By Senator Montford

A bill to be entitled An act relating to youth in confinement; creating s. 945.425, F.S.; defining terms; prohibiting a youth from being placed in disciplinary confinement; authorizing a youth to be placed in emergency confinement if certain conditions are met; requiring facility staff to document such placement; requiring that, within a specified timeframe and at specified intervals, a mental health clinician conduct certain evaluations of a youth who is in emergency confinement; limiting the allowable length of time for emergency confinement; requiring specific treatment for a youth who is in emergency confinement; prohibiting the use of emergency confinement for certain purposes; authorizing a youth to be placed in medical confinement under certain circumstances; limiting the allowable length of time for medical confinement; requiring facility staff to document such confinement; requiring that, within a specified timeframe and at specified intervals, a medical professional conduct certain evaluations of a youth who is in medical confinement; prohibiting the use of medical confinement for certain purposes; requiring the Department of Corrections to review its policies and procedures relating to youth in confinement; requiring the department to certify compliance in a report to the Governor and Legislature by a specified date; requiring the department to adopt policies and procedures; providing applicability; amending s.
951.23, F.S.; requiring sheriffs and chief
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correctional officers to adopt model standards
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relating to youth; amending s. 944.09, F.S.;
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authorizing the Department of Corrections to adopt
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rules; reenacting s. 944.279(1), F.S., relating to
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disciplinary procedures applicable to a prisoner for
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filing frivolous or malicious actions or bringing
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false information before a court, to incorporate the
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amendment made to s. 944.09, F.S., in a reference
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thereto; providing an effective date.
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Be It Enacted by the Legislature of the State of Florida:
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Section 1. Section 945.425, Florida Statutes, is created to
read:

945.425 Youth in confinement.—
(1) DEFINITIONS.—As used in this section, the term:
(a) “Disciplinary confinement” means the involuntary
placement of a youth in an isolated room to separate the youth
from the general inmate population as a disciplinary action for
violating department rules.
(b) “Emergency confinement” means the involuntary placement
of a youth in an isolated room to separate that youth from the
general inmate population and to remove that youth from a
situation in which he or she presents an immediate and serious
danger to the security or safety of himself or herself or
others.
(c) “Medical confinement” means the involuntary placement
of a youth in an isolated room to separate that youth from the
general inmate population to allow him or her to recover from an
illness or to prevent the spread of a communicable disease.
(d) "Mental health clinician" means a licensed
psychiatrist, psychologist, social worker, mental health
counselor, nurse practitioner, or physician assistant.
(e) "Youth" means a person in the custody of the department
who is under 19 years of age.
(2) PROHIBITION ON THE USE OF CONFINEMENT.—
(a) A youth may not be placed in disciplinary confinement.
(b) A youth may be placed in emergency confinement pending
a disciplinary hearing only if such confinement complies with
this section.
(c) This section does not prohibit the department from
applying less restrictive penalties to a youth who is found in a
disciplinary hearing to have committed a rule violation.
(3) PROTECTING YOUTH IN EMERGENCY CONFINEMENT.—
(a) A youth may be placed in emergency confinement if all
of the following conditions are met:
1. A nonphysical intervention with the youth would not be
effective in preventing harm or danger to the youth or others.
2. There is imminent risk of the youth physically harming
himself or herself, staff, or others or the youth is engaged in
major property destruction that is likely to compromise the
security of the program or jeopardize the safety of the youth or
others.
3. All less-restrictive means have been exhausted.
(b) Facility staff shall document the placement of a youth
in emergency confinement. The documentation must include
justification for the placement, in addition to a description of
the less-restrictive options that the facility staff exercised before the youth was so placed.

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

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

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

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

(e) A youth who is placed in emergency confinement must be provided access to the same meals and drinking water, clothing, medical treatment, contact with parents and legal guardians, and legal assistance as provided to youth in the general inmate
(f) The use of emergency confinement is strictly prohibited for the purposes of punishment or discipline.

(4) PROTECTING YOUTH IN MEDICAL CONFINEMENT.—

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

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

2. A medical professional deems such placement necessary.

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

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

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

(d) A medical professional must conduct a face-to-face evaluation of a youth held in medical confinement at least once every 12 hours to determine whether the youth should remain in medical confinement. The medical professional shall document each evaluation and provide justification for continued placement in medical confinement.

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

(5) IMPLEMENTATION.—
(a) The department shall review its policies and procedures relating to youth in confinement to determine whether the policies and procedures comply with this section.

(b) The department shall certify compliance with this section in a report that the department shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2021.

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

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

Section 2. 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. At a minimum, 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 detention facilities;
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 that 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 that do not interfere with the normal use of the facility and that 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 that 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 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 on the...
basis of age and a strict prohibition on the use of disciplinary
confinement for prisoners under 19 years of age, in compliance
with s. 945.425.

Section 3. 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) Youth in confinement in compliance with s. 945.425.

Section 4. For the purpose of incorporating the amendment
made by this act to section 944.09, Florida Statutes, in a
reference thereto, subsection (1) of section 944.279, Florida
Statutes, is reenacted to read:
944.279 Disciplinary procedures applicable to prisoner for
filing frivolous or malicious actions or bringing false
information before court.—
(1) At any time, and upon its own motion or on motion of a
party, a court may conduct an inquiry into whether any action or
appeal brought by a prisoner was brought in good faith. A
prisoner who is found by a court to have brought a frivolous or
malicious suit, action, claim, proceeding, or appeal in any
court of this state or in any federal court, which is filed
after June 30, 1996, or to have brought a frivolous or malicious
collateral criminal proceeding, which is filed after September
30, 2004, or who knowingly or with reckless disregard for the
truth brought false information or evidence before the court, is
subject to disciplinary procedures pursuant to the rules of the
Department of Corrections. The court shall issue a written finding and direct that a certified copy be forwarded to the appropriate institution or facility for disciplinary procedures pursuant to the rules of the department as provided in s. 944.09.

Section 5. This act shall take effect October 1, 2020.