

By Senator Thurston

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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 a youth to solitary confinement except
7 under certain circumstances; limiting cell confinement
8 of all youth prisoners; providing protection for youth
9 prisoners held in emergency cell confinement;
10 prohibiting a youth prisoner from being subjected to
11 emergency cell confinement under certain
12 circumstances; requiring facility staff to document
13 the placement in emergency cell confinement; requiring
14 that within a specified time and at specified
15 intervals a mental health clinician evaluate face to
16 face a youth prisoner who is subjected to emergency
17 cell confinement; requiring facility staff to perform
18 visual checks at specified intervals; requiring each
19 evaluation to be documented; providing for an
20 individualized suicide crisis intervention plan, if
21 applicable; requiring the transporting of a youth to a
22 mental health receiving facility if the youth's
23 suicide risk is not resolved within a certain time;
24 requiring that youth prisoners in emergency cell
25 confinement be allotted services and other benefits
26 that are made available to prisoners in the general
27 prison population; providing for the protection of
28 youth prisoners in disciplinary cell confinement;
29 prohibiting a youth prisoner from being subjected to

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

56
57 Be It Enacted by the Legislature of the State of Florida:
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59 Section 1. Section 958.155, Florida Statutes, is created to
60 read:

61 958.155 Youthful offenders in solitary confinement.—

62 (1) SHORT TITLE.—This section may be cited as the “Youth in
63 Solitary Confinement Reduction Act.”

64 (2) DEFINITIONS.—As used in this section, the term:

65 (a) “Disciplinary cell confinement” means a disciplinary
66 sanction for a major rule violation in which a youth who is
67 found guilty of committing a major rule violation is confined to
68 a cell for a specified time.

69 (b) “Emergency cell confinement” means the confinement to a
70 cell of a youth who needs to be temporarily removed from the
71 general population of prisoners because he or she presents an
72 immediate, serious danger to the security or safety of himself
73 or herself or others.

74 (c) “Major rule violation” means an act that:

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

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

78 3. Consists of two or more discrete acts that cause serious
79 disruption to the security or order of the detention center or
80 facility operations; or

81 4. Is an escape, attempted escape, or conspiracy to escape
82 from within a security perimeter or from custody or both.

83 (d) “Mental health clinician” means a psychiatrist,
84 psychologist, social worker, or nurse practitioner.

85 (e) “Prisoner” means a person incarcerated in a county or
86 regional jail or in a department facility who is accused of,
87 convicted of, or sentenced for a violation of criminal law or

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88 the terms and conditions of parole, probation, pretrial release,
89 or a diversionary program.

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

95 (g) "Solitary confinement" means involuntary confinement in
96 a cell for more than 20 hours a day, in isolation.

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

101 (3) PROTECTING YOUTH FROM SOLITARY CONFINEMENT.—A youth
102 prisoner who is held under the jurisdiction of the department or
103 a local governmental body in this state may not be subjected to
104 solitary confinement, except as provided in this section. Cell
105 confinement of all youth prisoners is limited to the types and
106 parameters of confinement specified in this section.

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

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

110 (b) A youth prisoner may not be subjected to emergency cell
111 confinement unless all other less-restrictive options have been
112 exhausted. Facility staff shall document the placement of a
113 youth prisoner in emergency cell confinement and include the
114 justification for the placement and all the attempts for other
115 less-restrictive options before the placement.

116 (c) A youth prisoner may be subjected to emergency cell

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117 confinement for the shortest time that is required to address
118 the safety risk and may not be held in such confinement if a
119 mental health clinician determines that the confinement is
120 detrimental to the youth's mental or physical health.

121 (d) A youth prisoner who is subjected to emergency cell
122 confinement shall be evaluated face to face by a mental health
123 clinician within 1 hour after placement and at least every 4
124 hours thereafter to determine if the youth should remain in
125 emergency cell confinement. The mental health clinician shall
126 document each evaluation and shall include the reason for
127 continued placement in emergency cell confinement.

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

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

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

144 1. At least 1 hour of daily out-of-cell large-muscle
145 exercise that includes access to outdoor recreation when the

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146 weather allows; and

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

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

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

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

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

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

167 2. Daily showers; and

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

172 (6) REDUCING ISOLATION FOR YOUTH WHO REQUIRE PROTECTIVE
173 CUSTODY.—If a youth prisoner is subjected to protective custody,
174 the restrictions to which the youth prisoner is subjected due to

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175 such custody status must be the least restrictive to maintain
176 the safety of the youth prisoner and the facility. At a minimum,
177 such youth prisoner shall have access to:

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

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

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

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

190 (e) Daily showers;

191 (f) The law library; and

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

196 (7) IMPLEMENTATION.—

197 (a) The department and the board of county commissioners of
198 each county that administers a detention facility or jail shall
199 review their policies relating to youth prisoners in solitary
200 confinement or protective custody to determine if the policies
201 are necessary. The department and the board of county
202 commissioners of each county that administers a detention
203 facility or jail shall certify compliance with this section in a

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204 report that the department and the commission shall submit to
205 the Governor, the President of the Senate, and the Speaker of
206 the House of Representatives by January 1, 2020. The department
207 and the board of county commissioners of each such county shall
208 adopt policies and procedures necessary to administer this act.

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

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

214 944.09 Rules of the department; offenders, probationers,
215 and parolees.—

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

219 (s) Disciplinary procedures and punishment for youth
220 prisoners in compliance with the Youth in Solitary Confinement
221 Reduction Act.

222 Section 3. Paragraph (a) of subsection (4) of section
223 951.23, Florida Statutes, is amended to read:

224 951.23 County and municipal detention facilities;
225 definitions; administration; standards and requirements.—

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

228 (a) There shall be established a five-member working group
229 consisting of three persons appointed by the Florida Sheriffs
230 Association and two persons appointed by the Florida Association
231 of Counties to develop model standards for county and municipal
232 detention facilities. ~~By October 1, 1996,~~ Each sheriff and chief

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233 correctional officer shall adopt, at a minimum, the model
234 standards with reference to:

235 1.a. The construction, equipping, maintenance, and
236 operation of county and municipal detention facilities.

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

246
247 Notwithstanding the provisions of the otherwise applicable
248 building code, a reduced custody housing area may be occupied by
249 inmates or may be used for sleeping purposes as allowed in
250 subsection (7). The sheriff or chief correctional officer shall
251 provide that a reduced custody housing area shall be governed by
252 fire and life safety standards which do not interfere with the
253 normal use of the facility and which affect a reasonable degree
254 of compliance with rules of the State Fire Marshal for
255 correctional facilities.

256 2. The confinement of prisoners by classification and
257 providing, whenever possible, for classifications that ~~which~~
258 separate males from females, juveniles from adults, felons from
259 misdemeanants, and those awaiting trial from those convicted
260 and, in addition, providing for the separation of special risk
261 prisoners, such as the mentally ill, alcohol or narcotic

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262 addicts, sex deviates, suicide risks, and any other
263 classification that ~~which~~ the local unit may deem necessary for
264 the safety of the prisoners and the operation of the facility
265 pursuant to degree of risk and danger criteria. Nondangerous
266 felons may be housed with misdemeanants.

267 3. The confinement of prisoners by classification and
268 providing for classifications that comply with the Youth
269 Solitary Confinement Reduction Act.

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

274 944.279 Disciplinary procedures applicable to prisoner for
275 filing frivolous or malicious actions or bringing false
276 information before court.—

277 (1) At any time, and upon its own motion or on motion of a
278 party, a court may conduct an inquiry into whether any action or
279 appeal brought by a prisoner was brought in good faith. A
280 prisoner who is found by a court to have brought a frivolous or
281 malicious suit, action, claim, proceeding, or appeal in any
282 court of this state or in any federal court, which is filed
283 after June 30, 1996, or to have brought a frivolous or malicious
284 collateral criminal proceeding, which is filed after September
285 30, 2004, or who knowingly or with reckless disregard for the
286 truth brought false information or evidence before the court, is
287 subject to disciplinary procedures pursuant to the rules of the
288 Department of Corrections. The court shall issue a written
289 finding and direct that a certified copy be forwarded to the
290 appropriate institution or facility for disciplinary procedures

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291 pursuant to the rules of the department as provided in s.
292 944.09.

293 Section 5. This act shall take effect July 1, 2019.