

By Senator Farmer

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1                   A bill to be entitled  
2       An act relating to inmate confinement; creating s.  
3       944.175, F.S.; defining terms; prohibiting the use of  
4       solitary confinement; prohibiting the use of  
5       restrictive confinement for noncompliance, punishment,  
6       harassment, or retaliation for an inmate's conduct;  
7       authorizing an inmate to be placed in restrictive  
8       confinement only if certain conditions are met;  
9       providing restrictions and requirements for such  
10      confinement; prohibiting specified inmates from being  
11      placed in restrictive confinement; prohibiting youths,  
12      young adults, and inmates who have specified medical  
13      needs from being placed in restrictive confinement  
14      except under specified circumstances; requiring  
15      facilities to keep certain records regarding  
16      restrictive confinement; requiring the warden of the  
17      facility to review the records; requiring the  
18      department to provide a report to the Department of  
19      Law Enforcement; providing that an inmate is entitled  
20      to a review of his or her placement in restrictive  
21      confinement by a specified review committee within a  
22      specified timeframe; amending s. 944.09, F.S.;  
23      authorizing the Department of Corrections to adopt  
24      rules; amending s. 951.23, F.S.; requiring sheriffs  
25      and chief correctional officers to adopt model  
26      standards relating to confinement; amending s.  
27      985.601, F.S.; requiring the Department of Juvenile  
28      Justice to adopt rules; reenacting s. 944.279(1),  
29      F.S., relating to disciplinary procedures applicable

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30 to a prisoner for filing frivolous or malicious  
31 actions or bringing false information before a court,  
32 to incorporate the amendment made to s. 944.09, F.S.,  
33 in a reference thereto; providing an effective date.  
34

35 Be It Enacted by the Legislature of the State of Florida:  
36

37 Section 1. Section 944.175, Florida Statutes, is created to  
38 read:

39 944.175 Restrictions on the use of confinement.-

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

41 (a) "Exigent circumstances" means circumstances that pose  
42 an immediate and substantial threat to the safety of an inmate  
43 or a correctional staff member.

44 (b) "Inmate" means a person in the custody of the  
45 department who is 18 years of age or older.

46 (c) "Mental health professional" means a psychiatrist,  
47 psychologist, social worker, or nurse practitioner.

48 (d) "Restrictive confinement" means the involuntary  
49 placement of an inmate in a cell alone or with other inmates in  
50 substantial isolation for more than 20 hours per day.

51 (e) "Solitary confinement" means the involuntary placement  
52 of an inmate in a cell alone or with other inmates in  
53 substantial isolation for more than 22 hours per day.

54 (f) "Young adult" means a person in the custody of the  
55 department who is at least 18 years of age but is not yet 21  
56 years of age.

57 (g) "Youth" means a person in the custody of the department  
58 who is under 18 years of age.

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59 (2) PROHIBITION ON THE USE OF SOLITARY CONFINEMENT.—An  
60 inmate may not be placed in solitary confinement.

61 (3) LIMITATIONS ON THE USE OF RESTRICTIVE CONFINEMENT.—An  
62 inmate may not be placed in restrictive confinement except in  
63 exigent circumstances, when such placement will significantly  
64 reduce the safety threat that the exigent circumstances created.  
65 An inmate may not be confined for any period of time to an  
66 individual cell as a consequence for noncompliance, punishment,  
67 harassment, or in retaliation for an inmate's conduct. If  
68 exigent circumstances exist and the inmate is placed in  
69 restrictive confinement, the inmate:

70 (a) May not be housed in restrictive confinement for more  
71 than 15 consecutive days;

72 (b) May not be housed in restrictive confinement for more  
73 than 20 days in a 60-day period;

74 (c) May be held in restrictive confinement only until the  
75 substantial threat to the safety of an inmate or a correctional  
76 staff member has ended and must be under the least restrictive  
77 conditions practicable, in relation to the exigent circumstances  
78 necessitating the use of restrictive confinement. The  
79 confinement must include at least 4 hours of out-of-cell time  
80 every day;

81 (d) Must be allowed to participate in meaningful  
82 programming opportunities and privileges that are consistent  
83 with those available to the general inmate population, as  
84 practicable. The programming opportunities and privileges may  
85 take place individually or in a classroom setting;

86 (e) Must be allowed to have as much meaningful interaction  
87 with others, such as other inmates, visitors, clergymen, or

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88 licensed mental health professionals, as practicable; and  
89 (f) Must be evaluated by a licensed mental health  
90 professional at least once every 24 hours to determine if the  
91 inmate should remain in restrictive confinement or if the inmate  
92 should be removed from restrictive confinement to prevent a  
93 serious risk of harm to the inmate. The licensed mental health  
94 professional who conducts the mental health evaluation shall  
95 document each evaluation. The documented evaluation must be  
96 placed in the inmate's records. If the licensed mental health  
97 professional determines that continued housing in restrictive  
98 confinement poses a serious risk of harm to the inmate, the  
99 inmate must be removed from restrictive confinement within 24  
100 hours after the determination.

101 (4) INMATES FOR WHOM RESTRICTIVE CONFINEMENT IS  
102 PROHIBITED.—An inmate may not be placed in restrictive  
103 confinement because he or she is a member of a vulnerable  
104 population, including an inmate who is lesbian, gay, bisexual,  
105 transgender, intersex, or gender nonconforming, and the inmate  
106 has been placed in restrictive confinement solely on the basis  
107 of such identification or status.

108 (5) YOUTHS AND YOUNG ADULTS.—

109 (a) A youth or young adult may not be placed in restrictive  
110 confinement unless:

111 1. The youth's or young adult's behavior poses a serious  
112 and immediate threat and such confinement is a necessary and  
113 temporary response to the behavior;

114 2. All other options to deescalate the situation have been  
115 exhausted, including less restrictive techniques such as  
116 penalizing the youth or young adult through loss of privileges,

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117 speaking with the youth or young adult in an attempt to resolve  
118 the situation, and having a licensed mental health professional  
119 provide an appropriate level of care; and

120 3. If the youth or young adult poses a substantial and  
121 immediate threat to others, such confinement extends only to the  
122 time necessary for the youth or young adult to regain self-  
123 control. The confinement may not exceed 3 hours. Within 1 hour  
124 of such placement, a licensed mental health professional shall  
125 approve or disapprove of holding the youth or young adult past  
126 the initial hour of confinement. The licensed mental health  
127 professional shall make such determination every hour thereafter  
128 in order to continue the confinement.

129 (b) If, after the applicable maximum period of confinement  
130 under subparagraph (a)3. has expired and the youth or young  
131 adult continues to pose a substantial and immediate threat, he  
132 or she must be transferred to another facility or to an internal  
133 location where services may be provided to the youth or young  
134 adult without relying on restrictive confinement. If a licensed  
135 mental health professional believes the level of crisis services  
136 needed is not currently available onsite, a staff member of the  
137 facility must initiate a referral to a location that will meet  
138 the needs of the youth or young adult.

139 (6) INMATES WITH MEDICAL NEEDS.—An inmate who has a serious  
140 mental illness, has an intellectual disability, has a physical  
141 disability that a licensed medical health professional  
142 determines is likely to be exacerbated by placement in  
143 restrictive confinement, is pregnant or in the first 8 weeks of  
144 postpartum recovery, or has been determined by a licensed mental  
145 health professional to likely be significantly and adversely

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146 affected by placement in restrictive confinement may not be  
147 placed in restrictive confinement unless all of the following  
148 apply:

149 (a) The inmate poses a substantial and immediate threat.

150 (b) All other options to deescalate the situation have been  
151 exhausted, including less restrictive techniques such as  
152 penalizing the inmate through loss of privileges, speaking with  
153 the inmate in an attempt to resolve the situation, or having a  
154 licensed mental health professional provide an appropriate level  
155 of care.

156 (c) Such confinement extends only until the substantial and  
157 immediate threat has ended and is limited to the least  
158 restrictive conditions practicable. The inmate shall have access  
159 to medical care and mental health treatment during such  
160 confinement.

161 (d) Such confinement is reviewed by a multidisciplinary  
162 staff committee for appropriateness every 24 hours after such  
163 confinement begins.

164 (e) As soon as practicable, but within at least 5 days  
165 after such confinement begins, the inmate is diverted, upon  
166 release from restrictive confinement, to a general population  
167 unit or a mental health treatment program.

168 (7) REPORTING.—The facility must keep records on each use  
169 of restrictive confinement under subsections (5) and (6). The  
170 warden of the facility must review the records each month, and  
171 the department must provide a report on such review to the  
172 Department of Law Enforcement each month.

173 (8) REVIEW.—An inmate who is placed in restrictive  
174 confinement is entitled to a review of his or her initial

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175 placement and any extension of restrictive confinement within 72  
176 hours after first being placed in restrictive confinement. The  
177 review must be conducted by a multidisciplinary staff committee  
178 consisting of at least one of each of the following:

179 (a) A licensed mental health professional.

180 (b) A licensed medical professional.

181 (c) A member of the leadership of the facility.

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

184 944.09 Rules of the department; offenders, probationers,  
185 and parolees.—

186 (1) The department has authority to adopt rules pursuant to  
187 ss. 120.536(1) and 120.54 to implement its statutory authority.  
188 The rules must include rules relating to:

189 (s) Inmate confinement in compliance with s. 944.175.

190 Section 3. Paragraph (a) of subsection (4) of section  
191 951.23, Florida Statutes, is amended to read:

192 951.23 County and municipal detention facilities;  
193 definitions; administration; standards and requirements.—

194 (4) STANDARDS FOR SHERIFFS AND CHIEF CORRECTIONAL  
195 OFFICERS.—

196 (a) ~~There shall be established~~ A five-member working group  
197 is established which consists ~~consisting~~ of three persons  
198 appointed by the Florida Sheriffs Association and two persons  
199 appointed by the Florida Association of Counties to develop  
200 model standards for county and municipal detention facilities.  
201 At a minimum ~~By October 1, 1996,~~ each sheriff and chief  
202 correctional officer shall adopt, ~~at a minimum,~~ the model  
203 standards with reference to:

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204 1.a. The construction, equipping, maintenance, and  
205 operation of county and municipal detention facilities.

206 b. The cleanliness and sanitation of county and municipal  
207 detention facilities; the number of county and municipal  
208 prisoners who may be housed therein per specified unit of floor  
209 space; the quality, quantity, and supply of bedding furnished to  
210 such prisoners; the quality, quantity, and diversity of food  
211 served to them and the manner in which it is served; the  
212 furnishing to them of medical attention and health and comfort  
213 items; and the disciplinary treatment that ~~which~~ may be meted  
214 out to them.

215  
216 Notwithstanding the provisions of the otherwise applicable  
217 building code, a reduced custody housing area may be occupied by  
218 inmates or may be used for sleeping purposes as allowed in  
219 subsection (7). The sheriff or chief correctional officer shall  
220 provide that a reduced custody housing area shall be governed by  
221 fire and life safety standards which do not interfere with the  
222 normal use of the facility and which affect a reasonable degree  
223 of compliance with rules of the State Fire Marshal for  
224 correctional facilities.

225 2. The confinement of prisoners by classification and  
226 providing, whenever possible, for classifications that ~~which~~  
227 separate males from females, juveniles from adults, felons from  
228 misdemeanants, and those awaiting trial from those convicted  
229 and, in addition, providing for the separation of special risk  
230 prisoners, such as the mentally ill, alcohol or narcotic  
231 addicts, sex deviates, suicide risks, and any other  
232 classification which the local unit may deem necessary for the



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233 safety of the prisoners and the operation of the facility  
234 pursuant to degree of risk and danger criteria. Nondangerous  
235 felons may be housed with misdemeanants.

236 3. The confinement of prisoners, in compliance with s.  
237 944.175.

238 Section 4. Paragraph (b) of subsection (9) of section  
239 985.601, Florida Statutes, is amended to read:

240 985.601 Administering the juvenile justice continuum.—

241 (9)

242 (b) The department shall adopt rules prescribing standards  
243 and requirements with reference to:

244 1. The construction, equipping, maintenance, staffing,  
245 programming, and operation of detention facilities;

246 2. The treatment, training, and education of children  
247 confined in detention facilities;

248 3. The cleanliness and sanitation of detention facilities;

249 4. The number of children who may be housed in detention  
250 facilities per specified unit of floor space;

251 5. The quality, quantity, and supply of bedding furnished  
252 to children housed in detention facilities;

253 6. The quality, quantity, and diversity of food served in  
254 detention facilities and the manner in which it is served;

255 7. The furnishing of medical attention and health and  
256 comfort items in detention facilities; ~~and~~

257 8. The disciplinary treatment administered in detention  
258 facilities; and

259 9. The use of restrictive confinement for prisoners, in  
260 compliance with s. 944.175.

261 Section 5. For the purpose of incorporating the amendment

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262 made by this act to section 944.09, Florida Statutes, in a  
263 reference thereto, subsection (1) of section 944.279, Florida  
264 Statutes, is reenacted to read:

265 944.279 Disciplinary procedures applicable to prisoner for  
266 filing frivolous or malicious actions or bringing false  
267 information before court.—

268 (1) At any time, and upon its own motion or on motion of a  
269 party, a court may conduct an inquiry into whether any action or  
270 appeal brought by a prisoner was brought in good faith. A  
271 prisoner who is found by a court to have brought a frivolous or  
272 malicious suit, action, claim, proceeding, or appeal in any  
273 court of this state or in any federal court, which is filed  
274 after June 30, 1996, or to have brought a frivolous or malicious  
275 collateral criminal proceeding, which is filed after September  
276 30, 2004, or who knowingly or with reckless disregard for the  
277 truth brought false information or evidence before the court, is  
278 subject to disciplinary procedures pursuant to the rules of the  
279 Department of Corrections. The court shall issue a written  
280 finding and direct that a certified copy be forwarded to the  
281 appropriate institution or facility for disciplinary procedures  
282 pursuant to the rules of the department as provided in s.  
283 944.09.

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