

By Senator Montford

3-01084-19

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1 A bill to be entitled
2 An act relating to youth in solitary confinement;
3 creating s. 945.425, F.S.; defining terms; prohibiting
4 the Department of Corrections from placing a youth in
5 solitary confinement except under certain
6 circumstances; authorizing a youth to be placed in
7 emergency confinement if certain conditions are met;
8 requiring facility staff to document such placement;
9 requiring that, within a specified timeframe and at
10 specified intervals, a mental health clinician conduct
11 certain evaluations of a youth who is in emergency
12 confinement; limiting the allowable length of time for
13 emergency confinement; requiring specific treatment
14 for a youth who is in emergency confinement;
15 prohibiting the use of emergency confinement for
16 certain purposes; authorizing a youth to be placed in
17 medical confinement under certain circumstances;
18 limiting the allowable length of time for medical
19 confinement; requiring facility staff to document such
20 confinement; requiring that, within a specified
21 timeframe and at specified intervals, a medical
22 professional conduct certain evaluations of a youth
23 who is in medical confinement; prohibiting the use of
24 medical confinement for certain purposes; requiring
25 the department to review its policies and procedures
26 relating to youth in solitary confinement; requiring
27 the department to certify compliance in a report to
28 the Governor and Legislature by a specified date;
29 requiring the department to adopt policies and

3-01084-19

2019624__

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; creating s. 985.28, F.S.; defining
34 terms; prohibiting the Department of Juvenile Justice
35 from placing a child in solitary confinement except
36 under certain circumstances; authorizing a child to be
37 placed in emergency confinement if certain conditions
38 are met; requiring facility staff to document such
39 placement; requiring that, within a specified
40 timeframe and at specified intervals, a mental health
41 clinician conduct certain evaluations of a child who
42 is in emergency confinement; limiting the allowable
43 length of time for the use of emergency confinement;
44 requiring specific treatment for a child who is in
45 emergency confinement; prohibiting the use of
46 emergency confinement for certain purposes;
47 authorizing a youth to be placed in medical
48 confinement under certain circumstances; limiting the
49 allowable length of time for medical confinement;
50 requiring facility staff to document such placement;
51 requiring that, within a specified timeframe and at
52 specified intervals, a medical professional conduct
53 certain evaluations of a child who is in medical
54 confinement; prohibiting the use of medical
55 confinement for certain purposes; requiring the
56 department and the board of county commissioners of
57 each county that administers a detention facility to
58 review policies and procedures relating to

3-01084-19

2019624__

59 disciplinary treatment; requiring the department and
60 the board of county commissioners of each county that
61 administers a detention facility to certify compliance
62 in a report to the Governor and Legislature by a
63 specified date; providing applicability; creating s.
64 985.4415, F.S.; defining terms; prohibiting facility
65 staff from placing a child in solitary confinement,
66 except under certain circumstances; authorizing a
67 child to be placed in emergency confinement if certain
68 conditions are met; requiring facility staff to
69 document such placement; requiring that, within a
70 specified timeframe and at specified intervals, a
71 mental health clinician conduct certain evaluations of
72 a child who is in emergency confinement; limiting the
73 allowable length of time for emergency confinement;
74 requiring specific treatment for a child who is in
75 emergency confinement; prohibiting the use of
76 emergency confinement for certain purposes;
77 authorizing a youth to be placed in medical
78 confinement under certain circumstances; limiting the
79 allowable length of time for medical confinement;
80 requiring facility staff to document such placement;
81 requiring that, within a specified timeframe and at
82 specified intervals, a medical professional conduct
83 certain evaluations of a child who is in medical
84 confinement; prohibiting the use of medical
85 confinement for certain purposes; requiring the
86 department to review policies and procedures relating
87 to disciplinary treatment; requiring the department to

3-01084-19

2019624__

88 certify compliance in a report to the Governor and
89 Legislature by a specified date; providing
90 applicability; amending s. 944.09, F.S.; authorizing
91 the Department of Corrections to adopt rules; amending
92 s. 985.601, F.S.; requiring the Department of Juvenile
93 Justice to adopt rules; reenacting s. 944.279(1),
94 F.S., relating to disciplinary procedures applicable
95 to a prisoner for filing frivolous or malicious
96 actions or bringing false information before a court,
97 to incorporate the amendment made to s. 944.09, F.S.,
98 in a reference thereto; providing an effective date.

99

100 Be It Enacted by the Legislature of the State of Florida:

101

102 Section 1. Section 945.425, Florida Statutes, is created to
103 read:

104 945.425 Youth in solitary confinement.-

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

106 (a) "Emergency confinement" means a type of solitary
107 confinement that involves the involuntary placement of a youth
108 in an isolated room to separate that youth from the general
109 inmate population and to remove him or her from a situation in
110 which he or she presents an immediate and serious danger to the
111 security or safety of himself or herself or others.

112 (b) "Medical confinement" means a type of solitary
113 confinement that involves the involuntary placement of a youth
114 in an isolated room to separate that youth from the general
115 inmate population to allow him or her to recover from an illness
116 or to prevent the spread of a communicable illness.

3-01084-19

2019624__

117 (c) "Mental health clinician" means a psychiatrist,
118 psychologist, social worker, or nurse practitioner.

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

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

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

127 (3) PROTECTING YOUTH IN EMERGENCY CONFINEMENT.—

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

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

132 2. There is imminent risk of the youth physically harming
133 himself or herself, staff, or others or the youth is engaged in
134 major property destruction that is likely to compromise the
135 security of the program or jeopardize the safety of the youth or
136 others.

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

138 (b) Facility staff shall document the placement of a youth
139 in emergency confinement. The documentation must include
140 justification for the placement, in addition to a description of
141 the less-restrictive options that the facility staff exercised
142 before the youth was so placed.

143 (c) A mental health clinician shall evaluate a youth who is
144 placed in emergency confinement within 1 hour after such
145 placement to ensure that the confinement is not detrimental to

3-01084-19

2019624__

146 the mental or physical health of the youth. Following the
147 initial evaluation, a mental health clinician shall conduct a
148 face-to-face evaluation of the youth every 2 hours thereafter to
149 determine whether the youth should remain in emergency
150 confinement. The mental health clinician shall document each
151 evaluation and provide justification for continued placement in
152 emergency confinement.

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

156 1. If a mental health clinician determines that release of
157 the youth would imminently threaten the safety of the youth or
158 others, the mental health clinician may grant a one-time
159 extension of 24 hours for continued placement in emergency
160 confinement.

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

166 (e) A youth who is placed in emergency confinement must be
167 provided access to the same meals and drinking water, clothing,
168 medical treatment, contact with parents and legal guardians, and
169 legal assistance as provided to youth in the general inmate
170 population.

171 (f) The use of emergency confinement is strictly prohibited
172 for the purposes of punishment or discipline.

173 (4) PROTECTING YOUTH IN MEDICAL CONFINEMENT.—

174 (a) A youth may be placed in medical confinement if all of

3-01084-19

2019624__

175 the following conditions are met:

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

179 2. A medical professional deems such placement necessary.

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

183 (b) A youth may be placed in medical confinement for a
184 period of time not to exceed the time that is necessary for the
185 youth to recover from his or her illness or to prevent the
186 spread of a communicable illness to other inmates or staff in
187 the facility.

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

191 (d) A medical professional must evaluate a youth who is
192 held in medical confinement face-to-face at least once every 12
193 hours to determine whether the youth should remain in medical
194 confinement. The medical professional shall document each
195 evaluation and provide justification for continued placement in
196 medical confinement.

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

199 (5) IMPLEMENTATION.—

200 (a) The department shall review its policies and procedures
201 relating to youth in solitary confinement to determine whether
202 its policies and procedures comply with this section.

203 (b) The department shall certify compliance with this

3-01084-19

2019624__

204 section in a report that the department shall submit to the
205 Governor, the President of the Senate, and the Speaker of the
206 House of Representatives by January 1, 2020.

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

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

211 Section 2. Paragraph (a) of subsection (4) of section
212 951.23, Florida Statutes, is amended to read:

213 951.23 County and municipal detention facilities;
214 definitions; administration; standards and requirements.-

215 (4) STANDARDS FOR SHERIFFS AND CHIEF CORRECTIONAL
216 OFFICERS.-

217 (a) ~~There shall be established~~ A five-member working group
218 is established which consists ~~consisting~~ of three persons
219 appointed by the Florida Sheriffs Association and two persons
220 appointed by the Florida Association of Counties to develop
221 model standards for county and municipal detention facilities.
222 At a minimum ~~By October 1, 1996,~~ each sheriff and chief
223 correctional officer shall adopt, ~~at a minimum,~~ the model
224 standards with reference to:

225 1.a. The construction, equipping, maintenance, and
226 operation of county and municipal detention facilities.

227 b. The cleanliness and sanitation of county and municipal
228 detention facilities; the number of county and municipal
229 prisoners who may be housed therein per specified unit of floor
230 space; the quality, quantity, and supply of bedding furnished to
231 such prisoners; the quality, quantity, and diversity of food
232 served to them and the manner in which it is served; the

3-01084-19

2019624__

233 furnishing to them of medical attention and health and comfort
234 items; and the disciplinary treatment that ~~which~~ may be meted
235 out to them.

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

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

257 3. The confinement of prisoners by classification on the
258 basis of age and a strict prohibition on the use of solitary
259 confinement for prisoners under the age of 19 years, in
260 compliance with s. 945.425.

261 Section 3. Section 985.28, Florida Statutes, is created to

3-01084-19

2019624__

262 read:

263 985.28 Solitary confinement in detention facilities.-264 (1) DEFINITIONS.-As used in this section, the term:265 (a) "Child" means a person who is in the custody of the
266 department and who is under the age of 19 years.267 (b) "Emergency confinement" means a type of solitary
268 confinement that involves the involuntary placement of a child
269 in an isolated room to separate that child from other children
270 in the facility and to remove him or her from a situation in
271 which he or she presents an immediate and serious danger to the
272 security or safety of himself or herself or others.273 (c) "Medical confinement" means a type of solitary
274 confinement that involves the involuntary placement of a child
275 in an isolated room to separate that child from other children
276 in the facility to allow the child to recover from illness or to
277 prevent the spread of a communicable illness.278 (d) "Mental health clinician" means a psychiatrist,
279 psychologist, social worker, or nurse practitioner.280 (e) "Solitary confinement" means the involuntary placement
281 of a child in an isolated room to separate that child from other
282 children in the facility for any period of time.283 (2) PROHIBITION ON THE USE OF SOLITARY CONFINEMENT.-A child
284 may not be placed in solitary confinement, except as provided in
285 this section.286 (3) PROTECTING A CHILD IN EMERGENCY CONFINEMENT.-287 (a) A child may be placed in emergency confinement if all
288 of the following conditions are met:289 1. A nonphysical intervention with the child would not be
290 effective in preventing harm or danger to the child or others.

3-01084-19

2019624__

291 2. There is imminent risk of the child physically harming
292 himself or herself, staff, or others or the child is engaged in
293 major property destruction that is likely to compromise the
294 security of the program or jeopardize the safety of the child or
295 others.

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

297 (b) Facility staff shall document the placement of a child
298 in emergency confinement. The documentation must include
299 justification for the placement of a child in emergency
300 confinement, in addition to a description of the less-
301 restrictive options that the facility staff exercised before the
302 child was so placed.

303 (c) A mental health clinician shall evaluate a child who is
304 placed in emergency confinement within 1 hour after such
305 placement to ensure that the confinement is not detrimental to
306 the mental or physical health of the child. Following the
307 initial evaluation, a mental health clinician shall conduct a
308 face-to-face evaluation of the child every 2 hours thereafter to
309 determine whether the child should remain in emergency
310 confinement. The mental health clinician shall document each
311 evaluation and provide justification for continued placement in
312 emergency confinement.

313 (d) A child may not be placed in emergency confinement for
314 more than 24 hours unless an extension is sought and obtained by
315 a mental health clinician.

316 1. If a mental health clinician determines that release of
317 the child would imminently threaten the safety of the child or
318 others, the mental health clinician may grant a one-time
319 extension of 24 hours for continued placement in emergency

3-01084-19

2019624__

320 confinement.

321 2. If, at the conclusion of the 48-hour window, a mental
322 health clinician determines that it is not safe for the child to
323 be released from emergency confinement, the facility staff must
324 prepare to transfer the child to a facility that is able to
325 provide specialized treatment to address the child's needs.

326 (e) A child who is placed in emergency confinement must be
327 provided access to the same meals and drinking water, clothing,
328 medical treatment, contact with parents and legal guardians, and
329 legal assistance as provided to children in the facility.

330 (f) The use of emergency confinement is strictly prohibited
331 for the purposes of punishment or discipline.

332 (4) PROTECTING A CHILD IN MEDICAL CONFINEMENT.-

333 (a) A child may be placed in medical confinement if all of
334 the following conditions are met:

335 1. Isolation from staff and other children in the facility
336 is required to allow the child to rest and recover from illness
337 or to prevent the spread of a communicable illness.

338 2. A medical professional deems such placement necessary.

339 3. The use of other less-restrictive means would not be
340 sufficient to allow the child to recover from illness or to
341 prevent the spread of a communicable illness.

342 (b) A child may be placed in medical confinement for a
343 period of time not to exceed the time that is necessary for the
344 child to recover from his or her illness or to prevent the
345 spread of a communicable illness to other children or staff in
346 the facility.

347 (c) Facility staff shall document the placement of a child
348 in medical confinement. The documentation must include a medical

3-01084-19

2019624__

349 professional's justification for the placement.

350 (d) A medical professional must conduct a face-to-face
351 evaluation of a child who is held in medical confinement at
352 least once every 12 hours to determine whether the child should
353 remain in medical confinement. The medical professional shall
354 document each evaluation and provide justification for continued
355 placement in medical confinement.

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

358 (5) IMPLEMENTATION.—

359 (a) The department and the board of county commissioners of
360 each county that administers a detention facility shall review
361 their policies and procedures relating to disciplinary treatment
362 to determine whether their policies and procedures comply with
363 this section.

364 (b) The department and the board of county commissioners of
365 each county that administers a detention facility shall certify
366 compliance with this section in a report that the department and
367 the board shall submit to the Governor, the President of the
368 Senate, and the Speaker of the House of Representatives by
369 January 1, 2020.

370 (c) This section does not supersede any law providing
371 greater or additional protections to a child in this state.

372 Section 4. Section 985.4415, Florida Statutes, is created
373 to read:

374 985.4415 Solitary confinement in residential facilities.—

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

376 (a) "Child" means a person within the custody of the
377 department who is under the age of 19 years.

3-01084-19

2019624__

378 (b) "Emergency confinement" means a type of solitary
379 confinement that involves the involuntary placement of a child
380 in an isolated room to separate that child from other children
381 in the facility and to remove him or her from a situation in
382 which he or she presents an immediate and serious danger to the
383 security or safety of himself or herself or others.

384 (c) "Medical confinement" means a type of solitary
385 confinement that involves the involuntary placement of a child
386 in an isolated room to separate that child from the other
387 children in the facility and to allow him or her to recover from
388 illness or to prevent the spread of a communicable illness.

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

391 (e) "Solitary confinement" means the involuntary placement
392 of a child in an isolated room to separate that child from the
393 other children in the facility for any period of time.

394 (2) PROHIBITION ON THE USE OF SOLITARY CONFINEMENT.—A child
395 may not be placed in solitary confinement, except as provided in
396 this section.

397 (3) PROTECTING A CHILD IN EMERGENCY CONFINEMENT.—

398 (a) A child may be placed in emergency confinement if all
399 of the following conditions are met:

400 1. A nonphysical intervention with the child would not be
401 effective in preventing harm or danger to the child or others.

402 2. There is imminent risk of the child physically harming
403 himself or herself, staff, or others or the child is engaged in
404 major property destruction that is likely to compromise the
405 security of the program or jeopardize the safety of the child or
406 others.

3-01084-19

2019624__

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

408 (b) Facility staff shall document the placement of a child
409 in emergency confinement. The documentation must include
410 justification for the placement of a child in emergency
411 confinement, in addition to a description of the other less-
412 restrictive options that the facility staff exercised before the
413 child was so placed.

414 (c) A mental health clinician shall evaluate a child who is
415 placed in emergency confinement within 1 hour after such
416 placement to ensure that the confinement is not detrimental to
417 the mental or physical health of the child. Following the
418 initial evaluation, a mental health clinician shall conduct a
419 face-to-face evaluation of the child every 2 hours thereafter to
420 determine whether the child should remain in emergency
421 confinement. The mental health clinician shall document each
422 evaluation and provide justification for continued placement in
423 emergency confinement.

424 (d) A child may not be placed in emergency confinement for
425 more than 24 hours unless an extension is sought and obtained by
426 a mental health clinician.

427 1. If a mental health clinician determines that release of
428 the child would imminently threaten the safety of the child or
429 others, the mental health clinician may grant a one-time
430 extension of 24 hours for continued placement in emergency
431 confinement.

432 2. If at the conclusion of the 48-hour window a mental
433 health clinician determines that it is not safe for the child to
434 be released from emergency confinement, the facility staff must
435 prepare to transfer the child to a facility that is able to

3-01084-19

2019624__

436 provide specialized treatment to address the child's needs.

437 (e) A child who is placed in emergency confinement must be
438 provided access to the same meals and drinking water, clothing,
439 medical treatment, contact with parents and legal guardians, and
440 legal assistance as provided to children in the facility.

441 (f) The use of emergency confinement is strictly prohibited
442 for the purposes of punishment or discipline.

443 (4) PROTECTING A CHILD IN MEDICAL CONFINEMENT.—

444 (a) A child may be placed in medical confinement if all of
445 the following conditions are met:

446 1. Isolation from other children and staff in the facility
447 is required to allow a child to rest and recover from illness or
448 to prevent the spread of a communicable illness.

449 2. A medical professional deems such placement necessary.

450 3. The use of other less-restrictive means would not be
451 sufficient to allow the child to recover from illness or to
452 prevent the spread of a communicable illness.

453 (b) A child may be placed in medical confinement for a
454 period of time not to exceed the time that is necessary for the
455 child to recover from his or her illness or to prevent the
456 spread of a communicable illness to other children or staff in
457 the facility.

458 (c) Facility staff shall document the placement of a child
459 in medical confinement. The documentation must include a medical
460 professional's justification for the placement.

461 (d) A medical professional must conduct a face-to-face
462 evaluation of a child who is held in medical confinement at
463 least once every 12 hours to determine whether the child should
464 remain in medical confinement. The medical professional shall

3-01084-19

2019624__

465 document each evaluation and provide justification for continued
466 placement in medical confinement.

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

469 (5) IMPLEMENTATION.—

470 (a) The department shall review its policies and procedures
471 relating to disciplinary treatment in residential facilities to
472 determine whether its policies and procedures comply with this
473 section.

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

478 (c) This section does not supersede any law providing
479 greater or additional protections to a child in this state.

480 Section 5. Paragraph (s) is added to subsection (1) of
481 section 944.09, Florida Statutes, to read:

482 944.09 Rules of the department; offenders, probationers,
483 and parolees.—

484 (1) The department has authority to adopt rules pursuant to
485 ss. 120.536(1) and 120.54 to implement its statutory authority.
486 The rules must include rules relating to:

487 (s) Youth in solitary confinement in compliance with s.
488 945.425.

489 Section 6. Paragraph (b) of subsection (9) of section
490 985.601, Florida Statutes, is amended to read:

491 985.601 Administering the juvenile justice continuum.—

492 (9)(b) The department shall adopt rules prescribing
493 standards and requirements with reference to:

3-01084-19

2019624__

494 1. The construction, equipping, maintenance, staffing,
495 programming, and operation of detention facilities;

496 2. The treatment, training, and education of children
497 confined in detention facilities;

498 3. The cleanliness and sanitation of detention facilities;

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

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

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

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

507 8. The disciplinary treatment administered in detention and
508 residential facilities; ~~and-~~

509 9. The strict prohibition on the use of solitary
510 confinement on children under the age of 19 years in compliance
511 with ss. 985.28 and 985.4415.

512 Section 7. For the purpose of incorporating the amendment
513 made by this act to section 944.09, Florida Statutes, in a
514 reference thereto, subsection (1) of section 944.279, Florida
515 Statutes, is reenacted to read:

516 944.279 Disciplinary procedures applicable to prisoner for
517 filing frivolous or malicious actions or bringing false
518 information before court.—

519 (1) At any time, and upon its own motion or on motion of a
520 party, a court may conduct an inquiry into whether any action or
521 appeal brought by a prisoner was brought in good faith. A
522 prisoner who is found by a court to have brought a frivolous or

3-01084-19

2019624__

523 malicious suit, action, claim, proceeding, or appeal in any
524 court of this state or in any federal court, which is filed
525 after June 30, 1996, or to have brought a frivolous or malicious
526 collateral criminal proceeding, which is filed after September
527 30, 2004, or who knowingly or with reckless disregard for the
528 truth brought false information or evidence before the court, is
529 subject to disciplinary procedures pursuant to the rules of the
530 Department of Corrections. The court shall issue a written
531 finding and direct that a certified copy be forwarded to the
532 appropriate institution or facility for disciplinary procedures
533 pursuant to the rules of the department as provided in s.
534 944.09.

535 Section 8. This act shall take effect July 1, 2019.