



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2017 Biennium

**Bill #** HB0490

**Title:** Providing restrictions for the use of long-term solitary confinement

**Primary Sponsor:** Eck, Jennifer

**Status:** As Introduced

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input checked="" type="checkbox"/> Needs to be included in HB 2  | <input type="checkbox"/> Technical Concerns              |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
<b>Expenditures:</b>				
General Fund	\$743,646	\$722,701	\$733,542	\$744,545
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>(\$743,646)</u>	<u>(\$722,701)</u>	<u>(\$733,542)</u>	<u>(\$744,545)</u>

**Description of fiscal impact:** HB 490 seeks to define and prohibit long-term solitary confinement. It provides a due process hearing before placement, as well as follow-up procedures to ascertain whether it is appropriate to maintain the inmate in long-term solitary confinement.

### FISCAL ANALYSIS

#### Assumptions:

#### **Department of Corrections (DOC)**

1. The definition of solitary confinement in this bill is broad and includes housing classifications that are necessary to the safe and secure operation of all secure facilities.
2. The department currently houses inmates in pre-hearing confinement and detention for sanctions. This type of housing averages less than 14 days and does not meet the definition of "long-term" set forth in this bill.
3. The department currently houses inmates in administrative segregation based on classification. On average, 152 inmates are classified and housed in administrative segregation per year and are seen by a mental health employee within 72 hours of placement.
4. This bill would require a mental health professional, as defined by 53-21-102, MCA, to perform an evaluation prior to the placement of any inmate into administrative segregation. It would also make mandatory a mental health assessment every 7 days for these inmates.

5. The department would require the addition of 3.00 FTE licensed clinical social workers to meet these requirements. In addition, the bill would require the department to add 4.00 FTE correctional officers to escort inmates to these assessments and evaluations, which cannot be performed while the inmate is secured safely inside the cell or non-contact visitation area. Correctional staff would also be required to escort these inmates to any and all hearings they were entitled to.
6. The broader definition of solitary confinement contained in this bill would cover several additional housing statuses, requiring the department to add 3.00 FTE nursing staff in order to comply with the National Commission on Correctional Health Care (NCCHC) standard P-E09. This standard requires medical staff to perform rounds, at a minimum, 3 times per week and sometimes daily, depending on the level of isolation.
7. The cost of these FTE would be \$690,046 in FY 2016, which includes \$28,750 in one-time-only initial office packages.
8. The cost of these FTE would be \$671,215 in FY 2017 and include a 1.5% escalator for this and additional years.
9. This bill would also require that the administrator's designee to complete an initial certification and follow up certifications every 15 days for any inmate who is housed in administrative segregation and is within a year of release from custody. There were 53 inmates last fiscal year who met these conditions. The average length of stay for these inmates was 112.64 days, which would have required 398 certifications. Because there is no definition explaining what the certification is, the department estimates it will require 1.00 FTE to complete and track certifications. The cost for this FTE is \$50,725 in FY 2016 and includes a 1.5% escalator for each additional year. There is also a cost of \$2,875 in FY 2016 for the initial office package.
10. This bill would require that any inmate who has a mental disorder as defined in 53-21-102, MCA, cannot be housed in solitary confinement. There are 570 inmates at Montana State Prison and 150 inmates at Montana Women's Prison who would meet this criterion.
11. There are currently 95 inmates at Montana State Prison and 4 at Montana Women's Prison who meet the criteria of SDMI (Serious Disabling Mental Illness), which has much stricter guidelines and typically requires single-cell housing.
12. This bill would preclude housing this population in "long-term" solitary confinement. Since there are currently no other placement options that would allow for the safe and secure housing of these inmates, a new housing unit would need to be developed at Montana State Prison to house this mental health population.

	<b><u>FY 2016 Difference</u></b>	<b><u>FY 2017 Difference</u></b>	<b><u>FY 2018 Difference</u></b>	<b><u>FY 2019 Difference</u></b>
<b><u>Fiscal Impact:</u></b>				
FTE	11.00	11.00	11.00	11.00
<b><u>Expenditures:</u></b>				
Personal Services	\$712,021	\$722,701	\$733,542	\$744,545
Operating Expenses	\$31,625	\$0	\$0	\$0
<b>TOTAL Expenditures</b>	<b>\$743,646</b>	<b>\$722,701</b>	<b>\$733,542</b>	<b>\$744,545</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$743,646	\$722,701	\$733,542	\$744,545
<b>TOTAL Funding of Exp.</b>	<b>\$743,646</b>	<b>\$722,701</b>	<b>\$733,542</b>	<b>\$744,545</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$743,646)	(\$722,701)	(\$733,542)	(\$744,545)

**Long-Term Impacts:**

1. Because of the impacts shown in assumption 11 and 12, if this bill is passed then the department will develop an infrastructure plan and request funding for a building and FTE during the next legislative session, once the plan is completed.

\_\_\_\_\_  
Sponsor's Initials

\_\_\_\_\_  
Date

\_\_\_\_\_  
Budget Director's Initials

\_\_\_\_\_  
Date