

1 A bill to be entitled

2 An act relating to incarcerated women with newborn  
3 children; amending ss. 944.24 and 951.175, F.S.;  
4 requiring certain women inmates within the state and  
5 county correctional systems who have newborn children  
6 to be allowed specified visitation and physical touch  
7 privileges with their newborn children; prohibiting  
8 such inmates from being relocated during the term of  
9 their imprisonment except under certain circumstances;  
10 amending s. 944.09, F.S.; authorizing the Department  
11 of Corrections to adopt rules relating to the visiting  
12 hours and privileges of such inmates; amending s.  
13 944.611, F.S.; providing legislative intent regarding  
14 the location of such inmates for the term of their  
15 imprisonment; amending s. 951.23, F.S.; requiring  
16 sheriffs and chief correctional officers to adopt  
17 model standards relating to such inmates; deleting  
18 obsolete language; providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22 Section 1. Subsection (6) of section 944.24, Florida  
23 Statutes, is amended, and subsection (7) is added to that  
24 section, to read:

25 944.24 Administration of correctional institutions for

HB 1301

2019

26 women.—

27 (6) Any woman inmate who gives birth to a child during her  
28 term of imprisonment may be temporarily taken to a hospital  
29 outside the prison for the purpose of childbirth, and the charge  
30 for hospital and medical care must ~~shall~~ be charged against the  
31 funds allocated to the institution. The department shall provide  
32 for the care of any child so born, in compliance with the rights  
33 afforded to the inmate under subsection (7), and shall pay for  
34 the child's care until the child is suitably placed outside the  
35 prison system.

36 (7) Any woman inmate who has given birth up to 1 month  
37 before being detained or sentenced or within 9 months after  
38 being detained or sentenced:

39 (a) Must be allowed the following visitation hours with  
40 the child, unless such visitation is prohibited by s.  
41 944.09(1)(n)2.:

42 1. For 6 weeks after the child's birth, visitation hours  
43 with the child every day; and

44 2 After the first 6 weeks after a child's birth,  
45 visitation hours with the child at least 4 days a week until the  
46 child reaches 1 year of age. After the child reaches 1 year of  
47 age, normal visitation hours apply;

48 (b) Must be allowed to make physical contact with the  
49 child, including, but not limited to, holding, hugging, kissing,  
50 breastfeeding, cleaning the child, and changing the child's

51 clothes, unless such contact is prohibited by s. 944.09(1)(n)2.;  
52 and

53 (c) May not be relocated from a Department of Corrections  
54 facility during the length of her imprisonment, unless one of  
55 the following subparagraphs applies:

56 1. The inmate:

57 a. Requires specific medical or mental health treatment  
58 under ss. 945.12 and 945.43-945.45;

59 b. Is forced to relocate due to her classification status  
60 under ss. 944.17 and 944.1905; or

61 c. Requires access to the programs or services listed  
62 under ss. 944.473, 944.705-944.707, and 944.803.

63 2. The inmate's child is relocated during the inmate's  
64 detention.

65 Section 2. Subsection (5) of section 951.175, Florida  
66 Statutes, is amended, and subsection (6) is added to that  
67 section, to read:

68 951.175 Provision of programs for women.—

69 (5) Any woman inmate who gives birth to a child during her  
70 term of imprisonment may be temporarily taken to a hospital  
71 outside the detention facility for the purpose of childbirth,  
72 and the charge for hospital and medical care shall be charged  
73 against the funds allocated to the detention facility. The  
74 county shall provide for the care, in compliance with the rights  
75 afforded to the inmate under subsection (6), of any child so

76 | born and shall pay for the child's care until the child is  
77 | suitably placed outside the prison system.

78 | (6) Any woman inmate who has given birth up to 1 month  
79 | before being detained or sentenced or within 9 months after  
80 | being detained or sentenced:

81 | (a) Must be allowed the following visitation hours with  
82 | the child, unless such visitation is otherwise prohibited by  
83 | law:

84 | 1. For 6 weeks after the child's birth, visitation hours  
85 | with the child every day; and

86 | 2. After the first 6 weeks after a child's birth,  
87 | visitation hours with the child at least 4 days a week until the  
88 | child reaches 1 year of age. After the child reaches 1 year of  
89 | age, normal visitation hours apply.

90 | (b) Must be allowed to make physical contact with the  
91 | child, including, but not limited to, holding, hugging, kissing,  
92 | breastfeeding, cleaning the child, and changing the child's  
93 | clothes, unless such visitation is otherwise prohibited by law.

94 | Section 3. Paragraph (n) of subsection (1) of section  
95 | 944.09, Florida Statutes, is amended to read:

96 | 944.09 Rules of the department; offenders, probationers,  
97 | and parolees.—

98 | (1) The department has authority to adopt rules pursuant  
99 | to ss. 120.536(1) and 120.54 to implement its statutory  
100 | authority. The rules must include rules relating to:

101 (n) Visiting hours and privileges. The rules must ~~shall~~  
102 provide that:

103 1. Except as provided in subparagraph 2., any woman inmate  
104 who has given birth up to 1 month before being detained or  
105 sentenced or within 9 months after being detained or sentenced  
106 be provided with visitation hours with the newborn child  
107 pursuant to s. 944.24(7)(a) and be allowed to make physical  
108 contact with her child pursuant to s. 944.24(7)(b).

109 2. Any inmate with a current or prior conviction for any  
110 offense contained in chapter 794, chapter 800, chapter 827, or  
111 chapter 847 for committing or attempting to commit aggravated  
112 child abuse or committing or attempting to commit a sex act on,  
113 in the presence of, or against a child under the age of 16  
114 years, may ~~shall~~ not be allowed visitation with anyone under the  
115 age of 18 years, unless special visitation is approved by the  
116 warden. The authorization for special visitation must ~~shall~~ be  
117 based on extenuating circumstances that serve the interest of  
118 the children. If visiting is restricted by court order,  
119 permission for special visitation may be granted only by the  
120 judge issuing the order.

121 Section 4. Paragraph (e) is added to subsection (2) of  
122 section 944.611, Florida Statutes, to read:

123 944.611 Legislative intent.—The Legislature finds and  
124 declares that:

125 (2) It is the intent of the Legislature that:

126 (e) Any woman inmate who has given birth up to 1 month  
 127 before being detained or sentenced or within 9 months after  
 128 being detained or sentenced must be placed in and not be moved  
 129 from the institution or facility nearest the permanent residence  
 130 of the inmate's newborn child or the inmate's county of  
 131 commitment during the length of her term of imprisonment, unless  
 132 one of the following subparagraphs applies:

- 133 1. The inmate:
- 134 a. Requires specific medical or mental health treatment  
 135 under ss. 945.12 and 945.43-945.45;
  - 136 b. Is forced to relocate due to her classification status  
 137 under ss. 944.17 and 944.1905; or
  - 138 c. Requires access to the programs or services listed  
 139 under ss. 944.473, 944.701-944.708, and 944.803.
- 140 2. The inmate's child is relocated during the inmate's  
 141 detention.

142 Section 5. Paragraph (a) of subsection (4) of section  
 143 951.23, Florida Statutes, is amended to read:

144 951.23 County and municipal detention facilities;  
 145 definitions; administration; standards and requirements.—

146 (4) STANDARDS FOR SHERIFFS AND CHIEF CORRECTIONAL  
 147 OFFICERS.—

148 (a) ~~There shall be established~~ A five-member working group  
 149 is established, which consists ~~consisting~~ of three persons  
 150 appointed by the Florida Sheriffs Association and two persons

151 appointed by the Florida Association of Counties to develop  
152 model standards for county and municipal detention facilities.

153 At a minimum ~~By October 1, 1996,~~ each sheriff and chief  
154 correctional officer shall adopt, ~~at a minimum,~~ the model  
155 standards with reference to:

156 1.a. The construction, equipping, maintenance, and  
157 operation of county and municipal detention facilities.

158 b. The cleanliness and sanitation of county and municipal  
159 detention facilities; the number of county and municipal  
160 prisoners who may be housed therein per specified unit of floor  
161 space; the quality, quantity, and supply of bedding furnished to  
162 such prisoners; the quality, quantity, and diversity of food  
163 served to them and the manner in which it is served; the  
164 furnishing to them of medical attention and health and comfort  
165 items; and the disciplinary treatment that ~~which~~ may be meted  
166 out to them.

167  
168 Notwithstanding the provisions of the otherwise applicable  
169 building code, a reduced custody housing area may be occupied by  
170 inmates or may be used for sleeping purposes as allowed in  
171 subsection (7). The sheriff or chief correctional officer shall  
172 provide that a reduced custody housing area shall be governed by  
173 fire and life safety standards which do not interfere with the  
174 normal use of the facility and which affect a reasonable degree  
175 of compliance with rules of the State Fire Marshal for

176 | correctional facilities.

177 |       2. The confinement of prisoners by classification and  
178 | providing, whenever possible, for classifications which separate  
179 | males from females, juveniles from adults, felons from  
180 | misdemeanants, and those awaiting trial from those convicted  
181 | and, in addition, providing for the separation of special risk  
182 | prisoners, such as the mentally ill, alcohol or narcotic  
183 | addicts, sex deviates, suicide risks, and any other  
184 | classification which the local unit may deem necessary for the  
185 | safety of the prisoners and the operation of the facility  
186 | pursuant to degree of risk and danger criteria. Nondangerous  
187 | felons may be housed with misdemeanants.

188 |       3. The rights afforded under s. 951.175 to woman inmates  
189 | who have given birth up to 1 month before being detained or  
190 | sentenced or within 9 months after being detained or sentenced.

191 |       Section 6. This act shall take effect July 1, 2019.