



448502

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Criminal Justice (Montford) recommended the following:

Senate Substitute for Amendment (569312)

Delete lines 263 - 487

and insert:

985.28 Confinement in detention facilities.-

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

(a) "Child" means a person who is in the custody of the department and who is under the age of 19 years.

(b) "Emergency confinement" means a type of confinement that involves the involuntary placement of a child in an



448502

11 isolated room to separate that child from other children in the
12 facility and to remove him or her from a situation in which he
13 or she presents an immediate and serious danger to the security
14 or safety of himself or herself or others.

15 (c) "Medical confinement" means a type of confinement that
16 involves the involuntary placement of a child in an isolated
17 room to separate that child from other children in the facility
18 to allow the child to recover from illness or to prevent the
19 spread of a communicable illness.

20 (d) "Mental health clinician" means a licensed
21 psychiatrist, psychologist, social worker, mental health
22 counselor, nurse practitioner, or physician assistant.

23 (e) "Solitary confinement" means the involuntary placement
24 of a child in an isolated room to separate that child from other
25 children in the facility for any period of time.

26 (2) PROHIBITION ON THE USE OF SOLITARY CONFINEMENT.—A child
27 may not be placed in solitary confinement, except as provided in
28 this section.

29 (3) PROTECTING A CHILD IN EMERGENCY CONFINEMENT.—

30 (a) A child may be placed in emergency confinement if all
31 of the following conditions are met:

32 1. A nonphysical intervention with the child would not be
33 effective in preventing harm or danger to the child or others.

34 2. There is imminent risk of the child physically harming
35 himself or herself, staff, or others or the child is engaged in
36 major property destruction that is likely to compromise the
37 security of the program or jeopardize the safety of the child or
38 others.

39 3. All less-restrictive means have been exhausted.



448502

40 (b) Facility staff shall document the placement of a child
41 in emergency confinement. The documentation must include
42 justification for the placement of a child in emergency
43 confinement, in addition to a description of the less-
44 restrictive options that the facility staff exercised before the
45 child was so placed.

46 (c) A mental health clinician shall evaluate a child who is
47 placed in emergency confinement within 1 hour after such
48 placement to ensure that the confinement is not detrimental to
49 the mental or physical health of the child. Following the
50 initial evaluation, a mental health clinician shall conduct a
51 face-to-face evaluation of the child every 2 hours thereafter to
52 determine whether the child should remain in emergency
53 confinement. The mental health clinician shall document each
54 evaluation and provide justification for continued placement in
55 emergency confinement.

56 (d) A child may not be placed in emergency confinement for
57 more than 24 hours unless an extension is sought and obtained by
58 a mental health clinician.

59 1. If a mental health clinician determines that release of
60 the child would imminently threaten the safety of the child or
61 others, the mental health clinician may grant a one-time
62 extension of 24 hours for continued placement in emergency
63 confinement.

64 2. If, at the conclusion of the 48-hour window, a mental
65 health clinician determines that it is not safe for the child to
66 be released from emergency confinement, the facility staff must
67 prepare to transfer the child to a facility that is able to
68 provide specialized treatment to address the child's needs.



448502

69 (e) A child who is placed in emergency confinement must be
70 provided access to the same meals and drinking water, clothing,
71 medical treatment, contact with parents and legal guardians, and
72 legal assistance as provided to children in the facility.

73 (f) The use of emergency confinement is strictly prohibited
74 for the purposes of punishment or discipline.

75 (4) PROTECTING A CHILD IN MEDICAL CONFINEMENT.-

76 (a) A child may be placed in medical confinement if all of
77 the following conditions are met:

78 1. Isolation from staff and other children in the facility
79 is required to allow the child to rest and recover from illness
80 or to prevent the spread of a communicable illness.

81 2. A medical professional deems such placement necessary.

82 3. The use of other less-restrictive means would not be
83 sufficient to allow the child to recover from illness or to
84 prevent the spread of a communicable illness.

85 (b) A child may be placed in medical confinement for a
86 period of time not to exceed the time that is necessary for the
87 child to recover from his or her illness or to prevent the
88 spread of a communicable illness to other children or staff in
89 the facility.

90 (c) Facility staff shall document the placement of a child
91 in medical confinement. The documentation must include a medical
92 professional's justification for the placement.

93 (d) A medical professional must conduct a face-to-face
94 evaluation of a child who is held in medical confinement at
95 least once every 12 hours to determine whether the child should
96 remain in medical confinement. The medical professional shall
97 document each evaluation and provide justification for continued



448502

98 placement in medical confinement.

99 (e) The use of medical confinement is strictly prohibited
100 for the purposes of punishment or discipline.

101 (5) IMPLEMENTATION.—

102 (a) The department and the board of county commissioners of
103 each county that administers a detention facility shall review
104 their policies and procedures relating to disciplinary treatment
105 to determine whether their policies and procedures comply with
106 this section.

107 (b) The department and the board of county commissioners of
108 each county that administers a detention facility shall certify
109 compliance with this section in a report that the department and
110 the board shall submit to the Governor, the President of the
111 Senate, and the Speaker of the House of Representatives by
112 January 1, 2020.

113 (c) This section does not supersede any law providing
114 greater or additional protections to a child in this state.

115 Section 4. Section 985.4415, Florida Statutes, is created
116 to read:

117 985.4415 Confinement in residential facilities.—

118 (1) DEFINITIONS.—As used in this section, the term:

119 (a) "Child" means a person within the custody of the
120 department who is under the age of 19 years.

121 (b) "Emergency confinement" means a type of confinement
122 that involves the involuntary placement of a child in an
123 isolated room to separate that child from other children in the
124 facility and to remove him or her from a situation in which he
125 or she presents an immediate and serious danger to the security
126 or safety of himself or herself or others.



448502

127 (c) "Medical confinement" means a type of confinement that
128 involves the involuntary placement of a child in an isolated
129 room to separate that child from the other children in the
130 facility and to allow him or her to recover from illness or to
131 prevent the spread of a communicable illness.

132 (d) "Mental health clinician" means a licensed
133 psychiatrist, psychologist, social worker, mental health
134 counselor, nurse practitioner, or physician assistant.

135 (e) "Solitary confinement" means the involuntary placement
136 of a child in an isolated room to separate that child from the
137 other children in the facility for any period of time.

138 (2) PROHIBITION ON THE USE OF SOLITARY CONFINEMENT.—A child
139 may not be placed in solitary confinement, except as provided in
140 this section.

141 (3) PROTECTING A CHILD IN EMERGENCY CONFINEMENT.—

142 (a) A child may be placed in emergency confinement if all
143 of the following conditions are met:

144 1. A nonphysical intervention with the child would not be
145 effective in preventing harm or danger to the child or others.

146 2. There is imminent risk of the child physically harming
147 himself or herself, staff, or others or the child is engaged in
148 major property destruction that is likely to compromise the
149 security of the program or jeopardize the safety of the child or
150 others.

151 3. All less-restrictive means have been exhausted.

152 (b) Facility staff shall document the placement of a child
153 in emergency confinement. The documentation must include
154 justification for the placement of a child in emergency
155 confinement, in addition to a description of the other less-



448502

156 restrictive options that the facility staff exercised before the
157 child was so placed.

158 (c) A mental health clinician shall evaluate a child who is
159 placed in emergency confinement within 1 hour after such
160 placement to ensure that the confinement is not detrimental to
161 the mental or physical health of the child. Following the
162 initial evaluation, a mental health clinician shall conduct a
163 face-to-face evaluation of the child every 2 hours thereafter to
164 determine whether the child should remain in emergency
165 confinement. The mental health clinician shall document each
166 evaluation and provide justification for continued placement in
167 emergency confinement.

168 (d) A child may not be placed in emergency confinement for
169 more than 24 hours unless an extension is sought and obtained by
170 a mental health clinician.

171 1. If a mental health clinician determines that release of
172 the child would imminently threaten the safety of the child or
173 others, the mental health clinician may grant a one-time
174 extension of 24 hours for continued placement in emergency
175 confinement.

176 2. If at the conclusion of the 48-hour window a mental
177 health clinician determines that it is not safe for the child to
178 be released from emergency confinement, the facility staff must
179 prepare to transfer the child to a facility that is able to
180 provide specialized treatment to address the child's needs.

181 (e) A child who is placed in emergency confinement must be
182 provided access to the same meals and drinking water, clothing,
183 medical treatment, contact with parents and legal guardians, and
184 legal assistance as provided to children in the facility.



448502

185 (f) The use of emergency confinement is strictly prohibited
186 for the purposes of punishment or discipline.

187 (4) PROTECTING A CHILD IN MEDICAL CONFINEMENT.—

188 (a) A child may be placed in medical confinement if all of
189 the following conditions are met:

190 1. Isolation from other children and staff in the facility
191 is required to allow a child to rest and recover from illness or
192 to prevent the spread of a communicable illness.

193 2. A medical professional deems such placement necessary.

194 3. The use of other less-restrictive means would not be
195 sufficient to allow the child to recover from illness or to
196 prevent the spread of a communicable illness.

197 (b) A child may be placed in medical confinement for a
198 period of time not to exceed the time that is necessary for the
199 child to recover from his or her illness or to prevent the
200 spread of a communicable illness to other children or staff in
201 the facility.

202 (c) Facility staff shall document the placement of a child
203 in medical confinement. The documentation must include a medical
204 professional's justification for the placement.

205 (d) A medical professional must conduct a face-to-face
206 evaluation of a child who is held in medical confinement at
207 least once every 12 hours to determine whether the child should
208 remain in medical confinement. The medical professional shall
209 document each evaluation and provide justification for continued
210 placement in medical confinement.

211 (e) The use of medical confinement is strictly prohibited
212 for the purposes of punishment or discipline.

213 (5) IMPLEMENTATION.—



448502

214 (a) The department shall review its policies and procedures
215 relating to disciplinary treatment in residential facilities to
216 determine whether its policies and procedures comply with this
217 section.

218 (b) The department shall certify compliance with this
219 section in a report that the department shall submit to the
220 Governor, the President of the Senate, and the Speaker of the
221 House of Representatives by January 1, 2020.

222 (c) This section does not supersede any law providing
223 greater or additional protections to a child in this state.

224 Section 5. Paragraph (s) is added to subsection (1) of
225 section 944.09, Florida Statutes, to read:

226 944.09 Rules of the department; offenders, probationers,
227 and parolees.—

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

231 (s) Youth in confinement in compliance with s.