

## Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. **Bill Number:** HB1244

**House of Origin**     Introduced     Substitute     Engrossed  
**Second House**     In Committee     Substitute     Enrolled

2. **Patron:** Cole

3. **Committee:** Appropriations

4. **Title:** Restorative housing and isolated confinement; restrictions on use.

5. **Summary:** This bill governs the use of restorative housing and isolated confinement in state correctional facilities. The bill defines the terms isolated confinement, lockdown, out-of-cell programmatic interventions, and recreation and sets requirements governing these activities. The bill provides for exceptions for when isolated confinement may be permitted in state correctional facilities.

6. **Budget Amendment Necessary:** See Item 8 below

7. **Fiscal Impact Estimates:** Preliminary. See Item 8 below.

8. **Fiscal Implications:** Under the provisions of this bill, no incarcerated person in a state correctional facility can be placed in restorative housing or in isolated confinement by any designation for longer than 15 consecutive days, including any investigative time, in any 60-day period, unless certain conditions apply.

The Department of Corrections (DOC) reports that it operates Restorative Housing Units (RHU) that are defined as special purpose bed assignments operated under maximum security regulations and procedures, for the personal protection or custodial management of inmates. All inmates in the Restorative Housing program are offered a minimum of four hours of out of cell time each day. DOC operates RHUs at all Security Level 2 facilities or higher, except for Deerfield Correctional Center. DOC reports that in FY 2023, a total of 6,107 inmates were placed in RHUs with a monthly average of 291 inmates (January through December 2023 data).

However, this bill defines isolated confinement as confinement of an incarcerated person to a cell for 17 hours or more per day, regardless of the name of the housing unit in which such confinement occurs, which may include populations other than those held in RHUs such as inmates who are in medical and mental health wards or assigned to other specialized beds. DOC estimates that up to 1,100 inmates occupy these types of beds each day. It is not known, however, how many of these inmates occupy their cells for more than 17 hours per day and would, therefore, qualify as inmates in isolated confinement as defined by the bill.

The bill requires that when an incarcerated person makes a request to be placed in restorative housing or isolated confinement for his own protection, the facility must bear the burden of establishing a basis for refusing the request. Before placing an incarcerated person in restorative housing or isolated confinement of any designation for his own protection, the facility administrator must place an incarcerated person in a less-restrictive setting, including by transfer to the general population of another institution or to a special-purpose housing unit for incarcerated persons who face similar threats, unless the incarcerated person faces a security risk so great that no less-restrictive setting would be sufficient or practicable to ensure the incarcerated person's safety. DOC reports that on average, 184 inmates make an informed voluntary request for RHU placement each month. If these inmates are to be transferred to other DOC facilities, DOC believes that this could require additional correctional officers or additional correctional staff overtime. DOC reports that each additional correctional officer would cost \$76,086 per year (salary and benefits included) and that correctional officers are paid one and a half times their hourly salary when they work overtime. If additional transport vehicles are required, DOC estimates the cost of each at \$63,000. However, the actual number of transfers that would result from the provisions of this bill is not known. Therefore, the cost of this provision cannot be known at this time.

The bill requires that all placements in restorative housing or isolated confinement must be reviewed every 48 hours and that the reason why a less-restrictive setting could not be utilized must be recorded in writing by the facility administrator and placed in the incarcerated person's institutional file. Currently, at facilities with Restorative Housing programs, inmates participate in a series of formal Institutional Classification Authority (ICA) hearings to develop and review their individual management path. ICA hearings are completed on working day three, working day 10, and then every 7 days after for the first 60 days of their assignment to the RHU program. The ICA team is chaired by the Chief of Housing and Programs or the Chief of Security. Mandatory members of the ICA team include a Unit Manager, an Institutional Program Manager, a Casework Counselor, and a Mental Health Clinician. It is not clear who must conduct the 48-hour reviews required by the bill; if the reviews are to be conducted by the established ICA, however, DOC believes it would need to have staff available on a rotational basis to cover this workload, including weekend coverage. To provide adequate staffing, DOC estimates the need for up to 22 additional Casework Counselors at a cost of \$76,065 each and possibly up to 22 additional Mental Health Clinicians at a cost of \$100,516 each, for a total of \$3.9 million from the general fund annually. DOC reports it may also need additional Institutional Program Managers at a cost of \$86,990 each, and additional Unit Managers at a cost of \$92,775 each. However, it is not clear how many of these positions would be needed to meet the intentions of the bill. Additionally, if the 48-hour review is not required to be conducted by specialized positions, a correctional supervisor could conduct these reviews; therefore, it is reasonable to assume additional positions might not be required. These reviews could be done during the normal shift assigned to each supervisor, thereby reducing the anticipated cost to the agency.

The bill requires that an incarcerated person who has been placed in restorative housing, isolated confinement, or any other population without full privileges, must be offered a minimum of four hours of out-of-cell programmatic interventions or other congregate

activities per day, including classes, work assignments, or therapeutic treatment, aimed at promoting personal development or addressing underlying causes of problematic behavior. Such programmatic interventions and congregate activities must be consistent with those offered to the full-privilege general population at other facilities of equal security risk. Additionally, the bill requires a minimum of one hour of recreation per day. The bill defines recreation as space and opportunity for meaningful physical activity outside the cell and housing unit and requires that the activity must take place in a congregate setting, unless exceptional circumstances mean that doing so would create significant and unreasonable risk to the safety and security of other incarcerated persons, the staff, or the facility. DOC believes that additional correctional staff or correctional staff overtime may be needed to supervise the extra recreation time required by the bill. However, staff coverage to meet this requirement is not known at this time.

DOC is still assessing the fiscal impact the programming and recreation requirements the bill may have on of infirmary and medical observation units. If additional information becomes available, this statement will be revised.

**9. Specific Agency or Political Subdivisions Affected:** Department of Corrections

**10. Technical Amendment Necessary:** No

**11. Other Comments:** This bill is companion to SB719.