

Second Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0091.01 Michael Dohr x4347

SENATE BILL 14-064

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SENATE SPONSORSHIP

Ulibarri, Guzman

HOUSE SPONSORSHIP

Salazar,

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Senate Committees  
Judiciary

House Committees

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A BILL FOR AN ACT

101 CONCERNING RESTRICTING THE USE OF LONG-TERM ISOLATED  
102 CONFINEMENT FOR INMATES WITH SERIOUS MENTAL ILLNESS.

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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://www.leg.state.co.us/billsummaries>.)*

The bill requires the department of corrections to review the status of all offenders held in long-term isolated confinement within 90 days after the effective date of the bill. If the review determines that the offender is seriously mentally ill, the department shall move the offender from long-term isolated confinement to a mental health step-down unit,

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

a prison mental hospital, or other appropriate housing that does not include long-term isolated confinement. The department may not place a seriously mentally ill offender in long-term isolated confinement and must do a mental health evaluation prior to placing an inmate in long-term isolated confinement prior to placement to determine whether the placement is allowed.

The bill dictates the type and manner that discipline is applied to seriously mentally ill inmates. The bill provides seriously mentally ill inmates with the opportunity for therapy and out-of-cell time.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4 (a) Isolated confinement is the practice of housing prisoners in  
5 small, barren cells where they are restricted for up to twenty-three hours  
6 per day;

7 (b) Since its creation, the practice of prolonged isolated  
8 confinement has been subject to intense scrutiny due to its damaging  
9 effects on mental health;

10 (c) Prisoners with mental illness are disproportionately likely to  
11 be subjected to isolated confinement because mental illness often makes  
12 it difficult or impossible to comply with the strict behavioral expectations  
13 of prison;

14 (d) Once housed in isolated confinement, the mental health of  
15 prisoners with serious mental illness often decompensates further, making  
16 them a great threat to their own safety as well as to the safety of other  
17 prisoners, prison staff, and ultimately the public, since almost all  
18 Colorado prisoners will one day be released;

19 (e) Colorado does not currently require prisoners who have lived  
20 in isolated confinement to gain exposure to human interaction before

1 release to the general public;

2 (f) The United States department of justice and courts have agreed  
3 that the constitution forbids subjecting prisoners with serious mental  
4 illness to prolonged isolated confinement; and

5 (g) Since 2010, the Colorado department of corrections has  
6 worked to significantly reduce the number of prisoners with mental  
7 illness in isolated confinement.

8 (2) Therefore, the general assembly finds that the state must  
9 codify the practice of limiting the housing of prisoners with serious  
10 mental illness in isolated confinement.

11 **SECTION 2.** In Colorado Revised Statutes, **add** 17-1-113.8 as  
12 follows:

13 **17-1-113.8. Directives for dealing with the seriously mentally**  
14 **ill offender - definitions.** (1) TO ENSURE THAT OFFENDERS HELD IN  
15 LONG-TERM ISOLATED CONFINEMENT HAVE BEEN EVALUATED TO  
16 DETERMINE THEIR MENTAL HEALTH STATUS, WITHIN NINETY DAYS AFTER  
17 THE EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT SHALL REVIEW  
18 THE STATUS OF ALL OFFENDERS HELD IN LONG-TERM ISOLATED  
19 CONFINEMENT IN THE STATE TO DETERMINE WHETHER THE OFFENDERS  
20 CURRENTLY HOUSED IN LONG-TERM ISOLATED CONFINEMENT SHOULD  
21 REMAIN IN THOSE UNITS UNDER THE TERMS OF THIS SECTION. IF THE  
22 MENTAL HEALTH CLINICIAN DETERMINES THAT THE OFFENDER IS  
23 SERIOUSLY MENTALLY ILL, THE DEPARTMENT SHALL MOVE THE OFFENDER  
24 FROM LONG-TERM ISOLATED CONFINEMENT TO A MENTAL HEALTH OR  
25 SPECIAL NEEDS STEP-DOWN UNIT, A PRISON MENTAL HOSPITAL, OR OTHER  
26 APPROPRIATE HOUSING THAT DOES NOT INCLUDE LONG-TERM ISOLATED  
27 CONFINEMENT.

1           (2) AS OF THE EFFECTIVE DATE OF THIS SECTION, PRIOR TO  
2 PLACING AN OFFENDER IN LONG-TERM ISOLATED CONFINEMENT FOR  
3 EITHER A DISCIPLINARY INFRACTION OR A NONPUNITIVE REASON, THE  
4 DEPARTMENT SHALL HAVE THE OFFENDER EVALUATED BY A MENTAL  
5 HEALTH CLINICIAN TO DETERMINE IF THE OFFENDER IS A PERSON WITH  
6 SERIOUS MENTAL ILLNESS. IF THE MENTAL HEALTH CLINICIAN FINDS THE  
7 OFFENDER IS A PERSON WITH A SERIOUS MENTAL ILLNESS AND OTHER  
8 SIGNIFICANT MENTAL IMPAIRMENT, THE DEPARTMENT SHALL PLACE THE  
9 OFFENDER IN A MENTAL HEALTH OR SPECIAL NEEDS STEP-DOWN UNIT, A  
10 PRISON MENTAL HOSPITAL, OR OTHER APPROPRIATE HOUSING THAT DOES  
11 NOT INCLUDE ISOLATED CONFINEMENT.

12           (3) A PERSON WITH SERIOUS MENTAL ILLNESS AND OTHER  
13 SIGNIFICANT MENTAL IMPAIRMENT MAY BE SUBJECT TO DISCIPLINE, BUT  
14 THE DISCIPLINE SHALL BE HANDLED BY COLLABORATION BETWEEN  
15 MENTAL HEALTH CLINICIANS, OTHER REQUIRED MEDICAL STAFF, AND  
16 CUSTODY STAFF IN A MENTAL HEALTH OR SPECIAL NEEDS STEP-DOWN UNIT  
17 OR OTHER APPROPRIATE HOUSING THAT DOES NOT INCLUDE LONG-TERM  
18 ISOLATED CONFINEMENT. ANY PUNISHMENT MUST WORK WITHIN THE  
19 INDIVIDUAL'S MENTAL HEALTH OR REHABILITATION TREATMENT PLAN.

20           (4) THE MENTAL HEALTH OR SPECIAL NEEDS STEP-DOWN UNITS  
21 SHALL BE PHYSICALLY SEPARATE FROM ANY LONG-TERM ISOLATED  
22 CONFINEMENT UNIT AND SHALL NOT BE OPERATED AS A DISCIPLINARY  
23 HOUSING UNIT. THE DEPARTMENT SHALL OFFER OFFENDERS IN THE  
24 MENTAL HEALTH OR SPECIAL NEEDS STEP-DOWN UNITS A MINIMUM OF  
25 TWENTY HOURS OUT-OF-CELL TIME EVERY WEEK, INCLUDING TEN HOURS  
26 OF THERAPEUTIC ACTIVITY.

27           (5) THE DEPARTMENT SHALL PROVIDE OFFENDERS IN THE MENTAL

1 HEALTH OR SPECIAL NEEDS STEP-DOWN UNITS CLINICAL VISITS BY MENTAL  
2 HEALTH CLINICIANS AND REHABILITATIVE MEDICAL PERSONNEL AS PART  
3 OF THEIR TREATMENT PROGRAM. THESE VISITS MUST BE CONDUCTED IN A  
4 CLINICAL ENVIRONMENT THAT ENSURES PRIVACY.

5 (6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
6 REQUIRES:

7 (a) "ISOLATED CONFINEMENT" MEANS THE STATE OF BEING  
8 CONFINED IN ONE'S CELL FOR APPROXIMATELY TWENTY-TWO HOURS PER  
9 DAY OR MORE WITH VERY LIMITED OUT-OF-CELL TIME AND SEVERELY  
10 RESTRICTED ACTIVITY, MOVEMENT, AND SOCIAL INTERACTION, WHETHER  
11 PURSUANT TO DISCIPLINARY, ADMINISTRATIVE, OR CLASSIFICATION  
12 ACTION.

13 (b) "LONG-TERM ISOLATED CONFINEMENT" MEANS ISOLATED  
14 CONFINEMENT THAT IS EXPECTED TO EXTEND OR DOES EXTEND FOR A  
15 PERIOD OF TIME EXCEEDING THIRTY DAYS.

16 (c) "MENTAL HEALTH OR SPECIAL NEEDS STEP-DOWN UNITS"  
17 MEANS RESIDENTIAL THERAPEUTIC HOUSING UNITS WITHIN A  
18 CORRECTIONAL FACILITY THAT PROVIDE CLINICALLY APPROPRIATE AND  
19 THERAPEUTIC PROGRAMMING TO OFFENDERS WITH SERIOUS MENTAL  
20 ILLNESS IN LIEU OF HOUSING IN ADMINISTRATIVE OR DISCIPLINARY  
21 SEGREGATION UNITS OR ISOLATED CONFINEMENT.

22 (d) "PERSON WITH SERIOUS MENTAL ILLNESS OR OTHER  
23 SIGNIFICANT MENTAL IMPAIRMENT" MEANS A PERSON WITH A  
24 SUBSTANTIAL DISORDER OF THOUGHT OR MOOD THAT SIGNIFICANTLY  
25 IMPAIRS JUDGMENT, BEHAVIOR, OR CAPACITY TO RECOGNIZE REALITY,  
26 WHICH MAY INCLUDE INDIVIDUALS FOUND TO HAVE CURRENT SYMPTOMS  
27 OR WHO ARE CURRENTLY RECEIVING TREATMENT FOR THE FOLLOWING:

- 1 (I) TYPE OF DIAGNOSIS FOUND IN THE DIAGNOSTIC AND  
2 STATISTICAL MANUAL 5 (DSM-5), OR THE MOST CURRENT VERSION,  
3 INCLUDING:
- 4 (A) SCHIZOPHRENIA, INCLUDING ALL SUB-TYPES;
  - 5 (B) DELUSIONAL DISORDER;
  - 6 (C) SCHIZOPHRENIFORM DISORDER;
  - 7 (D) SCHIZOAFFECTIVE DISORDER;
  - 8 (E) BRIEF PSYCHOTIC DISORDER;
  - 9 (F) SUBSTANCE-INDUCED PSYCHOTIC DISORDER, EXCLUDING  
10 INTOXICATION AND WITHDRAWAL;
  - 11 (G) PSYCHOTIC DISORDER NOT OTHERWISE SPECIFIED;
  - 12 (H) MAJOR DEPRESSIVE DISORDERS; OR
  - 13 (I) BIPOLAR AFFECTIVE DISORDER;
  - 14 (II) A MENTAL DISORDER THAT INCLUDES BEING ACTIVELY  
15 SUICIDAL;
  - 16 (III) A SERIOUS MENTAL ILLNESS THAT IS FREQUENTLY  
17 CHARACTERIZED BY BREAKS WITH REALITY OR PERCEPTIONS OF REALITY  
18 THAT LEADS THE INDIVIDUAL TO SIGNIFICANT FUNCTIONAL IMPAIRMENT;
  - 19 (IV) AN ORGANIC BRAIN SYNDROME, WHICH RESULTS IN A  
20 SIGNIFICANT FUNCTIONAL IMPAIRMENT IF NOT TREATED;
  - 21 (V) A SEVERE PERSONALITY DISORDER THAT IS MANIFESTED BY  
22 FREQUENT EPISODES OF PSYCHOSIS OR DEPRESSION AND RESULTS IN  
23 SIGNIFICANT FUNCTIONAL IMPAIRMENT;
  - 24 (VI) ANY OTHER SERIOUS MENTAL ILLNESS OR DISORDER THAT IS  
25 WORSENERED BY CONFINEMENT; OR
  - 26 (VII) MENTAL RETARDATION WITH SIGNIFICANT FUNCTIONAL  
27 IMPAIRMENT.

1           **SECTION 3. Safety clause.** The general assembly hereby finds,  
2 determines, and declares that this act is necessary for the immediate  
3 preservation of the public peace, health, and safety.