By Senator Gibson

A bill to be entitled An act relating to youth in solitary confinement; creating s. 958.155, F.S.; providing a short title; defining terms; prohibiting the Department of Corrections or a local government body from subjecting a youth to solitary confinement except under certain circumstances; limiting cell confinement of all youth prisoners; providing protection for youth prisoners held in emergency cell confinement; prohibiting a youth prisoner from being subjected to emergency cell confinement for more than 24 hours; requiring the placement in emergency cell confinement to be documented; requiring that a mental health clinician evaluate face-to-face within a specified time a youth prisoner who is subjected to emergency cell confinement; requiring staff to perform visual checks at specified intervals; providing for an individualized suicide crisis intervention plan, if applicable; providing for the protection of youth prisoners in disciplinary cell confinement; prohibiting a youth prisoner from being subjected to disciplinary cell confinement for more than 72 hours; requiring staff to perform visual checks at specified intervals; requiring that youth prisoners in disciplinary cells be allotted services and other benefits that are made available to prisoners in the general prison population; providing reduced isolation for youth prisoners in protective custody; requiring the department and counties to review their policies...
relating to youth prisoners to evaluate whether the
policies are necessary; requiring a report to the
Governor and Legislature; amending s. 944.09, F.S.;
authorizing the department to adopt rules; amending s.
951.23, F.S.; requiring sheriffs to adopt standards
relating to youth prisoners; providing an effective
date.

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

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

958.155 Youthful offenders in solitary confinement.—
(1) SHORT TITLE.—This act may be cited as the "Youth in
Solitary Confinement Reduction Act."
(2) DEFINITIONS.—As used in this section, the term:
(a) "Disciplinary cell confinement" means a disciplinary
sanction for a major rule violation in which a youth who is
found guilty of committing a major rule violation is confined to
a cell for a specified period of time.
(b) "Emergency cell confinement" means the confinement to a
cell of a youth who needs to be temporarily removed from the
general population of prisoners because he or she presents an
immediate, serious danger to the security or safety of himself
or herself or others.
(c) "Major rule violation" means an act that:
1. Is an act of violence which results in or is likely to
result in serious injury or death to another;
2. Occurs in connection with an act of nonconsensual sex;
3. Consists of two or more discrete acts that cause serious disruption to the security or order of the detention center or facility operations; or
4. Is an escape, attempted escape, or conspiracy to escape from within a security perimeter or custody or both.
   (d) "Mental health clinician" means a psychiatrist, psychologist, social worker, or nurse practitioner.
   (e) "Prisoner" means a person incarcerated in a county or regional jail or in a department facility who is accused of, convicted of, or sentenced for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or a diversionary program.
   (f) "Protective custody" means a status for a youth who requires protection because he or she is in danger of being victimized by other prisoners in the facility, including time spent pending review of the youth’s request for protection.
   (g) "Solitary confinement" means involuntary confinement in a cell for more than 20 hours a day, in isolation from persons other than a cellmate, guards, facility staff, and attorneys.
   (h) "Youth" means a person who is younger than 18 years of age, or a person who is sentenced as a "youthful offender" by a court or classified as such by the department pursuant to chapter 958.

(3) PROTECTING YOUTH FROM SOLITARY CONFINEMENT.—A youth prisoner who is held under the jurisdiction of the department or a local government body in this state may not be subjected to solitary confinement, except as provided in this section. Cell confinement of all youth prisoners shall be limited to the types and parameters of confinement specified in this section.
4) PROTECTING YOUTH HELD IN EMERGENCY CELL CONFINEMENT.—

(a) A youth prisoner may be subjected to emergency cell
confinement for a period not to exceed 24 hours.

(b) A youth prisoner may not be subjected to emergency cell
confinement unless all other less restrictive options have been
exhausted. The placement of a youth prisoner in emergency cell
confinement shall be documented, including the justification for
the placement and all the attempts for other less restrictive
options before the placement.

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

(d) A youth prisoner who is subjected to emergency cell
confinement shall be evaluated face-to-face by a mental health
clinician within 1 hour after placement and at least every 4
hours thereafter to determine if the youth should remain in cell
confinement. Each evaluation shall be documented and must
include the reason for continued placement in emergency cell
confinement.

(e) During the time a youth prisoner is subjected to
emergency cell confinement, the facility staff shall conduct
visual checks at least 4 times an hour and not longer than 15
minutes apart. During the time a youth is awake, the staff shall
speak to the youth during the visual checks. After each visual
check, the staff shall document the status of the youth.

(f) Within 4 hours of placing a youth prisoner who has
exhibited suicidal behavior or committed acts of self-harm in
emergency cell confinement, an individualized suicide crisis intervention plan must be implemented for the youth, and a mental health clinician shall closely monitor the youth’s condition in order to reduce or eliminate the risk of self-harm. If the youth’s suicide risk is not resolved within 24 hours, the youth shall be moved to a mental health receiving facility.

(g) A youth prisoner who is subjected to emergency cell confinement shall be provided:

1. At least 1 hour of out-of-cell large muscle exercise daily that includes access to outdoor recreation when the weather permits; and
2. Access to the same meals and drinking water, medical treatment, contact with parents and legal guardians, and legal assistance as provided to prisoners in the general population.

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

(a) A youth prisoner may be subjected to disciplinary cell confinement by himself or herself for a period not to exceed 72 hours.

(b) During the time a youth prisoner is subjected to disciplinary cell confinement in a cell by himself or herself, the facility staff shall conduct visual checks at least 4 times an hour and not longer than 15 minutes apart. During the time the youth is awake, the staff shall speak to the youth during the visual checks. After each visual check, the staff shall document the status of the youth.

(c) A youth prisoner who is subjected to disciplinary cell confinement shall be provided:

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

2. Daily showers; and

3. Access to the same standards of meals and drinking
water, clothing, medical treatment, educational services,
correspondence privileges, contact with parents and legal
guardians, and legal assistance as provided to prisoners in the
general population.

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

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

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

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

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

(e) Daily showers;

(f) The law library; and

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

(7) IMPLEMENTATION.—

(a) The department and the county commission of each county that administers a detention facility or jail shall review their policies relating to youth prisoners in solitary confinement or protective custody to determine if the policies are necessary. The department and the county commission of each county that administers a detention facility or jail shall certify compliance to the provisions of this section in a report that the department and the commission shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2014. The department and the county commission of each county shall adopt such policies and procedures that are necessary to administer this act.

(b) This act does not conflict with any law providing greater or additional protections to youth prisoners in this state.

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) Disciplinary procedures and punishment for youth prisoners in compliance with the Youth in Solitary Confinement
Reduction Act.

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 consisting 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. By October 1, 1996, each sheriff and chief correctional officer shall adopt, at a minimum, the model standards with reference to:

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 which 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 which 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 by classification and providing for classifications which comply with the Youth Solitary Confinement Reduction Act.

Section 4. This act shall take effect July 1, 2013.