A bill to be entitled
An act relating to inmate confinement; creating s. 944.175, F.S.; defining terms; prohibiting the use of solitary confinement; prohibiting the use of restrictive confinement for noncompliance, punishment, harassment, or retaliation for an inmate’s conduct; authorizing an inmate to be placed in restrictive confinement only if certain conditions are met; providing restrictions and requirements for such confinement; prohibiting specified inmates from being placed in restrictive confinement; prohibiting youths, young adults, and inmates who have specified medical needs from being placed in restrictive confinement except under specified circumstances; requiring facilities to keep certain records regarding restrictive confinement; requiring the warden of the facility to review the records; requiring the department to provide a report to the Department of Law Enforcement; providing that an inmate is entitled to a review of his or her placement in restrictive confinement by a specified review committee within a specified timeframe; amending s. 944.09, F.S.; authorizing the Department of Corrections to adopt rules; amending s. 951.23, F.S.; requiring sheriffs and chief correctional officers to adopt model standards relating to confinement; amending s. 985.601, F.S.; requiring the Department of Juvenile Justice to adopt rules; reenacting s. 944.279(1), F.S., relating to disciplinary procedures applicable
to a prisoner for filing frivolous or malicious actions or bringing false information before a court,
to incorporate the amendment made to s. 944.09, F.S., in a reference thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 944.175, Florida Statutes, is created to read:

944.175 Restrictions on the use of confinement.—
(1) DEFINITIONS.—As used in this section, the term:
(a) “Exigent circumstances” means circumstances that pose an immediate and substantial threat to the safety of an inmate or a correctional staff member.
(b) “Inmate” means a person in the custody of the department who is 18 years of age or older.
(c) “Mental health professional” means a psychiatrist, psychologist, social worker, or nurse practitioner.
(d) “Restrictive confinement” means the involuntary placement of an inmate in a cell alone or with other inmates in substantial isolation for more than 20 hours per day.
(e) “Solitary confinement” means the involuntary placement of an inmate in a cell alone or with other inmates in substantial isolation for more than 22 hours per day.
(f) “Young adult” means a person in the custody of the department who is at least 18 years of age but is not yet 21 years of age.
(g) “Youth” means a person in the custody of the department who is under 18 years of age.
PROHIBITION ON THE USE OF SOLITARY CONFINEMENT. — An inmate may not be placed in solitary confinement.

LIMITATIONS ON THE USE OF RESTRICTIVE CONFINEMENT. — An inmate may not be placed in restrictive confinement except in exigent circumstances, when such placement will significantly reduce the safety threat that the exigent circumstances created. An inmate may not be confined for any period of time to an individual cell as a consequence for noncompliance, punishment, harassment, or in retaliation for an inmate’s conduct. If exigent circumstances exist and the inmate is placed in restrictive confinement, the inmate:

(a) May not be housed in restrictive confinement for more than 15 consecutive days;

(b) May not be housed in restrictive confinement for more than 20 days in a 60-day period;

(c) May be held in restrictive confinement only until the substantial threat to the safety of an inmate or a correctional staff member has ended and must be under the least restrictive conditions practicable, in relation to the exigent circumstances necessitating the use of restrictive confinement. The confinement must include at least 4 hours of out-of-cell time every day;

(d) Must be allowed to participate in meaningful programming opportunities and privileges that are consistent with those available to the general inmate population, as practicable. The programming opportunities and privileges may take place individually or in a classroom setting;

(e) Must be allowed to have as much meaningful interaction with others, such as other inmates, visitors, clergymen, or
(f) Must be evaluated by a licensed mental health professional at least once every 24 hours to determine if the inmate should remain in restrictive confinement or if the inmate should be removed from restrictive confinement to prevent a serious risk of harm to the inmate. The licensed mental health professional who conducts the mental health evaluation shall document each evaluation. The documented evaluation must be placed in the inmate’s records. If the licensed mental health professional determines that continued housing in restrictive confinement poses a serious risk of harm to the inmate, the inmate must be removed from restrictive confinement within 24 hours after the determination.

(4) INMATES FOR WHOM RESTRICTIVE CONFINEMENT IS PROHIBITED.—An inmate may not be placed in restrictive confinement because he or she is a member of a vulnerable population, including an inmate who is lesbian, gay, bisexual, transgender, intersex, or gender nonconforming, and the inmate has been placed in restrictive confinement solely on the basis of such identification or status.

(5) YOUTHS AND YOUNG ADULTS.—

(a) A youth or young adult may not be placed in restrictive confinement unless:

1. The youth’s or young adult’s behavior poses a serious and immediate threat and such confinement is a necessary and temporary response to the behavior;

2. All other options to deescalate the situation have been exhausted, including less restrictive techniques such as penalizing the youth or young adult through loss of privileges,
speaking with the youth or young adult in an attempt to resolve the situation, and having a licensed mental health professional provide an appropriate level of care; and

3. If the youth or young adult poses a substantial and immediate threat to others, such confinement extends only to the time necessary for the youth or young adult to regain self-control. The confinement may not exceed 3 hours. Within 1 hour of such placement, a licensed mental health professional shall approve or disapprove of holding the youth or young adult past the initial hour of confinement. The licensed mental health professional shall make such determination every hour thereafter in order to continue the confinement.

(b) If, after the applicable maximum period of confinement under subparagraph (a)3. has expired and the youth or young adult continues to pose a substantial and immediate threat, he or she must be transferred to another facility or to an internal location where services may be provided to the youth or young adult without relying on restrictive confinement. If a licensed mental health professional believes the level of crisis services needed is not currently available onsite, a staff member of the facility must initiate a referral to a location that will meet the needs of the youth or young adult.

(6) INMATES WITH MEDICAL NEEDS.—An inmate who has a serious mental illness, has an intellectual disability, has a physical disability that a licensed medical health professional determines is likely to be exacerbated by placement in restrictive confinement, is pregnant or in the first 8 weeks of postpartum recovery, or has been determined by a licensed mental health professional to likely be significantly and adversely
affected by placement in restrictive confinement may not be placed in restrictive confinement unless all of the following apply:

(a) The inmate poses a substantial and immediate threat.

(b) All other options to deescalate the situation have been exhausted, including less restrictive techniques such as penalizing the inmate through loss of privileges, speaking with the inmate in an attempt to resolve the situation, or having a licensed mental health professional provide an appropriate level of care.

(c) Such confinement extends only until the substantial and immediate threat has ended and is limited to the least restrictive conditions practicable. The inmate shall have access to medical care and mental health treatment during such confinement.

(d) Such confinement is reviewed by a multidisciplinary staff committee for appropriateness every 24 hours after such confinement begins.

(e) As soon as practicable, but within at least 5 days after such confinement begins, the inmate is diverted, upon release from restrictive confinement, to a general population unit or a mental health treatment program.

(7) REPORTING.—The facility must keep records on each use of restrictive confinement under subsections (5) and (6). The warden of the facility must review the records each month, and the department must provide a report on such review to the Department of Law Enforcement each month.

(8) REVIEW.—An inmate who is placed in restrictive confinement is entitled to a review of his or her initial...
placement and any extension of restrictive confinement within 72 hours after first being placed in restrictive confinement. The review must be conducted by a multidisciplinary staff committee consisting of at least one of each of the following:

(a) A licensed mental health professional.
(b) A licensed medical professional.
(c) A member of the leadership of the facility.

Section 2. Paragraph (s) is added to subsection (1) of section 944.09, Florida Statutes, to read:

944.09 Rules of the department; offenders, probationers, and parolees.—

(1) The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement its statutory authority. The rules must include rules relating to:

(s) Inmate confinement in compliance with s. 944.175.

Section 3. Paragraph (a) of subsection (4) of section 951.23, Florida Statutes, is amended to read:

951.23 County and municipal detention facilities; definitions; administration; standards and requirements.—

(4) STANDARDS FOR SHERIFFS AND CHIEF CORRECTIONAL OFFICERS.—

(a) There shall be established A five-member working group which consists of three persons appointed by the Florida Sheriffs Association and two persons appointed by the Florida Association of Counties to develop model standards for county and municipal detention facilities. At a minimum, by October 1, 1996, each sheriff and chief correctional officer shall adopt the model standards with reference to:

CODING: Words stricken are deletions; words underlined are additions.
1. a. The construction, equipping, maintenance, and operation of county and municipal detention facilities.

    b. The cleanliness and sanitation of county and municipal detention facilities; the number of county and municipal prisoners who may be housed therein per specified unit of floor space; the quality, quantity, and supply of bedding furnished to such prisoners; the quality, quantity, and diversity of food served to them and the manner in which it is served; the furnishing to them of medical attention and health and comfort items; and the disciplinary treatment that may be meted out to them.

Notwithstanding the provisions of the otherwise applicable building code, a reduced custody housing area may be occupied by inmates or may be used for sleeping purposes as allowed in subsection (7). The sheriff or chief correctional officer shall provide that a reduced custody housing area shall be governed by fire and life safety standards which do not interfere with the normal use of the facility and which affect a reasonable degree of compliance with rules of the State Fire Marshal for correctional facilities.

2. The confinement of prisoners by classification and providing, whenever possible, for classifications that separate males from females, juveniles from adults, felons from misdemeanants, and those awaiting trial from those convicted and, in addition, providing for the separation of special risk prisoners, such as the mentally ill, alcohol or narcotic addicts, sex deviates, suicide risks, and any other classification which the local unit may deem necessary for the
safety of the prisoners and the operation of the facility
pursuant to degree of risk and danger criteria. Nondangerous
felons may be housed with misdemeanants.

3. The confinement of prisoners, in compliance with s. 944.175.

Section 4. Paragraph (b) of subsection (9) of section 985.601, Florida Statutes, is amended to read:

985.601 Administering the juvenile justice continuum.—

(9)

(b) The department shall adopt rules prescribing standards
and requirements with reference to:

1. The construction, equipping, maintenance, staffing,
programming, and operation of detention facilities;

2. The treatment, training, and education of children
confined in detention facilities;

3. The cleanliness and sanitation of detention facilities;

4. The number of children who may be housed in detention
facilities per specified unit of floor space;

5. The quality, quantity, and supply of bedding furnished
to children housed in detention facilities;

6. The quality, quantity, and diversity of food served in
detention facilities and the manner in which it is served;

7. The furnishing of medical attention and health and
comfort items in detention facilities; and

8. The disciplinary treatment administered in detention
facilities; and

9. The use of restrictive confinement for prisoners, in
compliance with s. 944.175.

Section 5. For the purpose of incorporating the amendment
made by this act to section 944.09, Florida Statutes, in a reference thereto, subsection (1) of section 944.279, Florida Statutes, is reenacted to read:

944.279 Disciplinary procedures applicable to prisoner for filing frivolous or malicious actions or bringing false information before court.—

(1) At any time, and upon its own motion or on motion of a party, a court may conduct an inquiry into whether any action or appeal brought by a prisoner was brought in good faith. A prisoner who is found by a court to have brought a frivolous or malicious suit, action, claim, proceeding, or appeal in any court of this state or in any federal court, which is filed after June 30, 1996, or to have brought a frivolous or malicious collateral criminal proceeding, which is filed after September 30, 2004, or who knowingly or with reckless disregard for the truth brought false information or evidence before the court, is subject to disciplinary procedures pursuant to the rules of the Department of Corrections. The court shall issue a written finding and direct that a certified copy be forwarded to the appropriate institution or facility for disciplinary procedures pursuant to the rules of the department as provided in s. 944.09.

Section 6. This act shall take effect July 1, 2019.