

**LEGISLATIVE FISCAL ESTIMATE**  
[First Reprint]  
**ASSEMBLY, No. 314**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: JUNE 25, 2019

**SUMMARY**

**Synopsis:** Restricts use of isolated confinement in correctional facilities.

**Type of Impact:** Annual expenditure increase to State General Fund. Annual expenditure increase to county governments.

**Agencies Affected:** Department of Corrections; county jails.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Expenditure Increase</b>	Indeterminate
<b>Local Expenditure Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) estimates that this bill may result in State and local expenditure increases by an indeterminate amount.
- It is unknown to the OLS how many inmates would be placed in isolated confinement under the provisions of this bill, and if additional clinicians or members of the medical staff for the State correctional facilities and the county correctional facilities would be needed to conduct the examinations as described in the bill.
- In addition, it is unknown how other staffing patterns for the State correctional facilities and the county correctional facilities would be affected by this bill.

**BILL DESCRIPTION**

This bill limits the use of isolated confinement in correctional facilities in this State.

The bill generally prohibits inmates from being placed in isolated confinement unless the correctional facility establishes by clear and convincing evidence that there is reasonable cause to believe that the inmate or others would be at substantial risk of immediate, serious harm as evidenced by recent threats or conduct, and any less restrictive intervention would be insufficient

to reduce that risk. The bill defines isolated confinement as “confinement of an inmate in a correctional facility, pursuant to disciplinary, administrative, protective, investigative, medical, or other classification, in a cell or similarly confined holding or living space, alone or with other inmates, for approximately 20 hours or more per day in a State correctional facility or 22 hours or more per day in a county correctional facility, with severely restricted activity, movement, and social interaction.” Under the bill, isolated confinement does not include facility-wide or unit-wide lockdowns required to ensure the safety of inmates and staff.

Under the bill, inmates may not be placed in isolated confinement for non-disciplinary reasons, with the exception of facility-wide lock downs, medical isolation, and protective custody. Inmates generally also are not to be placed in isolated confinement pending investigation of disciplinary offenses.

The bill requires qualified healthcare personnel to conduct a personal and comprehensive medical and mental health examination before a State inmate may be placed in isolated confinement. County inmates are to receive a preliminary examination by medical staff within 12 hours of confinement and a clinical examination within 48 hours of confinement, but if staffing levels require, the 48 hours to conduct a clinical examination may be extended to 72 hours. Inmates are to be provided an opportunity to contest the confinement and have the right to an initial hearing within 72 hours of placement, absent exigent circumstances, with subsequent reviews every 30 days. The bill accords the inmates the right to appear at the hearing presided over by an independent hearing officer, have representation, and receive a written statement explaining the reasons for the decision made at the hearing. The facility administrator is responsible for making the final decision to place an inmate in isolated confinement and to remove an inmate who no longer meets the standards for confinement.

The bill requires that qualified healthcare personnel daily conduct a mental health and physical health status examination of State inmates to determine whether the inmate is a member of a vulnerable population; county inmates are to be evaluated by a member of the medical staff at least once per week. Inmates determined to be a member of a vulnerable population are to be immediately moved to an appropriate placement. An inmate is a member of a vulnerable population, as defined in the bill, if he or she is 21 years of age or younger; is 65 years of age or older; has a disability based on a mental illness, a history of psychiatric hospitalization, or has recently exhibited conduct, including but not limited to serious self-mutilation, indicating the need for further observation or evaluation to determine the presence of mental illness; has a developmental disability; has a serious medical condition which cannot effectively be treated in isolated confinement; is pregnant; is in the postpartum period, or has recently suffered a miscarriage or terminated a pregnancy; has a significant auditory or visual impairment; or is perceived to be lesbian, gay, bisexual, transgender, or intersex. The bill defines “postpartum period” as 45 days after childbirth.

Inmates placed in isolated confinement are not to be held there for more than 20 consecutive days, or for more than 30 days during any 60-day period. Cells or other spaces in which inmates are confined are to be properly ventilated, lit, temperature-monitored, clean, and equipped with functioning sanitary fixtures.

The commissioner is to develop policies and procedures governing isolated confinement and ensure adequate correctional and program staff to ensure the safety of staff and inmates.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that this bill may result in State and local expenditure increases by an indeterminate amount. It is unknown to the OLS how many inmates would be placed in isolated confinement under the provisions of this bill, and if additional clinicians or members of the medical staff for the State correctional facilities and the county correctional facilities would be needed to conduct the examinations as described in the bill.

In addition, it is unknown how other staffing patterns for the State correctional facilities and the county correctional facilities would be affected by this bill.

*Section:           Judiciary*

*Analyst:          Sarita Welsh*  
*Associate Counsel*

*Approved:       Frank W. Haines III*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).