

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 21-0349.02 Michael Dohr x4347

HOUSE BILL 21-1211

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House Committees
Judiciary

Senate Committees
Judiciary

SENATE
Amended 3rd Reading
May 13, 2021

A BILL FOR AN ACT

101 **CONCERNING REGULATIONS FOR RESTRICTIVE HOUSING IN LOCAL**
102 **JAILS.**

SENATE
Amended 2nd Reading
May 12, 2021

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

HOUSE
3rd Reading Unamended
April 12, 2021

Beginning July 1, 2022, the bill prohibits a local jail with a bed capacity of over 400 beds from involuntarily placing an individual in restrictive housing if the individual meets any one of the following conditions:

- The individual is diagnosed with a serious mental health disorder or is exhibiting self-harm, grossly abnormal and

HOUSE
Amended 2nd Reading
April 9, 2021

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

irrational behaviors, or breaks with reality or perceptions of reality indicating the presence of a serious mental health disorder;

- The individual has self-reported a serious mental health disorder;
- The individual has a significant auditory or visual impairment that cannot otherwise be accommodated;
- The individual is pregnant or in the postpartum period;
- The individual is significantly neurocognitively impaired by a condition such as dementia or a traumatic brain injury;
- The individual is under 18 years of age; or
- The individual has an intellectual or developmental disability.

Beginning July 1, 2021, the bill requires each local jail to keep and maintain a record of certain data regarding each individual placed in restrictive housing and certain data regarding each individual with a mental health condition or substance use condition and those transferred for a mental health hold.

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

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

4 **PART 3**

5 **RESTRICTIVE HOUSING IN JAILS**

6 **17-26-301. Legislative declaration.** (1) **THE GENERAL ASSEMBLY**
7 **FINDS THAT:**

8 (a) **PLACING INDIVIDUALS WITH SERIOUS MENTAL ILLNESS IN**
9 **RESTRICTIVE HOUSING, ALSO KNOWN AS SOLITARY CONFINEMENT, WITHIN**
10 **A LOCAL JAIL IS INAPPROPRIATE AND CAUSES FURTHER HARM TO THE**
11 **INDIVIDUAL;**

12 (b) **ACCORDING TO THE NATIONAL COMMISSION ON**
13 **CORRECTIONAL HEALTH CARE, PROLONGED SOLITARY CONFINEMENT IS**
14 **CRUEL, INHUMANE, AND DEGRADING TREATMENT AND HARMFUL TO AN**
15 **INDIVIDUAL'S HEALTH, AND JUVENILES, INDIVIDUALS WITH SERIOUS**

1 MENTAL ILLNESS, AND PREGNANT WOMEN SHOULD BE EXCLUDED FROM
2 SOLITARY CONFINEMENT OF ANY DURATION;

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

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

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

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

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

27 (h) INTERNATIONAL STANDARDS ESTABLISHED BY THE UNITED

1 NATIONS RULES FOR THE TREATMENT OF WOMEN PRISONERS AND
2 NON-CUSTODIAL MEASURES FOR WOMEN OFFENDERS STATE THAT
3 PREGNANT WOMEN SHOULD NEVER BE PLACED IN SOLITARY CONFINEMENT
4 AS THEY ARE ESPECIALLY SUSCEPTIBLE TO ITS HARMFUL PSYCHOLOGICAL
5 EFFECTS.

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

12 **17-26-302. Definitions.** AS USED IN THIS PART 3, UNLESS THE
13 CONTEXT OTHERWISE REQUIRES:

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

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

22 (3) "MEDICAL PROFESSIONAL" MEANS A REGISTERED NURSE
23 REGISTERED PURSUANT TO SECTION 12-255-111, A PHYSICIAN ASSISTANT
24 LICENSED PURSUANT TO SECTION 12-240-113, OR A MEDICAL DOCTOR OR
25 DOCTOR OF OSTEOPATHY LICENSED PURSUANT TO ARTICLE 240 OF TITLE
26 12.

27 (4) "MENTAL HEALTH PROFESSIONAL" MEANS A MENTAL HEALTH

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

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

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

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

26 **17-26-303. Placement in restrictive housing in a local jail.**

27 (1) A LOCAL JAIL SHALL NOT INVOLUNTARILY PLACE AN INDIVIDUAL IN

1 RESTRICTIVE HOUSING, INCLUDING FOR DISCIPLINARY REASONS, IF THE
2 INDIVIDUAL MEETS ANY ONE OF THE FOLLOWING CONDITIONS:

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

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

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

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

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

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

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

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

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

25 (A) THE LOCAL JAIL OFFERED TO TRANSFER THE INDIVIDUAL TO A
26 LOCAL HEALTH-CARE FACILITY FOR TREATMENT, THE INDIVIDUAL AGREED
27 TO THE TRANSFER, THE LOCAL JAIL TRANSFERRED THE INDIVIDUAL TO THE

1 HEALTH-CARE FACILITY, AND THE HEALTH-CARE FACILITY SUBSEQUENTLY
2 DISCHARGED THE INDIVIDUAL;

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

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

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

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

1 TECHNIQUES.

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

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

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

1 (e) AT LEAST TWICE PER HOUR, A MEDICAL OR MENTAL HEALTH
2 PROFESSIONAL OR LOCAL JAIL STAFF SHALL CHECK, FACE-TO-FACE OR
3 THROUGH A WINDOW, ON AN INDIVIDUAL INVOLUNTARILY PLACED IN
4 RESTRICTIVE HOUSING PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION.
5 IF THE INDIVIDUAL IS VIOLENT, DEMONSTRATING UNUSUAL OR BIZARRE
6 BEHAVIOR, OR HAS INDICATED SUICIDALITY OR SELF-HARM, THE LOCAL
7 JAIL STAFF SHALL MONITOR THE INDIVIDUAL EVERY FIFTEEN MINUTES OR
8 MORE FREQUENTLY, UNLESS A MEDICAL OR MENTAL HEALTH
9 PROFESSIONAL RECOMMENDS MORE FREQUENT OR LESS FREQUENT
10 CHECKS. AT EACH CHECK FOR THESE INDIVIDUALS, THE MEDICAL OR
11 MENTAL HEALTH PROFESSIONAL OR LOCAL JAIL STAFF SHALL DOCUMENT
12 A GENERAL DESCRIPTION OF THE BEHAVIORS OBSERVED.

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

23 (g) AT LEAST EVERY FORTY-EIGHT HOURS AND MORE FREQUENTLY,
24 IF POSSIBLE, A MENTAL HEALTH PROFESSIONAL SHALL ASSESS THE
25 INDIVIDUAL FACE-TO-FACE FOR THE NEED FOR ONGOING PLACEMENT IN
26 RESTRICTIVE HOUSING AND DOCUMENT THE NEED FOR ONGOING
27 PLACEMENT OR SHALL DOCUMENT AN OPINION THAT RESTRICTIVE

1 HOUSING IS NO LONGER REQUIRED.

2 (h) FOR ANY INDIVIDUAL WHO MEETS ONE OF THE CONDITIONS
3 DESCRIBED IN SUBSECTION (1) OF THIS SECTION WHO IS PLACED IN
4 RESTRICTIVE HOUSING, IMMEDIATELY AFTER PLACEMENT AND
5 THROUGHOUT THE INDIVIDUAL'S STAY IN RESTRICTIVE HOUSING, THE
6 LOCAL JAIL SHALL PROVIDE THE INDIVIDUAL A CLEAR EXPLANATION OF
7 THE REASON THE INDIVIDUAL HAS BEEN PLACED IN RESTRICTIVE HOUSING,
8 THE MONITORING PROCEDURES THAT THE LOCAL JAIL WILL EMPLOY TO
9 CHECK THE INDIVIDUAL, THE DATE AND THE TIME, WHEN THE INDIVIDUAL'S
10 NEXT COURT DATE IS, AND THE BEHAVIORAL CRITERIA THE INDIVIDUAL
11 MUST DEMONSTRATE TO BE RELEASED FROM RESTRICTIVE HOUSING. THE
12 LOCAL JAIL MUST PROVIDE THIS INFORMATION TO THE INDIVIDUAL'S LEGAL
13 REPRESENTATION AND, IF THE INDIVIDUAL GIVES PERMISSION, TO A FAMILY
14 MEMBER OR OTHER DESIGNATED PERSON.

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

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

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

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

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

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

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

13 (i) THE LOCAL JAIL SHALL SUPPLY THE INDIVIDUAL WITH BASIC
14 HYGIENE NECESSITIES, INCLUDING SHAVING AND SHOWERING AT LEAST
15 THREE TIMES PER WEEK; EXCHANGES OF CLOTHING, BEDDING, AND LINEN
16 ON THE SAME BASIS AS OTHER INDIVIDUALS IN THE GENERAL JAIL
17 POPULATION; ACCESS TO WRITING LETTERS OR RECEIVING LETTERS;
18 OPPORTUNITIES FOR VISITATION; ACCESS TO LEGAL MATERIALS; ACCESS TO
19 READING MATERIALS; A MINIMUM OF ONE HOUR OF EXERCISE FIVE DAYS
20 A WEEK OUTSIDE OF THE CELL; ACCESS TO OUTDOOR EXERCISE AT LEAST
21 ONE HOUR PER WEEK, WEATHER PERMITTING; TELEPHONE PRIVILEGES TO
22 ACCESS THE JUDICIAL PROCESS AND TO BE INFORMED OF FAMILY
23 EMERGENCIES AS DETERMINED BY THE LOCAL JAIL; AND ACCESS TO
24 PROGRAMS AND SERVICES THAT INCLUDE, BUT ARE NOT LIMITED TO,
25 EDUCATIONAL, RELIGIOUS, AND RECREATIONAL PROGRAMS AND MEDICAL,
26 DENTAL, AND BEHAVIORAL HEALTH SERVICES AND MEDICATIONS, UNLESS
27 PROVIDING THE ITEM, PROGRAM, OR SERVICE WOULD ENDANGER THE

1 SAFETY OF THE INDIVIDUAL, OTHER INMATES OR STAFF, OR THE SECURITY
2 OF THE LOCAL JAIL. IF THE LOCAL JAIL DOES NOT MAKE ANY OF THESE
3 ALLOWANCES, THE LOCAL JAIL SHALL DAILY DOCUMENT THE DENIAL OF
4 EACH ITEM, PROGRAM, OR SERVICE WITH A REASON FOR THE DENIAL.

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

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

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

24 (6) IF AN INDIVIDUAL WILLINGLY AND VOLUNTARILY DOES NOT
25 WISH TO LEAVE HIS OR HER CELL, THE JAIL IS NOT REQUIRED TO
26 FORCEFULLY REMOVED AN INDIVIDUAL FROM HIS OR HER CELL IN ORDER
27 TO COMPLY WITH THIS SECTION. JAIL STAFF SHALL MAKE A REASONABLE

1 ATTEMPT TO PERSUADE AND ALLOW THE INDIVIDUAL TO LEAVE HIS OR HER
2 CELL VOLUNTARILY AND SHALL DOCUMENT THESE ATTEMPTS WHEN THE
3 INDIVIDUAL REFUSES TO LEAVE HIS OR HER CELL.

4 (7) EACH LOCAL JAIL SHALL PRODUCE WRITTEN POLICIES AND
5 PROCEDURES IN ACCORDANCE WITH THIS PART 3 AND PART 1 OF THIS
6 ARTICLE 26 AND SHALL POST THE POLICIES AND PROCEDURES ON THE
7 LOCAL JAIL'S WEBSITE.

8 **17-26-304. Screening in jails.** (1) A LOCAL JAIL SHALL USE AN
9 ADEQUATE SCREENING TOOL TO COMPLETE A HEALTH SCREENING OF EACH
10 INDIVIDUAL UPON ARRIVAL AT THE FACILITY BY HEALTH-TRAINED OR
11 QUALIFIED HEALTH-CARE PERSONNEL AS PART OF THE ADMISSION
12 PROCEDURES. IF A LOCAL JAIL IS UNABLE TO PERFORM A HEALTH
13 SCREENING ON AN INDIVIDUAL DUE TO INTOXICATION OR ANOTHER
14 REASON THAT MAKES THE PERSON TEMPORARILY INCAPACITATED, THE
15 JAIL SHALL DOCUMENT THE REASON FOR THE DELAY IN THE HEALTH
16 SCREENING AND SHALL COMPLETE THE HEALTH SCREENING NO LATER
17 THAN TWENTY-FOUR HOURS AFTER AN INDIVIDUAL'S ARRIVAL AT THE
18 FACILITY. A LOCAL JAIL IS NOT REQUIRED TO COMPLETE A HEALTH
19 SCREENING IF PROHIBITED BY A COURT ORDER. THE SCREENING INCLUDES
20 AT LEAST THE FOLLOWING:

21 (a) INQUIRY INTO:

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

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

27 (III) ALL LEGAL AND ILLEGAL DRUG USE, INCLUDING ANY CURRENT

- 1 WITHDRAWAL SYMPTOMS;
- 2 (IV) CURRENT OR RECENT PREGNANCY;
- 3 (V) SERIOUS NEUROCOGNITIVE ISSUES SUCH AS PAST TRAUMATIC
- 4 BRAIN INJURIES OR DEMENTIA; AND
- 5 (VI) PRESENT OR PAST PRESCRIBED MEDICATIONS; AND
- 6 (b) OBSERVATION OF:
- 7 (I) GENERAL APPEARANCE AND BEHAVIOR, INCLUDING STATE OF
- 8 CONSCIOUSNESS, MENTAL STATUS, APPEARANCE, AND CONDUCT;
- 9 (II) PHYSICAL CONDITION, INCLUDING EASE OF MOVEMENT;
- 10 (III) EVIDENCE OF ABUSE OR TRAUMA AND THE CONDITION OF THE
- 11 INDIVIDUAL'S SKIN, INCLUDING BRUISES AND LESIONS; AND
- 12 (IV) BEHAVIOR, TREMORS, AND SWEATING.
- 13 (2) AN INDIVIDUAL MUST NOT BE PLACED IN RESTRICTIVE HOUSING
- 14 UNTIL THE HEALTH SCREENING REQUIRED BY SUBSECTION (1) OF THIS
- 15 SECTION IS COMPLETE AND HAS BEEN DOCUMENTED.
- 16 (3) IF LOCAL JAIL PERSONNEL WHO ARE HEALTH-TRAINED PERFORM
- 17 THE SCREENING, THE PERSONNEL SHALL CALL A MEDICAL OR MENTAL
- 18 HEALTH PROFESSIONAL IF INDICATIONS OF A POSITIVE SCREEN ARE
- 19 IDENTIFIED DURING THE SCREENING.

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

21 **and** (6) as follows:

22 **17-26-118. Criminal justice data collection - definitions -**

23 **repeal.** (5) (a) ON OR BEFORE JANUARY 1, 2022, AND ON OR BEFORE THE

24 THIRD FRIDAY OF EACH JANUARY, APRIL, JULY, AND OCTOBER

25 THEREAFTER, THE KEEPER OF EACH LOCAL JAIL SHALL SUBMIT A

26 QUARTERLY REPORT OF THE DATA SPECIFIED IN THIS SUBSECTION (5) TO

27 THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY

1 THROUGH AN ELECTRONIC FORM DESIGNED BY THE DIVISION. EACH
2 QUARTERLY REPORT MUST INCLUDE:

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

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

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

10 (C) THE PLACEMENT CLASSIFICATION OF THE INDIVIDUAL BEFORE
11 BEING PLACED IN RESTRICTIVE HOUSING;

12 (D) THE LENGTH OF TIME THE INDIVIDUAL WAS IN RESTRICTIVE
13 HOUSING;

14 (E) IF THE INDIVIDUAL WAS PLACED IN RESTRICTIVE HOUSING FOR
15 A DISCIPLINARY REASON;

16 (F) WHETHER THE INDIVIDUAL SUFFERED INJURY OR DEATH WHILE
17 PLACED IN RESTRICTIVE HOUSING AND THE MANNER AND CAUSE OF THE
18 INJURY OR DEATH;

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

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

25 (II) HOW MANY INDIVIDUALS IN THE LOCAL JAIL POPULATION
26 HAVE:

27 (A) AN IDENTIFIED MENTAL ILLNESS;

- 1 (B) AN IDENTIFIED SUBSTANCE USE DISORDER;
- 2 (C) BOTH AN IDENTIFIED MENTAL ILLNESS AND SUBSTANCE USE
- 3 DISORDER;
- 4 (D) IDENTIFIED NEUROCOGNITIVE ISSUES SUCH AS DEMENTIA OR
- 5 TRAUMATIC BRAIN INJURY; AND
- 6 (E) ENGAGED IN SELF-HARMING BEHAVIOR WHILE IN THE LOCAL
- 7 JAIL.

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

10 **27-60-106. Jail-based behavioral health services program -**
11 **purpose - created - funding.** (6) SUBJECT TO AVAILABLE
12 APPROPRIATIONS, NOTHING IN THIS SECTION PROHIBITS PROGRAM FUNDS
13 FROM BEING USED TO MEET THE REQUIREMENTS OUTLINED IN SECTIONS
14 17-26-303 AND 17-26-304 FOR LOCAL JAILS, AS DEFINED IN SECTION
15 17-26-302 (2), BY PROVIDING ADDITIONAL STAFFING, TRAINING, ROBUST
16 BEHAVIORAL HEALTH SERVICES AND SUPPORTS, OR FACILITY CHANGES.
17 ANY FACILITY CHANGES MUST BE APPROVED BY THE OFFICE OF
18 BEHAVIORAL HEALTH BEFORE FUNDS MAY BE EXPENDED.

19 **SECTION 4.** **Effective date.** This act takes effect upon passage;
20 except that section 1 of this act takes effect on July 1, 2022, and section
21 2 of this act takes effect on January 1, 2022.

22 **SECTION 5.** **Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, or safety.