

By Senator Gibson

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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 government body from subjecting  
6           a youth to solitary confinement except under certain  
7           circumstances; limiting cell confinement of all youth  
8           prisoners; providing protection for youth prisoners  
9           held in emergency cell confinement; prohibiting a  
10          youth prisoner from being subjected to emergency cell  
11          confinement for more than 24 hours; requiring the  
12          placement in emergency cell confinement to be  
13          documented; requiring that a mental health clinician  
14          evaluate face-to-face within a specified time a youth  
15          prisoner who is subjected to emergency cell  
16          confinement; requiring staff to perform visual checks  
17          at specified intervals; providing for an  
18          individualized suicide crisis intervention plan, if  
19          applicable; providing for the protection of youth  
20          prisoners in disciplinary cell confinement;  
21          prohibiting a youth prisoner from being subjected to  
22          disciplinary cell confinement for more than 72 hours;  
23          requiring staff to perform visual checks at specified  
24          intervals; requiring that youth prisoners in  
25          disciplinary cells be allotted services and other  
26          benefits that are made available to prisoners in the  
27          general prison population; providing reduced isolation  
28          for youth prisoners in protective custody; requiring  
29          the department and counties to review their policies

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30 relating to youth prisoners to evaluate whether the  
31 policies are necessary; requiring a report to the  
32 Governor and Legislature; amending s. 944.09, F.S.;  
33 authorizing the department to adopt rules; amending s.  
34 951.23, F.S.; requiring sheriffs to adopt standards  
35 relating to youth prisoners; providing an effective  
36 date.

37  
38 Be It Enacted by the Legislature of the State of Florida:

39  
40 Section 1. Section 958.155, Florida Statutes, is created to  
41 read:

42 958.155 Youthful offenders in solitary confinement.—

43 (1) SHORT TITLE.—This act may be cited as the “Youth in  
44 Solitary Confinement Reduction Act.”

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

46 (a) “Disciplinary cell confinement” means a disciplinary  
47 sanction for a major rule violation in which a youth who is  
48 found guilty of committing a major rule violation is confined to  
49 a cell for a specified period of time.

50 (b) “Emergency cell confinement” means the confinement to a  
51 cell of a youth who needs to be temporarily removed from the  
52 general population of prisoners because he or she presents an  
53 immediate, serious danger to the security or safety of himself  
54 or herself or others.

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

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

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

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59       3. Consists of two or more discrete acts that cause serious  
60 disruption to the security or order of the detention center or  
61 facility operations; or

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

64       (d) "Mental health clinician" means a psychiatrist,  
65 psychologist, social worker, or nurse practitioner.

66       (e) "Prisoner" means a person incarcerated in a county or  
67 regional jail or in a department facility who is accused of,  
68 convicted of, or sentenced for, violations of criminal law or  
69 the terms and conditions of parole, probation, pretrial release,  
70 or a diversionary program.

71       (f) "Protective custody" means a status for a youth who  
72 requires protection because he or she is in danger of being  
73 victimized by other prisoners in the facility, including time  
74 spent pending review of the youth's request for protection.

75       (g) "Solitary confinement" means involuntary confinement in  
76 a cell for more than 20 hours a day, in isolation from persons  
77 other than a cellmate, guards, facility staff, and attorneys.

78       (h) "Youth" means a person who is younger than 18 years of  
79 age, or a person who is sentenced as a "youthful offender" by a  
80 court or classified as such by the department pursuant to  
81 chapter 958.

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

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

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

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

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

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

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

115 (f) Within 4 hours of placing a youth prisoner who has  
116 exhibited suicidal behavior or committed acts of self-harm in

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117 emergency cell confinement, an individualized suicide crisis  
118 intervention plan must be implemented for the youth, and a  
119 mental health clinician shall closely monitor the youth's  
120 condition in order to reduce or eliminate the risk of self-harm.  
121 If the youth's suicide risk is not resolved within 24 hours, the  
122 youth shall be moved to a mental health receiving facility.

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

125 1. At least 1 hour of out-of-cell large muscle exercise  
126 daily that includes access to outdoor recreation when the  
127 weather permits; and

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

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

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

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

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

145 1. At least 2 hours of daily out-of-cell large muscle

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146 exercise that includes access to outdoor recreation when the  
147 weather permits;

148 2. Daily showers; and

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

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

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

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

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

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

172 (e) Daily showers;

173 (f) The law library; and

174 (g) The same correspondence privileges and number of visits

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175 and phone calls allowed to prisoners in the general population,  
176 including, but not limited to, the same level of contact with  
177 parents and legal guardians and the same level of legal  
178 assistance.

179 (7) IMPLEMENTATION.—

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

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

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

197 944.09 Rules of the department; offenders, probationers,  
198 and parolees.—

199 (1) The department has authority to adopt rules pursuant to  
200 ss. 120.536(1) and 120.54 to implement its statutory authority.  
201 The rules must include rules relating to:

202 (s) Disciplinary procedures and punishment for youth  
203 prisoners in compliance with the Youth in Solitary Confinement

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204 Reduction Act.

205 Section 3. Paragraph (a) of subsection (4) of section  
206 951.23, Florida Statutes, is amended to read:

207 951.23 County and municipal detention facilities;  
208 definitions; administration; standards and requirements.—

209 (4) STANDARDS FOR SHERIFFS AND CHIEF CORRECTIONAL  
210 OFFICERS.—

211 (a) There shall be established a five-member working group  
212 consisting of three persons appointed by the Florida Sheriffs  
213 Association and two persons appointed by the Florida Association  
214 of Counties to develop model standards for county and municipal  
215 detention facilities. By October 1, 1996, each sheriff and chief  
216 correctional officer shall adopt, at a minimum, the model  
217 standards with reference to:

218 1.a. The construction, equipping, maintenance, and  
219 operation of county and municipal detention facilities.

220 b. The cleanliness and sanitation of county and municipal  
221 detention facilities; the number of county and municipal  
222 prisoners who may be housed therein per specified unit of floor  
223 space; the quality, quantity, and supply of bedding furnished to  
224 such prisoners; the quality, quantity, and diversity of food  
225 served to them and the manner in which it is served; the  
226 furnishing to them of medical attention and health and comfort  
227 items; and the disciplinary treatment which may be meted out to  
228 them.

229  
230 Notwithstanding the provisions of the otherwise applicable  
231 building code, a reduced custody housing area may be occupied by  
232 inmates or may be used for sleeping purposes as allowed in



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233 subsection (7). The sheriff or chief correctional officer shall  
234 provide that a reduced custody housing area shall be governed by  
235 fire and life safety standards which do not interfere with the  
236 normal use of the facility and which affect a reasonable degree  
237 of compliance with rules of the State Fire Marshal for  
238 correctional facilities.

239         2. The confinement of prisoners by classification and  
240 providing, whenever possible, for classifications which separate  
241 males from females, juveniles from adults, felons from  
242 misdemeanants, and those awaiting trial from those convicted  
243 and, in addition, providing for the separation of special risk  
244 prisoners, such as the mentally ill, alcohol or narcotic  
245 addicts, sex deviates, suicide risks, and any other  
246 classification which the local unit may deem necessary for the  
247 safety of the prisoners and the operation of the facility  
248 pursuant to degree of risk and danger criteria. Nondangerous  
249 felons may be housed with misdemeanants.

250         3. The confinement of prisoners by classification and  
251 providing for classifications which comply with the Youth  
252 Solitary Confinement Reduction Act.

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