

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 such records; requiring the
18 Department of Corrections to provide a report to the
19 Department of Law Enforcement; providing that an
20 inmate is entitled to a review of his or her placement
21 in restrictive confinement within a specified
22 timeframe by a specified review committee; amending s.
23 944.09, F.S.; authorizing the department 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 relating to restrictive
29 confinement; reenacting s. 944.279(1), F.S., relating

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

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

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

40 944.175 Restrictions on the use of confinement.-

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

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

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

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

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

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

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

58 (g) "Youth" means a person in the custody of the department

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59 who is under 18 years of age.

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

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

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

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

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

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

87 (e) Must be allowed to have as much meaningful interaction

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88 with others, such as other inmates, visitors, clergy, and
89 licensed mental health professionals, as practicable; and

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

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

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 resulting
115 from the youth's or young adult's behavior have been exhausted,
116 including less restrictive techniques such as penalizing the

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

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

130 (b) If the youth or young adult continues to pose a
131 substantial and immediate threat after the applicable maximum
132 period of confinement specified under subparagraph (a)3. has
133 expired, the youth or young adult must be transferred to another
134 facility or to an internal location where crisis services may be
135 provided to the youth or young adult. If a licensed mental
136 health professional believes the level of crisis services needed
137 is not available onsite, a facility staff member must initiate a
138 referral to a location that can provide the services required to
139 meet the youth or young adult's needs.

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

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146 health professional to likely be significantly and adversely
147 affected by placement in restrictive confinement may not be
148 placed in restrictive confinement unless all of the following
149 apply:

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

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

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

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

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

169 (7) REPORTING.—The facility must keep a record of each time
170 restrictive confinement is used under subsections (5) and (6).
171 The warden of the facility shall review such records each month,
172 and the department shall provide a report based on the warden's
173 review to the Department of Law Enforcement each month.

174 (8) REVIEW.—An inmate who is placed in restrictive

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

180 (a) A licensed mental health professional.

181 (b) A licensed medical professional.

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

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

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

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

190 (s) Inmate confinement which are compliant with s. 944.175.

191 Section 3. Paragraph (a) of subsection (4) of section
192 951.23, Florida Statutes, is amended to read:

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

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

197 (a) ~~There shall be established~~ A five-member working group
198 is established which consists ~~consisting~~ of three persons
199 appointed by the Florida Sheriffs Association and two persons
200 appointed by the Florida Association of Counties to develop
201 model standards for county and municipal detention facilities.

202 At a minimum ~~By October 1, 1996,~~ each sheriff and chief
203 correctional officer shall adopt, ~~at a minimum,~~ the model

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204 standards with reference to:

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

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

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

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

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233 classification which the local unit may deem necessary for the
234 safety of the prisoners and the operation of the facility
235 pursuant to degree of risk and danger criteria. Nondangerous
236 felons may be housed with misdemeanants.

237 3. The confinement of prisoners, in compliance with s.
238 944.175.

239 Section 4. Paragraph (b) of subsection (9) of section
240 985.601, Florida Statutes, is amended to read:

241 985.601 Administering the juvenile justice continuum.-
242 (9)

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

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

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

249 3. The cleanliness and sanitation of detention facilities;

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

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

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

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

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

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

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262 Section 5. For the purpose of incorporating the amendment
263 made by this act to section 944.09, Florida Statutes, in a
264 reference thereto, subsection (1) of section 944.279, Florida
265 Statutes, is reenacted to read:

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

269 (1) At any time, and upon its own motion or on motion of a
270 party, a court may conduct an inquiry into whether any action or
271 appeal brought by a prisoner was brought in good faith. A
272 prisoner who is found by a court to have brought a frivolous or
273 malicious suit, action, claim, proceeding, or appeal in any
274 court of this state or in any federal court, which is filed
275 after June 30, 1996, or to have brought a frivolous or malicious
276 collateral criminal proceeding, which is filed after September
277 30, 2004, or who knowingly or with reckless disregard for the
278 truth brought false information or evidence before the court, is
279 subject to disciplinary procedures pursuant to the rules of the
280 Department of Corrections. The court shall issue a written
281 finding and direct that a certified copy be forwarded to the
282 appropriate institution or facility for disciplinary procedures
283 pursuant to the rules of the department as provided in s.
284 944.09.

285 Section 6. This act shall take effect July 1, 2020.