



Legislative Council Staff

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Revised Fiscal Note

(replaces fiscal note dated January 30, 2023)

Drafting Number:	LLS 23-0162	Date:	February 22, 2023
Prime Sponsors:	Rep. Amabile Sen. Fields; Rodriguez	Bill Status:	House Appropriations
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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 \$3.7 million to the Department of Corrections.

Fiscal Note Status: The fiscal note reflects the introduced bill, which was amended by the House Judiciary Committee. It was recommended by the Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems. It has also been updated to reflect updated expenditure assumptions for the Department of Corrections.

Table 1
State Fiscal Impacts Under HB 23-1013

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-
Expenditures	General Fund	\$3,749,187	\$3,941,150
	Total FTE	41.4 FTE	45.2 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$562,378	\$591,173

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.

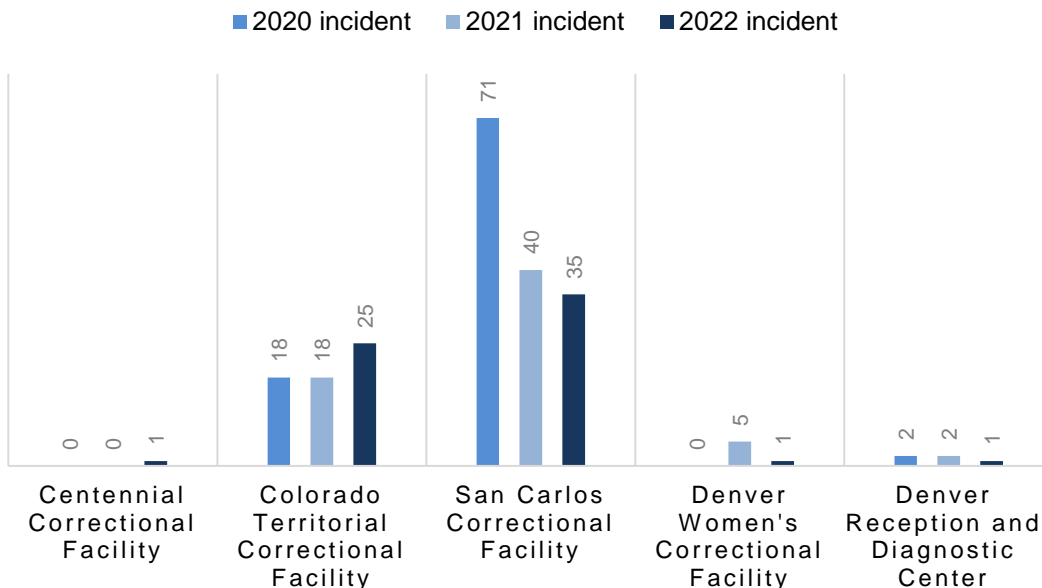
The bill prohibits the use of involuntary medication. Each facility is required to convene an involuntary medication committee to approve prescribed medication. Inmates may be referred to the Judicial Department for legal representation in these hearings.

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

Restraint event data. In the past three years, the DOC has averaged 73 four-point restraint events per year in five facilities, as shown in Figure 1. The majority of restraint events occurred at the San Carlos Correctional Facility and Colorado Territorial Correctional Facility, and often involved multiple restraint events with the same individuals. There are 11 total four-point restraint beds at these facilities. Ambulatory restraint events have largely occurred at the same facilities at a lesser rate.

Figure 1
Restraint Events at DOC Facilities



Involuntary medication. There are currently 90 DOC inmates who are receiving involuntary medications, such as mental health medications.

DOC accreditation. The DOC is currently accredited with the American Correctional Association. DOC is currently in discussions with the National Commission on Correctional Health Care, which requires soft restraints to be used and that health staff monitor a restrained inmate every 15 minutes.

State Expenditures

The bill increases state General Fund expenditures in the DOC by \$3.7 million in FY 2023-24 and \$3.9 million in FY 2024-25 and ongoing, 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**

	FY 2023-24	FY 2024-25
Department of Corrections		
Personal Services	\$2,830,559	\$3,087,882
Operating and Capital Outlay Costs	\$139,220	\$24,300
Soft Restraints and Training	\$27,402	\$8,169
Employee Insurance and Supplemental Retirement	\$752,006	\$820,799
Total	\$3,749,187	\$3,941,150
Total FTE	41.4 FTE	45.2 FTE

Department of Corrections

Staff. Assuming that the DOC will be unable to utilize current staff to fulfill the bill’s requirement for regular assessment during restraint events, the department requires additional staffing at facilities that specialize in inmate health. 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, as outlined in Table 3 below.

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.

Other workload. The DOC is expected to manage behavior management plan requirements, its role on involuntary medication committees, and reporting requirements within the normal course of operations.

**Table 3
DOC Staffing Under HB 23-1013**

	CO I	HP I	HP II	RN I	Psych	Totals
Centennial Correctional Facility	3.0	3.0	-	-	-	6.0
Colorado Territorial Correctional Facility	3.0	2.0	-	1.0	-	6.0
San Carlos Correctional Facility	3.0	2.0	-	1.0	-	6.0
Denver Women's Correction Facility	3.0	-	-	-	-	3.0
Denver Reception and Diagnostic Center	3.0	-	-	1.0	2.0	6.0
Remote	-	-	2.0	-	-	2.0
Total	15.0	7.0	2.0	3.0	2.0	29.0
Relief Factor	1.6	1.6	1.6	1.6	N/A	
Total Staff Including Relief Factor	24.0	11.2	3.2	4.8	2.0	45.2

Soft restraint materials and training. The DOC requires soft restraint material its 19 facilities, with an estimated 68 units total, with replacement costs estimated for one-third of materials each year. Each DOC facility will train 21 instructors on the use of soft restraints, who will then train DOC staff on-site.

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.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

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 the 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 \$3,749,187 to the Department of Corrections, and 41.4 FTE.

State and Local Government Contacts

Corrections
Law

Information Technology
Public Defender

Judicial