

By Senator Thurston

33-00428-20

2020228\_\_

1                                   A bill to be entitled  
2       An act relating to youth in solitary confinement;  
3       creating s. 958.155, F.S.; providing a short title;  
4       defining terms; prohibiting the Department of  
5       Corrections or a local governmental body from  
6       subjecting youth prisoners to solitary confinement  
7       except under certain circumstances; limiting cell  
8       confinement of all youth prisoners; providing  
9       protection for youth prisoners held in emergency cell  
10      confinement; prohibiting youth prisoners from being  
11      subjected to emergency cell confinement under certain  
12      circumstances; requiring facility staff to document  
13      placements of youth prisoners in emergency cell  
14      confinement; requiring that within a specified time  
15      and at specified intervals a mental health clinician  
16      perform a face-to-face evaluation of youth prisoners  
17      who are subjected to emergency cell confinement;  
18      requiring each evaluation to be documented; requiring  
19      facility staff to perform visual checks of youth  
20      prisoners in emergency cell confinement at specified  
21      intervals; requiring each visual check to be  
22      documented; providing for an individualized suicide  
23      crisis intervention plan for certain youth prisoners,  
24      if applicable; requiring youth prisoners to be  
25      transported to a mental health receiving facility if  
26      such prisoner's suicide risk is not resolved within a  
27      certain timeframe; requiring that youth prisoners in  
28      emergency cell confinement be allotted services and  
29      other benefits that are made available to prisoners in

33-00428-20

2020228\_\_

30 the general prison population; providing for the  
31 protection of youth prisoners in disciplinary cell  
32 confinement; prohibiting youth prisoners from being  
33 subjected to disciplinary cell confinement for longer  
34 than a certain duration; requiring staff to perform  
35 visual checks of youth prisoners in disciplinary cell  
36 confinement at specified intervals; requiring each  
37 visual check to be documented; requiring that youth  
38 prisoners in disciplinary cells be allotted services  
39 and other benefits that are made available to  
40 prisoners in the general prison population; providing  
41 reduced isolation for youth prisoners in protective  
42 custody; requiring the department and the board of  
43 county commissioners of each county that administers a  
44 detention facility or jail to review their policies  
45 relating to youth prisoners to evaluate whether the  
46 policies are necessary; requiring the department and  
47 the boards of county commissioners to certify  
48 compliance in a report to the Governor and Legislature  
49 by a specified date; requiring the department and the  
50 boards of county commissioners to adopt policies and  
51 procedures; providing construction; amending s.  
52 944.09, F.S.; authorizing the department to adopt  
53 rules; amending s. 951.23, F.S.; requiring sheriffs  
54 and chief correctional officers to adopt model  
55 standards relating to youth prisoners; reenacting s.  
56 944.279(1), F.S., relating to disciplinary procedures  
57 applicable to a prisoner for filing frivolous or  
58 malicious actions or bringing false information before

33-00428-20

2020228\_\_

59 a court, to incorporate the amendment made to s.  
60 944.09, F.S., in a reference thereto; providing an  
61 effective date.  
62

63 Be It Enacted by the Legislature of the State of Florida:  
64

65 Section 1. Section 958.155, Florida Statutes, is created to  
66 read:

67 958.155 Youthful offenders in solitary confinement.-

68 (1) SHORT TITLE.-This section may be cited as the "Youth in  
69 Solitary Confinement Reduction Act."

70 (2) DEFINITIONS.-As used in this section, the term:

71 (a) "Disciplinary cell confinement" means a disciplinary  
72 sanction for a major rule violation in which a youth who is  
73 found guilty of committing such violation is confined to a cell  
74 for a specified time.

75 (b) "Emergency cell confinement" means the confinement to a  
76 cell of a youth who needs to be temporarily removed from the  
77 general population of prisoners because he or she presents an  
78 immediate, serious danger to the security or safety of himself  
79 or herself or others.

80 (c) "Major rule violation" means an act that:

81 1. Is an act of violence which results in or is likely to  
82 result in serious injury or death to another;

83 2. Occurs in connection with an act of nonconsensual sex;

84 3. Consists of two or more discrete acts that cause serious  
85 disruption to the security or order of the detention center or  
86 facility operations; or

87 4. Is an escape, attempted escape, or conspiracy to escape

33-00428-20

2020228\_\_

88 from within a security perimeter or from custody or both.

89 (d) "Mental health clinician" means a psychiatrist,  
90 psychologist, social worker, or nurse practitioner.

91 (e) "Prisoner" means a person incarcerated in a county or  
92 regional jail or in a department facility who is accused of,  
93 convicted of, or sentenced for a violation of criminal law or  
94 the terms and conditions of parole, probation, pretrial release,  
95 or a diversionary program.

96 (f) "Protective custody" means a status for a youth who  
97 requires protection because he or she is in danger of being  
98 victimized by other prisoners in the facility. The term includes  
99 time spent under this status pending review of the youth's  
100 request for protection.

101 (g) "Solitary confinement" means involuntary confinement in  
102 a cell in isolation for more than 20 hours a day.

103 (h) "Youth" means a person who is younger than 18 years of  
104 age, or a person who is sentenced as a "youthful offender" by a  
105 court or is classified as such by the department pursuant to  
106 this chapter.

107 (3) PROTECTING YOUTH FROM SOLITARY CONFINEMENT.—A youth  
108 prisoner who is held under the jurisdiction of the department or  
109 a local governmental body in this state may not be placed in  
110 solitary confinement, except as provided in this section. Cell  
111 confinement of all youth prisoners is limited to the types and  
112 parameters of confinement specified in this section.

113 (4) PROTECTING YOUTH HELD IN EMERGENCY CELL CONFINEMENT.—

114 (a) A youth prisoner may be placed in emergency cell  
115 confinement for a period not to exceed 24 hours.

116 (b) A youth prisoner may not be placed in emergency cell

33-00428-20

2020228\_\_

117 confinement unless all other less restrictive options have been  
118 exhausted. Facility staff must document the placement of a youth  
119 prisoner in emergency cell confinement and include the  
120 justification for the placement and all the attempts for other  
121 less restrictive options before the placement.

122 (c) A youth prisoner may be placed in emergency cell  
123 confinement for the shortest time required to address the safety  
124 risk and may not be held in such confinement if a mental health  
125 clinician determines that the confinement is detrimental to the  
126 youth's mental or physical health.

127 (d) A youth prisoner who is placed in emergency cell  
128 confinement must be evaluated face to face by a mental health  
129 clinician within 1 hour after placement and at least every 4  
130 hours thereafter to determine if the youth should remain in  
131 emergency cell confinement. The mental health clinician shall  
132 document each evaluation and shall include the reason for  
133 continued placement in emergency cell confinement.

134 (e) During the time a youth prisoner is placed in emergency  
135 cell confinement, the facility staff shall conduct visual checks  
136 at least four times an hour and not longer than 15 minutes  
137 apart. During the time a youth is awake, the staff shall speak  
138 to the youth during the visual checks. After each visual check,  
139 the staff shall document the status of the youth.

140 (f) Within 4 hours after placing a youth prisoner who has  
141 exhibited suicidal behavior or committed acts of self-harm in  
142 emergency cell confinement, a mental health clinician shall  
143 implement an individualized suicide crisis intervention plan for  
144 the youth prisoner and closely monitor the youth prisoner's  
145 condition in order to reduce or eliminate the risk of self-harm.

33-00428-20

2020228\_\_

146 If the youth's suicide risk is not resolved within 24 hours, the  
147 youth must be moved to a mental health receiving facility.

148 (g) A youth prisoner who is placed in emergency cell  
149 confinement shall be provided:

150 1. At least 1 hour of daily out-of-cell large-muscle  
151 exercise that includes access to outdoor recreation when the  
152 weather allows; and

153 2. Access to the same meals and drinking water, medical  
154 treatment, contact with parents and legal guardians, and legal  
155 assistance as provided to prisoners in the general population.

156 (5) PROTECTING YOUTH HELD IN DISCIPLINARY CELL  
157 CONFINEMENT.—

158 (a) A youth prisoner may be placed in disciplinary cell  
159 confinement by himself or herself for a period not to exceed 72  
160 hours.

161 (b) During the time a youth prisoner is placed in  
162 disciplinary cell confinement in a cell by himself or herself,  
163 the facility staff shall conduct visual checks at least four  
164 times an hour and not longer than 15 minutes apart. During the  
165 time the youth is awake, the staff shall speak to the youth  
166 during the visual checks. After each visual check, the staff  
167 shall document the status of the youth.

168 (c) A youth prisoner who is placed in disciplinary cell  
169 confinement shall be provided:

170 1. At least 2 hours of daily out-of-cell large-muscle  
171 exercise that includes access to outdoor recreation when the  
172 weather allows;

173 2. Daily showers; and

174 3. Access to the same meals and drinking water, clothing,

33-00428-20

2020228\_\_

175 medical treatment, educational services, correspondence  
176 privileges, contact with parents and legal guardians, and legal  
177 assistance as provided to prisoners in the general population.

178 (6) REDUCING ISOLATION FOR YOUTH WHO REQUIRE PROTECTIVE  
179 CUSTODY.—If a youth prisoner is placed in protective custody,  
180 the restrictions to which the youth prisoner is subjected due to  
181 such custody status must be the least restrictive to maintain  
182 the safety of the youth prisoner and the facility. At a minimum,  
183 such youth prisoner shall have access to:

184 (a) Educational and programming opportunities consistent  
185 with the youth prisoner's safety and security and any federal  
186 and state law requirements;

187 (b) At least 5 hours a day of out-of-cell time, including a  
188 minimum of 2 hours of daily out-of-cell large-muscle exercise  
189 that includes access to outdoor recreation when the weather  
190 allows;

191 (c) The same meals and drinking water, clothing, and  
192 medical treatment as provided to prisoners in the general  
193 population;

194 (d) Personal property, including televisions and radios,  
195 and access to books, magazines, and other printed materials;

196 (e) Daily showers;

197 (f) The law library; and

198 (g) The same correspondence privileges and number of visits  
199 and phone calls allowed to prisoners in the general population,  
200 including, but not limited to, the same contact with parents and  
201 legal guardians and the same legal assistance.

202 (7) IMPLEMENTATION.—

203 (a) The department and the board of county commissioners of

33-00428-20

2020228\_\_

204 each county that administers a detention facility or jail shall  
205 review their policies relating to youth prisoners in solitary  
206 confinement or protective custody to determine if such policies  
207 are necessary. The department and the board of county  
208 commissioners of each county that administers a detention  
209 facility or jail shall certify compliance with this section in a  
210 report that the department and the commission shall submit to  
211 the Governor, the President of the Senate, and the Speaker of  
212 the House of Representatives by January 1, 2020. The department  
213 and the board of county commissioners of each such county shall  
214 adopt policies and procedures necessary to administer this act.

215 (b) To the extent that this section conflicts with any  
216 other provision of law relating to youth prisoners in this  
217 state, the provisions that afford the greater or additional  
218 protections to youth prisoners in this state shall prevail.

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

221 944.09 Rules of the department; offenders, probationers,  
222 and parolees.—

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

226 (s) Disciplinary procedures and punishment for youth  
227 prisoners in compliance with the Youth in Solitary Confinement  
228 Reduction Act.

229 Section 3. Paragraph (a) of subsection (4) of section  
230 951.23, Florida Statutes, is amended to read:

231 951.23 County and municipal detention facilities;  
232 definitions; administration; standards and requirements.—



33-00428-20

2020228\_\_

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

235 (a) There shall be established a five-member working group  
236 consisting of three persons appointed by the Florida Sheriffs  
237 Association and two persons appointed by the Florida Association  
238 of Counties to develop model standards for county and municipal  
239 detention facilities. ~~By October 1, 1996,~~ Each sheriff and chief  
240 correctional officer shall adopt, at a minimum, the model  
241 standards with reference to:

242 1.a. The construction, equipping, maintenance, and  
243 operation of county and municipal detention facilities.

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

253  
254 Notwithstanding the provisions of the otherwise applicable  
255 building code, a reduced custody housing area may be occupied by  
256 inmates or may be used for sleeping purposes as allowed in  
257 subsection (7). The sheriff or chief correctional officer shall  
258 provide that a reduced custody housing area shall be governed by  
259 fire and life safety standards that ~~which~~ do not interfere with  
260 the normal use of the facility and that ~~which~~ affect a  
261 reasonable degree of compliance with rules of the State Fire

33-00428-20

2020228\_\_

262 Marshal for correctional facilities.

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

274         3. The confinement of prisoners by classification and  
275 providing for classifications that comply with the Youth in  
276 Solitary Confinement Reduction Act.

277         Section 4. For the purpose of incorporating the amendment  
278 made by this act to section 944.09, Florida Statutes, in a  
279 reference thereto, subsection (1) of section 944.279, Florida  
280 Statutes, is reenacted to read:

281         944.279 Disciplinary procedures applicable to prisoner for  
282 filing frivolous or malicious actions or bringing false  
283 information before court.—

284         (1) At any time, and upon its own motion or on motion of a  
285 party, a court may conduct an inquiry into whether any action or  
286 appeal brought by a prisoner was brought in good faith. A  
287 prisoner who is found by a court to have brought a frivolous or  
288 malicious suit, action, claim, proceeding, or appeal in any  
289 court of this state or in any federal court, which is filed  
290 after June 30, 1996, or to have brought a frivolous or malicious

33-00428-20

2020228\_\_

291 collateral criminal proceeding, which is filed after September  
292 30, 2004, or who knowingly or with reckless disregard for the  
293 truth brought false information or evidence before the court, is  
294 subject to disciplinary procedures pursuant to the rules of the  
295 Department of Corrections. The court shall issue a written  
296 finding and direct that a certified copy be forwarded to the  
297 appropriate institution or facility for disciplinary procedures  
298 pursuant to the rules of the department as provided in s.  
299 944.09.

300 Section 5. This act shall take effect July 1, 2020.