

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
 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
 41 | to 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
 51 | a 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;
 59 | 3. Consists of two or more discrete acts that cause
 60 | serious disruption to the security or order of the detention
 61 | center or 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
 76 | in a cell for more than 20 hours a day, in isolation from
 77 | persons other than a cellmate, guards, facility staff, and
 78 | attorneys.
 79 | (h) "Youth" means a person who is younger than 18 years of
 80 | age, or a person who is sentenced as a "youthful offender" by a
 81 | court or classified as such by the department pursuant to
 82 | chapter 958.
 83 | (3) PROTECTING YOUTH FROM SOLITARY CONFINEMENT.—A youth
 84 | prisoner who is held under the jurisdiction of the department or

85 a local government body in this state may not be subjected to
86 solitary confinement, except as provided in this section. Cell
87 confinement of all youth prisoners shall be limited to the types
88 and parameters of confinement specified in this section.

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

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

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

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

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

110 (e) During the time a youth prisoner is subjected to
111 emergency cell confinement, the facility staff shall conduct
112 visual checks at least 4 times an hour and not longer than 15

HB 959

2013

113 minutes apart. During the time a youth is awake, the staff shall
114 speak to the youth during the visual checks. After each visual
115 check, the staff shall document the status of the youth.

116 (f) Within 4 hours of placing a youth prisoner who has
117 exhibited suicidal behavior or committed acts of self-harm in
118 emergency cell confinement, an individualized suicide crisis
119 intervention plan must be implemented for the youth, and a
120 mental health clinician shall closely monitor the youth's
121 condition in order to reduce or eliminate the risk of self-harm.
122 If the youth's suicide risk is not resolved within 24 hours, the
123 youth shall be moved to a mental health receiving facility.

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

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

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

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

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

137 (b) During the time a youth prisoner is subjected to
138 disciplinary cell confinement in a cell by himself or herself,
139 the facility staff shall conduct visual checks at least 4 times
140 an hour and not longer than 15 minutes apart. During the time

HB 959

2013

141 the youth is awake, the staff shall speak to the youth during
142 the visual checks. After each visual check, the staff shall
143 document the status of the youth.

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

146 1. At least 2 hours of daily out-of-cell large muscle
147 exercise that includes access to outdoor recreation when the
148 weather permits;

149 2. Daily showers; and

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

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

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

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

168 (c) The same meals and drinking water, clothing, and

HB 959

2013

169 medical treatment as provided to prisoners in the general
170 population;

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

173 (e) Daily showers;

174 (f) The law library; and

175 (g) The same correspondence privileges and number of
176 visits and phone calls allowed to prisoners in the general
177 population, including, but not limited to, the same level of
178 contact with parents and legal guardians and the same level of
179 legal assistance.

180 (7) IMPLEMENTATION.—

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

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

196 Section 2. Paragraph (s) is added to subsection (1) of

197 section 944.09, Florida Statutes, to read:

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

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

203 (s) Disciplinary procedures and punishment for youth
204 prisoners in compliance with the Youth in Solitary Confinement
205 Reduction Act.

206 Section 3. Paragraph (a) of subsection (4) of section
207 951.23, Florida Statutes, is amended to read:

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

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

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

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

221 b. The cleanliness and sanitation of county and municipal
222 detention facilities; the number of county and municipal
223 prisoners who may be housed therein per specified unit of floor
224 space; the quality, quantity, and supply of bedding furnished to

HB 959

2013

225 such prisoners; the quality, quantity, and diversity of food
226 served to them and the manner in which it is served; the
227 furnishing to them of medical attention and health and comfort
228 items; and the disciplinary treatment which may be meted out to
229 them.

230
231 Notwithstanding the provisions of the otherwise applicable
232 building code, a reduced custody housing area may be occupied by
233 inmates or may be used for sleeping purposes as allowed in
234 subsection (7). The sheriff or chief correctional officer shall
235 provide that a reduced custody housing area shall be governed by
236 fire and life safety standards which do not interfere with the
237 normal use of the facility and which affect a reasonable degree
238 of compliance with rules of the State Fire Marshal for
239 correctional facilities.

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

251 3. The confinement of prisoners by classification and
252 providing for classifications which comply with the Youth

HB 959

2013

253 | Solitary Confinement Reduction Act.

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