

By the Committee on Criminal Justice; and Senator Montford

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1 A bill to be entitled
2 An act relating to youth in solitary confinement;
3 creating s. 945.425, F.S.; defining terms; prohibiting
4 the Department of Corrections from placing a youth in
5 solitary confinement except under certain
6 circumstances; authorizing a youth to be placed in
7 emergency confinement if certain conditions are met;
8 requiring facility staff to document such placement;
9 requiring that, within a specified timeframe and at
10 specified intervals, a mental health clinician conduct
11 certain evaluations of a youth who is in emergency
12 confinement; limiting the allowable length of time for
13 emergency confinement; requiring specific treatment
14 for a youth who is in emergency confinement;
15 prohibiting the use of emergency confinement for
16 certain purposes; authorizing a youth to be placed in
17 medical confinement under certain circumstances;
18 limiting the allowable length of time for medical
19 confinement; requiring facility staff to document such
20 confinement; requiring that, within a specified
21 timeframe and at specified intervals, a medical
22 professional conduct certain evaluations of a youth
23 who is in medical confinement; prohibiting the use of
24 medical confinement for certain purposes; requiring
25 the department to review its policies and procedures
26 relating to youth in confinement; requiring the
27 department to certify compliance in a report to the
28 Governor and Legislature by a specified date;
29 requiring the department to adopt policies and

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30 procedures; providing applicability; amending s.
31 951.23, F.S.; requiring sheriffs and chief
32 correctional officers to adopt model standards
33 relating to youth; creating s. 985.28, F.S.; defining
34 terms; prohibiting the Department of Juvenile Justice
35 from placing a child in solitary confinement except
36 under certain circumstances; authorizing a child to be
37 placed in emergency confinement if certain conditions
38 are met; requiring facility staff to document such
39 placement; requiring that, within a specified
40 timeframe and at specified intervals, a mental health
41 clinician conduct certain evaluations of a child who
42 is in emergency confinement; limiting the allowable
43 length of time for the use of emergency confinement;
44 requiring specific treatment for a child who is in
45 emergency confinement; prohibiting the use of
46 emergency confinement for certain purposes;
47 authorizing a youth to be placed in medical
48 confinement under certain circumstances; limiting the
49 allowable length of time for medical confinement;
50 requiring facility staff to document such placement;
51 requiring that, within a specified timeframe and at
52 specified intervals, a medical professional conduct
53 certain evaluations of a child who is in medical
54 confinement; prohibiting the use of medical
55 confinement for certain purposes; requiring the
56 department and the board of county commissioners of
57 each county that administers a detention facility to
58 review policies and procedures relating to

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59 disciplinary treatment; requiring the department and
60 the board of county commissioners of each county that
61 administers a detention facility to certify compliance
62 in a report to the Governor and Legislature by a
63 specified date; providing applicability; creating s.
64 985.4415, F.S.; defining terms; prohibiting facility
65 staff from placing a child in solitary confinement,
66 except under certain circumstances; authorizing a
67 child to be placed in emergency confinement if certain
68 conditions are met; requiring facility staff to
69 document such placement; requiring that, within a
70 specified timeframe and at specified intervals, a
71 mental health clinician conduct certain evaluations of
72 a child who is in emergency confinement; limiting the
73 allowable length of time for emergency confinement;
74 requiring specific treatment for a child who is in
75 emergency confinement; prohibiting the use of
76 emergency confinement for certain purposes;
77 authorizing a youth to be placed in medical
78 confinement under certain circumstances; limiting the
79 allowable length of time for medical confinement;
80 requiring facility staff to document such placement;
81 requiring that, within a specified timeframe and at
82 specified intervals, a medical professional conduct
83 certain evaluations of a child who is in medical
84 confinement; prohibiting the use of medical
85 confinement for certain purposes; requiring the
86 department to review policies and procedures relating
87 to disciplinary treatment; requiring the department to

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88 certify compliance in a report to the Governor and
89 Legislature by a specified date; providing
90 applicability; amending s. 944.09, F.S.; authorizing
91 the Department of Corrections to adopt rules; amending
92 s. 985.601, F.S.; requiring the Department of Juvenile
93 Justice to adopt rules; reenacting s. 944.279(1),
94 F.S., relating to disciplinary procedures applicable
95 to a prisoner for filing frivolous or malicious
96 actions or bringing false information before a court,
97 to incorporate the amendment made to s. 944.09, F.S.,
98 in a reference thereto; providing an effective date.

99

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

101

102 Section 1. Section 945.425, Florida Statutes, is created to
103 read:

104 945.425 Youth in confinement.-

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

106 (a) "Emergency confinement" means a type of confinement
107 that involves the involuntary placement of a youth in an
108 isolated room to separate that youth from the general inmate
109 population and to remove him or her from a situation in which he
110 or she presents an immediate and serious danger to the security
111 or safety of himself or herself or others.

112 (b) "Medical confinement" means a type of confinement that
113 involves the involuntary placement of a youth in an isolated
114 room to separate that youth from the general inmate population
115 to allow him or her to recover from an illness or to prevent the
116 spread of a communicable illness.

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117 (c) "Mental health clinician" means a licensed
118 psychiatrist, psychologist, social worker, mental health
119 counselor, nurse practitioner, or physician assistant.

120 (d) "Solitary confinement" means the involuntary placement
121 of a youth in an isolated room to separate that youth from the
122 general inmate population for any period of time.

123 (e) "Youth" means a person within the custody of the
124 department who is under the age of 19 years.

125 (2) PROHIBITION ON THE USE OF SOLITARY CONFINEMENT.—A youth
126 may not be placed in solitary confinement, except as provided in
127 this section.

128 (3) PROTECTING YOUTH IN EMERGENCY CONFINEMENT.—

129 (a) A youth may be placed in emergency confinement if all
130 of the following conditions are met:

131 1. A nonphysical intervention with the youth would not be
132 effective in preventing harm or danger to the youth or others.

133 2. There is imminent risk of the youth physically harming
134 himself or herself, staff, or others or the youth is engaged in
135 major property destruction that is likely to compromise the
136 security of the program or jeopardize the safety of the youth or
137 others.

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

139 (b) Facility staff shall document the placement of a youth
140 in emergency confinement. The documentation must include
141 justification for the placement, in addition to a description of
142 the less-restrictive options that the facility staff exercised
143 before the youth was so placed.

144 (c) A mental health clinician shall evaluate a youth who is
145 placed in emergency confinement within 1 hour after such

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146 placement to ensure that the confinement is not detrimental to
147 the mental or physical health of the youth. Following the
148 initial evaluation, a mental health clinician shall conduct a
149 face-to-face evaluation of the youth every 2 hours thereafter to
150 determine whether the youth should remain in emergency
151 confinement. The mental health clinician shall document each
152 evaluation and provide justification for continued placement in
153 emergency confinement.

154 (d) A youth may not be placed in emergency confinement for
155 more than 24 hours unless an extension is sought and obtained by
156 a mental health clinician.

157 1. If a mental health clinician determines that release of
158 the youth would imminently threaten the safety of the youth or
159 others, the mental health clinician may grant a one-time
160 extension of 24 hours for continued placement in emergency
161 confinement.

162 2. If, at the conclusion of the 48-hour window, a mental
163 health clinician determines that it is not safe for the youth to
164 be released from emergency confinement, the facility staff must
165 prepare to transfer the youth to a facility that is able to
166 provide specialized treatment to address the youth's needs.

167 (e) A youth who is placed in emergency confinement must be
168 provided access to the same meals and drinking water, clothing,
169 medical treatment, contact with parents and legal guardians, and
170 legal assistance as provided to youth in the general inmate
171 population.

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

174 (4) PROTECTING YOUTH IN MEDICAL CONFINEMENT.—

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175 (a) A youth may be placed in medical confinement if all of
176 the following conditions are met:

177 1. Isolation from the general inmate population and staff
178 is required to allow the youth to rest and recover from illness
179 or to prevent the spread of a communicable illness.

180 2. A medical professional deems such placement necessary.

181 3. The use of other less-restrictive means would not be
182 sufficient to allow the youth to recover from illness or to
183 prevent the spread of a communicable illness.

184 (b) A youth may be placed in medical confinement for a
185 period of time not to exceed the time that is necessary for the
186 youth to recover from his or her illness or to prevent the
187 spread of a communicable illness to other inmates or staff in
188 the facility.

189 (c) Facility staff shall document the placement of a youth
190 in medical confinement. The documentation must include a medical
191 professional's justification for the placement.

192 (d) A medical professional must evaluate a youth who is
193 held in medical confinement face-to-face at least once every 12
194 hours to determine whether the youth should remain in medical
195 confinement. The medical professional shall document each
196 evaluation and provide justification for continued placement in
197 medical confinement.

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

200 (5) IMPLEMENTATION.—

201 (a) The department shall review its policies and procedures
202 relating to youth in confinement to determine whether its
203 policies and procedures comply with this section.

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

208 (c) The department shall adopt policies and procedures
209 necessary to administer this section.

210 (d) This section does not supersede any law providing
211 greater or additional protections to a youth in this state.

212 Section 2. Paragraph (a) of subsection (4) of section
213 951.23, Florida Statutes, is amended to read:

214 951.23 County and municipal detention facilities;
215 definitions; administration; standards and requirements.—

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

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

226 1.a. The construction, equipping, maintenance, and
227 operation of county and municipal detention facilities.

228 b. The cleanliness and sanitation of county and municipal
229 detention facilities; the number of county and municipal
230 prisoners who may be housed therein per specified unit of floor
231 space; the quality, quantity, and supply of bedding furnished to
232 such prisoners; the quality, quantity, and diversity of food

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233 served to them and the manner in which it is served; the
234 furnishing to them of medical attention and health and comfort
235 items; and the disciplinary treatment that ~~which~~ may be meted
236 out to them.

237

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

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

258 3. The confinement of prisoners by classification on the
259 basis of age and a strict prohibition on the use of solitary
260 confinement for prisoners under the age of 19 years, in
261 compliance with s. 945.425.

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262 Section 3. Section 985.28, Florida Statutes, is created to
263 read:

264 985.28 Confinement in detention facilities.-

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

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

268 (b) "Emergency confinement" means a type of confinement
269 that involves the involuntary placement of a child in an
270 isolated room to separate that child from other children in the
271 facility and to remove him or her from a situation in which he
272 or she presents an immediate and serious danger to the security
273 or safety of himself or herself or others.

274 (c) "Medical confinement" means a type of confinement that
275 involves the involuntary placement of a child in an isolated
276 room to separate that child from other children in the facility
277 to allow the child to recover from illness or to prevent the
278 spread of a communicable illness.

279 (d) "Mental health clinician" means a licensed
280 psychiatrist, psychologist, social worker, mental health
281 counselor, nurse practitioner, or physician assistant.

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

285 (2) PROHIBITION ON THE USE OF SOLITARY CONFINEMENT.-A child
286 may not be placed in solitary confinement, except as provided in
287 this section.

288 (3) PROTECTING A CHILD IN EMERGENCY CONFINEMENT.-

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

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

293 2. There is imminent risk of the child physically harming
294 himself or herself, staff, or others or the child is engaged in
295 major property destruction that is likely to compromise the
296 security of the program or jeopardize the safety of the child or
297 others.

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

299 (b) Facility staff shall document the placement of a child
300 in emergency confinement. The documentation must include
301 justification for the placement of a child in emergency
302 confinement, in addition to a description of the less-
303 restrictive options that the facility staff exercised before the
304 child was so placed.

305 (c) A mental health clinician shall evaluate a child who is
306 placed in emergency confinement within 1 hour after such
307 placement to ensure that the confinement is not detrimental to
308 the mental or physical health of the child. Following the
309 initial evaluation, a mental health clinician shall conduct a
310 face-to-face evaluation of the child every 2 hours thereafter to
311 determine whether the child should remain in emergency
312 confinement. The mental health clinician shall document each
313 evaluation and provide justification for continued placement in
314 emergency confinement.

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

318 1. If a mental health clinician determines that release of
319 the child would imminently threaten the safety of the child or

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320 others, the mental health clinician may grant a one-time
321 extension of 24 hours for continued placement in emergency
322 confinement.

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

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

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

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

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

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

340 2. A medical professional deems such placement necessary.

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

344 (b) A child may be placed in medical confinement for a
345 period of time not to exceed the time that is necessary for the
346 child to recover from his or her illness or to prevent the
347 spread of a communicable illness to other children or staff in
348 the facility.

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

352 (d) A medical professional must conduct a face-to-face
353 evaluation of a child who is held in medical confinement at
354 least once every 12 hours to determine whether the child should
355 remain in medical confinement. The medical professional shall
356 document each evaluation and provide justification for continued
357 placement in medical confinement.

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

360 (5) IMPLEMENTATION.—

361 (a) The department and the board of county commissioners of
362 each county that administers a detention facility shall review
363 their policies and procedures relating to disciplinary treatment
364 to determine whether their policies and procedures comply with
365 this section.

366 (b) The department and the board of county commissioners of
367 each county that administers a detention facility shall certify
368 compliance with this section in a report that the department and
369 the board shall submit to the Governor, the President of the
370 Senate, and the Speaker of the House of Representatives by
371 January 1, 2020.

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

374 Section 4. Section 985.4415, Florida Statutes, is created
375 to read:

376 985.4415 Confinement in residential facilities.—

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

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

380 (b) "Emergency confinement" means a type of confinement
381 that involves the involuntary placement of a child in an
382 isolated room to separate that child from other children in the
383 facility and to remove him or her from a situation in which he
384 or she presents an immediate and serious danger to the security
385 or safety of himself or herself or others.

386 (c) "Medical confinement" means a type of confinement that
387 involves the involuntary placement of a child in an isolated
388 room to separate that child from the other children in the
389 facility and to allow him or her to recover from illness or to
390 prevent the spread of a communicable illness.

391 (d) "Mental health clinician" means a licensed
392 psychiatrist, psychologist, social worker, mental health
393 counselor, nurse practitioner, or physician assistant.

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

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

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

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

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

405 2. There is imminent risk of the child physically harming
406 himself or herself, staff, or others or the child is engaged in

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407 major property destruction that is likely to compromise the
408 security of the program or jeopardize the safety of the child or
409 others.

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

411 (b) Facility staff shall document the placement of a child
412 in emergency confinement. The documentation must include
413 justification for the placement of a child in emergency
414 confinement, in addition to a description of the other less-
415 restrictive options that the facility staff exercised before the
416 child was so placed.

417 (c) A mental health clinician shall evaluate a child who is
418 placed in emergency confinement within 1 hour after such
419 placement to ensure that the confinement is not detrimental to
420 the mental or physical health of the child. Following the
421 initial evaluation, a mental health clinician shall conduct a
422 face-to-face evaluation of the child every 2 hours thereafter to
423 determine whether the child should remain in emergency
424 confinement. The mental health clinician shall document each
425 evaluation and provide justification for continued placement in
426 emergency confinement.

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

430 1. If a mental health clinician determines that release of
431 the child would imminently threaten the safety of the child or
432 others, the mental health clinician may grant a one-time
433 extension of 24 hours for continued placement in emergency
434 confinement.

435 2. If at the conclusion of the 48-hour window a mental

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436 health clinician determines that it is not safe for the child to
437 be released from emergency confinement, the facility staff must
438 prepare to transfer the child to a facility that is able to
439 provide specialized treatment to address the child's needs.

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

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

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

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

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

452 2. A medical professional deems such placement necessary.

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

456 (b) A child may be placed in medical confinement for a
457 period of time not to exceed the time that is necessary for the
458 child to recover from his or her illness or to prevent the
459 spread of a communicable illness to other children or staff in
460 the facility.

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

464 (d) A medical professional must conduct a face-to-face

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465 evaluation of a child who is held in medical confinement at
466 least once every 12 hours to determine whether the child should
467 remain in medical confinement. The medical professional shall
468 document each evaluation and provide justification for continued
469 placement in medical confinement.

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

472 (5) IMPLEMENTATION.—

473 (a) The department shall review its policies and procedures
474 relating to disciplinary treatment in residential facilities to
475 determine whether its policies and procedures comply with this
476 section.

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

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

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

485 944.09 Rules of the department; offenders, probationers,
486 and parolees.—

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

490 (s) Youth in confinement in compliance with s. 945.425.

491 Section 6. Paragraph (b) of subsection (9) of section
492 985.601, Florida Statutes, is amended to read:

493 985.601 Administering the juvenile justice continuum.—

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- 494 (9) (b) The department shall adopt rules prescribing
495 standards and requirements with reference to:
- 496 1. The construction, equipping, maintenance, staffing,
497 programming, and operation of detention facilities;
 - 498 2. The treatment, training, and education of children
499 confined in detention facilities;
 - 500 3. The cleanliness and sanitation of detention facilities;
 - 501 4. The number of children who may be housed in detention
502 facilities per specified unit of floor space;
 - 503 5. The quality, quantity, and supply of bedding furnished
504 to children housed in detention facilities;
 - 505 6. The quality, quantity, and diversity of food served in
506 detention facilities and the manner in which it is served;
 - 507 7. The furnishing of medical attention and health and
508 comfort items in detention facilities; ~~and~~
 - 509 8. The disciplinary treatment administered in detention and
510 residential facilities; ~~and~~.
 - 511 9. The strict prohibition on the use of solitary
512 confinement on children under the age of 19 years in compliance
513 with ss. 985.28 and 985.4415.

514 Section 7. For the purpose of incorporating the amendment
515 made by this act to section 944.09, Florida Statutes, in a
516 reference thereto, subsection (1) of section 944.279, Florida
517 Statutes, is reenacted to read:

518 944.279 Disciplinary procedures applicable to prisoner for
519 filing frivolous or malicious actions or bringing false
520 information before court.—

521 (1) At any time, and upon its own motion or on motion of a
522 party, a court may conduct an inquiry into whether any action or

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523 appeal brought by a prisoner was brought in good faith. A
524 prisoner who is found by a court to have brought a frivolous or
525 malicious suit, action, claim, proceeding, or appeal in any
526 court of this state or in any federal court, which is filed
527 after June 30, 1996, or to have brought a frivolous or malicious
528 collateral criminal proceeding, which is filed after September
529 30, 2004, or who knowingly or with reckless disregard for the
530 truth brought false information or evidence before the court, is
531 subject to disciplinary procedures pursuant to the rules of the
532 Department of Corrections. The court shall issue a written
533 finding and direct that a certified copy be forwarded to the
534 appropriate institution or facility for disciplinary procedures
535 pursuant to the rules of the department as provided in s.
536 944.09.

537 Section 8. This act shall take effect July 1, 2019.