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576-04420-19

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to youth in solitary confinement;
creating s. 945.425, F.S.; defining terms; prohibiting
the Department of Corrections from placing a youth in
solitary confinement except under certain
circumstances; 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 to review its policies and procedures
relating to youth in confinement; requiring the
department to certify compliance in a report to the



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28 Governor and Legislature by a specified date;
29 requiring the department to adopt policies and
30 procedures; providing applicability; amending s.
31 951.23, F.S.; requiring sheriffs and chief
32 correctional officers to adopt model standards
33 relating to youth; amending s. 944.09, F.S.;
34 authorizing the Department of Corrections to adopt
35 rules; reenacting s. 944.279(1), F.S., relating to
36 disciplinary procedures applicable to a prisoner for
37 filing frivolous or malicious actions or bringing
38 false information before a court, to incorporate the
39 amendment made to s. 944.09, F.S., in a reference
40 thereto; providing an effective date.

41
42 Be It Enacted by the Legislature of the State of Florida:

43
44 Section 1. Section 945.425, Florida Statutes, is created to
45 read:

46 945.425 Youth in confinement.—

47 (1) DEFINITIONS.—As used in this section, the term:

48 (a) "Emergency confinement" means a type of confinement
49 that involves the involuntary placement of a youth in an
50 isolated room to separate that youth from the general inmate
51 population and to remove him or her from a situation in which he
52 or she presents an immediate and serious danger to the security
53 or safety of himself or herself or others.

54 (b) "Medical confinement" means a type of confinement that
55 involves the involuntary placement of a youth in an isolated
56 room to separate that youth from the general inmate population



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57 to allow him or her to recover from an illness or to prevent the
58 spread of a communicable illness.

59 (c) "Mental health clinician" means a licensed
60 psychiatrist, psychologist, social worker, mental health
61 counselor, nurse practitioner, or physician assistant.

62 (d) "Solitary confinement" means the involuntary placement
63 of a youth in an isolated room to separate that youth from the
64 general inmate population for any period of time.

65 (e) "Youth" means a person within the custody of the
66 department who is under the age of 19 years.

67 (2) PROHIBITION ON THE USE OF SOLITARY CONFINEMENT.—A youth
68 may not be placed in solitary confinement, except as provided in
69 this section.

70 (3) PROTECTING YOUTH IN EMERGENCY CONFINEMENT.—

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

73 1. A nonphysical intervention with the youth would not be
74 effective in preventing harm or danger to the youth or others.

75 2. There is imminent risk of the youth physically harming
76 himself or herself, staff, or others or the youth is engaged in
77 major property destruction that is likely to compromise the
78 security of the program or jeopardize the safety of the youth or
79 others.

80 3. All less-restrictive means have been exhausted.

81 (b) Facility staff shall document the placement of a youth
82 in emergency confinement. The documentation must include
83 justification for the placement, in addition to a description of
84 the less-restrictive options that the facility staff exercised
85 before the youth was so placed.



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

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

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

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

109 (e) A youth who is placed in emergency confinement must be
110 provided access to the same meals and drinking water, clothing,
111 medical treatment, contact with parents and legal guardians, and
112 legal assistance as provided to youth in the general inmate
113 population.

114 (f) The use of emergency confinement is strictly prohibited



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115 for the purposes of punishment or discipline.

116 (4) PROTECTING YOUTH IN MEDICAL CONFINEMENT.—

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

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

122 2. A medical professional deems such placement necessary.

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

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

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

134 (d) A medical professional must evaluate a youth who is
135 held in medical confinement face-to-face at least once every 12
136 hours to determine whether the youth should remain in medical
137 confinement. The medical professional shall document each
138 evaluation and provide justification for continued placement in
139 medical confinement.

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

142 (5) IMPLEMENTATION.—

143 (a) The department shall review its policies and procedures



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144 relating to youth in confinement to determine whether its
145 policies and procedures comply with this section.

146 (b) The department shall certify compliance with this
147 section in a report that the department shall submit to the
148 Governor, the President of the Senate, and the Speaker of the
149 House of Representatives by January 1, 2020.

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

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

154 Section 2. Paragraph (a) of subsection (4) of section
155 951.23, Florida Statutes, is amended to read:

156 951.23 County and municipal detention facilities;
157 definitions; administration; standards and requirements.—

158 (4) STANDARDS FOR SHERIFFS AND CHIEF CORRECTIONAL
159 OFFICERS.—

160 (a) ~~There shall be established~~ A five-member working group
161 is established which consists ~~consisting~~ of three persons
162 appointed by the Florida Sheriffs Association and two persons
163 appointed by the Florida Association of Counties to develop
164 model standards for county and municipal detention facilities.
165 At a minimum ~~By October 1, 1996,~~ each sheriff and chief
166 correctional officer shall adopt, ~~at a minimum,~~ the model
167 standards with reference to:

168 1.a. The construction, equipping, maintenance, and
169 operation of county and municipal detention facilities.

170 b. The cleanliness and sanitation of county and municipal
171 detention facilities; the number of county and municipal
172 prisoners who may be housed therein per specified unit of floor



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173 space; the quality, quantity, and supply of bedding furnished to
174 such prisoners; the quality, quantity, and diversity of food
175 served to them and the manner in which it is served; the
176 furnishing to them of medical attention and health and comfort
177 items; and the disciplinary treatment that ~~which~~ may be meted
178 out to them.

179

180 Notwithstanding the provisions of the otherwise applicable
181 building code, a reduced custody housing area may be occupied by
182 inmates or may be used for sleeping purposes as allowed in
183 subsection (7). The sheriff or chief correctional officer shall
184 provide that a reduced custody housing area shall be governed by
185 fire and life safety standards which do not interfere with the
186 normal use of the facility and which affect a reasonable degree
187 of compliance with rules of the State Fire Marshal for
188 correctional facilities.

189 2. The confinement of prisoners by classification and
190 providing, whenever possible, for classifications that ~~which~~
191 separate males from females, juveniles from adults, felons from
192 misdemeanants, and those awaiting trial from those convicted
193 and, in addition, providing for the separation of special risk
194 prisoners, such as the mentally ill, alcohol or narcotic
195 addicts, sex deviates, suicide risks, and any other
196 classification which the local unit may deem necessary for the
197 safety of the prisoners and the operation of the facility
198 pursuant to degree of risk and danger criteria. Nondangerous
199 felons may be housed with misdemeanants.

200 3. The confinement of prisoners by classification on the
201 basis of age and a strict prohibition on the use of solitary



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202 confinement for prisoners under the age of 19 years, in
203 compliance with s. 945.425.

204 Section 3. Paragraph (s) is added to subsection (1) of
205 section 944.09, Florida Statutes, to read:

206 944.09 Rules of the department; offenders, probationers,
207 and parolees.—

208 (1) The department has authority to adopt rules pursuant to
209 ss. 120.536(1) and 120.54 to implement its statutory authority.

210 The rules must include rules relating to:

211 (s) Youth in confinement in compliance with s. 945.425.

212 Section 4. For the purpose of incorporating the amendment
213 made by this act to section 944.09, Florida Statutes, in a
214 reference thereto, subsection (1) of section 944.279, Florida
215 Statutes, is reenacted to read:

216 944.279 Disciplinary procedures applicable to prisoner for
217 filing frivolous or malicious actions or bringing false
218 information before court.—

219 (1) At any time, and upon its own motion or on motion of a
220 party, a court may conduct an inquiry into whether any action or
221 appeal brought by a prisoner was brought in good faith. A
222 prisoner who is found by a court to have brought a frivolous or
223 malicious suit, action, claim, proceeding, or appeal in any
224 court of this state or in any federal court, which is filed
225 after June 30, 1996, or to have brought a frivolous or malicious
226 collateral criminal proceeding, which is filed after September
227 30, 2004, or who knowingly or with reckless disregard for the
228 truth brought false information or evidence before the court, is
229 subject to disciplinary procedures pursuant to the rules of the
230 Department of Corrections. The court shall issue a written



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231 finding and direct that a certified copy be forwarded to the
232 appropriate institution or facility for disciplinary procedures
233 pursuant to the rules of the department as provided in s.
234 944.09.

235 Section 5. This act shall take effect July 1, 2019.