL DOCUMENT THE TIME SPENT OUT OF CELL ON A DAILY BASIS. THE DOCUMENTATION MUST INCLUDE ALL MEANINGFUL HUMAN CONTACT THE INDIVIDUAL RECEIVED WHILE OUT OF CELL AND ANY MENTAL OR MEDICAL SERVICES RECEIVED.

(6) IF AN INDIVIDUAL WILLINGLY AND VOLUNTARILY DOES NOT WISH TO LEAVE HIS OR HER CELL, THE JAIL IS NOT REQUIRED TO FORCEFULLY REMOVE AN INDIVIDUAL FROM HIS OR HER CELL IN ORDER TO COMPLY WITH THIS SECTION. JAIL STAFF SHALL MAKE A REASONABLE ATTEMPT TO PERSUADE AND ALLOW THE INDIVIDUAL TO LEAVE HIS OR HER CELL VOLUNTARILY AND SHALL DOCUMENT THESE ATTEMPTS WHEN THE INDIVIDUAL REFUSES TO LEAVE HIS OR HER CELL.

(7) EACH LOCAL JAIL SHALL PRODUCE WRITTEN POLICIES AND

PROCEDURES IN ACCORDANCE WITH THIS PART 3 AND PART 1 OF THIS ARTICLE 26 AND SHALL POST THE POLICIES AND PROCEDURES ON THE LOCAL JAIL'S WEBSITE.

17-26-304. Screening in jails. (1) A LOCAL JAIL SHALL USE AN ADEQUATE SCREENING TOOL TO COMPLETE A HEALTH SCREENING OF EACH INDIVIDUAL UPON ARRIVAL AT THE FACILITY BY HEALTH-TRAINED OR QUALIFIED HEALTH-CARE PERSONNEL AS PART OF THE ADMISSION PROCEDURES. IF A LOCAL JAIL IS UNABLE TO PERFORM A HEALTH SCREENING ON AN INDIVIDUAL DUE TO INTOXICATION OR ANOTHER REASON THAT MAKES THE PERSON TEMPORARILY INCAPACITATED, THE JAIL SHALL DOCUMENT THE REASON FOR THE DELAY IN THE HEALTH SCREENING AND SHALL COMPLETE THE HEALTH SCREENING NO LATER THAN TWENTY-FOUR HOURS AFTER AN INDIVIDUAL'S ARRIVAL AT THE FACILITY. A LOCAL JAIL IS NOT REQUIRED TO COMPLETE A HEALTH SCREENING IF PROHIBITED BY A COURT ORDER. THE SCREENING INCLUDES AT LEAST THE FOLLOWING:

(a) INQUIRY INTO:

(I) CURRENT AND PAST ILLNESSES, HEALTH CONDITIONS, OR SPECIAL HEALTH REQUIREMENTS;

(II) HISTORY OF SUICIDAL IDEATION OR SELF-INJURIOUS BEHAVIOR ATTEMPTS; PAST OR CURRENT SERIOUS MENTAL ILLNESS, INCLUDING HOSPITALIZATIONS; AND HISTORY OF SPECIAL EDUCATION;

(III) ALL LEGAL AND ILLEGAL DRUG USE, INCLUDING ANY CURRENT WITHDRAWAL SYMPTOMS;

(IV) CURRENT OR RECENT PREGNANCY;

(V) SERIOUS NEUROCOGNITIVE ISSUES SUCH AS PAST TRAUMATIC BRAIN INJURIES OR DEMENTIA; AND

(VI) PRESENT OR PAST PRESCRIBED MEDICATIONS; AND

(b) OBSERVATION OF:

(I) GENERAL APPEARANCE AND BEHAVIOR, INCLUDING STATE OF CONSCIOUSNESS, MENTAL STATUS, APPEARANCE, AND CONDUCT;

(II) PHYSICAL CONDITION, INCLUDING EASE OF MOVEMENT;

(III) EVIDENCE OF ABUSE OR TRAUMA AND THE CONDITION OF THE INDIVIDUAL'S SKIN, INCLUDING BRUISES AND LESIONS; AND

(IV) BEHAVIOR, TREMORS, AND SWEATING.

(2) AN INDIVIDUAL MUST NOT BE PLACED IN RESTRICTIVE HOUSING UNTIL THE HEALTH SCREENING REQUIRED BY SUBSECTION (1) OF THIS SECTION IS COMPLETE AND HAS BEEN DOCUMENTED.

(3) IF LOCAL JAIL PERSONNEL WHO ARE HEALTH-TRAINED PERFORM THE SCREENING, THE PERSONNEL SHALL CALL A MEDICAL OR MENTAL HEALTH PROFESSIONAL IF INDICATIONS OF A POSITIVE SCREEN ARE IDENTIFIED DURING THE SCREENING.

SECTION 2. In Colorado Revised Statutes, 17-26-118, **add** (5) as follows:

17-26-118. Criminal justice data collection - definitions - repeal.

(5) ON OR BEFORE JANUARY 1, 2022, AND ON OR BEFORE THE THIRD FRIDAY OF EACH JANUARY, APRIL, JULY, AND OCTOBER THEREAFTER, THE KEEPER OF EACH LOCAL JAIL SHALL SUBMIT A QUARTERLY REPORT OF THE DATA SPECIFIED IN THIS SUBSECTION (5) TO THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY THROUGH AN ELECTRONIC FORM DESIGNED BY THE DIVISION. EACH QUARTERLY REPORT MUST INCLUDE:

(a) FOR EACH INDIVIDUAL PLACED IN RESTRICTIVE HOUSING AS DEFINED IN SECTION 17-26-302 (4), ANONYMIZED DATA BY MONTH THAT INCLUDES:

(I) THE INDIVIDUAL'S SELF-IDENTIFIED RACE OR ETHNICITY, GENDER, AND AGE;

(II) WHETHER THE INDIVIDUAL HAS ONE OF THE CONDITIONS IDENTIFIED IN SECTION 17-26-303 (1) AND THE SPECIFIC CONDITION;

(III) THE PLACEMENT CLASSIFICATION OF THE INDIVIDUAL BEFORE BEING PLACED IN RESTRICTIVE HOUSING;

(IV) THE LENGTH OF TIME THE INDIVIDUAL WAS IN RESTRICTIVE HOUSING;

(V) IF THE INDIVIDUAL WAS PLACED IN RESTRICTIVE HOUSING FOR A DISCIPLINARY REASON;

(VI) WHETHER THE INDIVIDUAL SUFFERED INJURY OR DEATH WHILE PLACED IN RESTRICTIVE HOUSING AND THE MANNER AND CAUSE OF THE INJURY OR DEATH;

(VII) WHETHER THE INDIVIDUAL WAS CHARGED WITH A NEW CRIMINAL OFFENSE WHILE IN RESTRICTIVE HOUSING AND, IF SO, THE OFFENSE; AND

(VIII) HOW MANY TIMES THE LOCAL JAIL SOUGHT A WRITTEN ORDER TO HOLD SOMEONE BEYOND FIFTEEN DAYS IN RESTRICTIVE HOUSING AND THE OUTCOME;

(b) HOW MANY INDIVIDUALS IN THE LOCAL JAIL POPULATION HAVE:

(I) AN IDENTIFIED MENTAL ILLNESS;

(II) AN IDENTIFIED SUBSTANCE USE DISORDER;

(III) BOTH AN IDENTIFIED MENTAL ILLNESS AND SUBSTANCE USE DISORDER;

(IV) IDENTIFIED NEUROCOGNITIVE ISSUES SUCH AS DEMENTIA OR TRAUMATIC BRAIN INJURY; AND

(V) ENGAGED IN SELF-HARMING BEHAVIOR WHILE IN THE LOCAL JAIL.

SECTION 3. In Colorado Revised Statutes, 27-60-106, **add** (6) as follows:

27-60-106. Jail-based behavioral health services program - purpose - created - funding. (6) SUBJECT TO AVAILABLE APPROPRIATIONS, NOTHING IN THIS SECTION PROHIBITS PROGRAM FUNDS FROM BEING USED TO MEET THE REQUIREMENTS OUTLINED IN SECTIONS 17-26-303 AND 17-26-304 FOR LOCAL JAILS, AS DEFINED IN SECTION 17-26-302 (2), BY PROVIDING

ADDITIONAL STAFFING, TRAINING, ROBUST BEHAVIORAL HEALTH SERVICES AND SUPPORTS, OR FACILITY CHANGES. ANY FACILITY CHANGES MUST BE APPROVED BY THE OFFICE OF BEHAVIORAL HEALTH BEFORE FUNDS MAY BE EXPENDED.

SECTION 4. Effective date. This act takes effect upon passage; except that section 1 of this act takes effect on July 1, 2022, and section 2 of this act takes effect on January 1, 2022.

SECTION 5. Safety clause. The general assembly hereby finds,

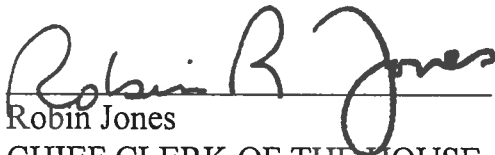
determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.




Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Leroy M. Garcia
PRESIDENT OF
THE SENATE



Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED June 24, 2021 at 11:45 am
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO