

1 A bill to be entitled
2 An act relating to youth in solitary confinement;
3 creating s. 958.155, F.S.; providing a short title;
4 defining terms; prohibiting the Department of
5 Corrections or a local governmental body from
6 subjecting youth prisoners to solitary confinement
7 except under certain circumstances; limiting cell
8 confinement of all youth prisoners; providing for the
9 protection of youth prisoners held in emergency cell
10 confinement; prohibiting youth prisoners from being
11 subjected to emergency cell confinement for longer
12 than a certain duration; prohibiting youth prisoners
13 from being subjected to emergency cell confinement
14 under certain circumstances; requiring facility staff
15 to document placements of youth prisoners in emergency
16 cell confinement; requiring that within a specified
17 time and at specified intervals a mental health
18 clinician perform a face-to-face evaluation of youth
19 prisoners who are subjected to emergency cell
20 confinement; requiring each evaluation to be
21 documented; requiring facility staff to perform visual
22 checks of youth prisoners in emergency cell
23 confinement at specified intervals; requiring each
24 visual check to be documented; providing for an
25 individualized suicide crisis intervention plan for

26 | certain youth prisoners, if applicable; requiring that
27 | youth prisoners be transported to a mental health
28 | receiving facility if such prisoners' suicide risk is
29 | not resolved within a certain timeframe; requiring
30 | that youth prisoners in emergency cell confinement be
31 | allotted services and other benefits that are made
32 | available to prisoners in the general prison
33 | population; providing for the protection of youth
34 | prisoners held in disciplinary cell confinement;
35 | prohibiting youth prisoners from being subjected to
36 | disciplinary cell confinement for longer than a
37 | certain duration; requiring staff to perform visual
38 | checks of youth prisoners in disciplinary cell
39 | confinement at specified intervals; requiring each
40 | visual check to be documented; requiring that youth
41 | prisoners in disciplinary cells be allotted services
42 | and other benefits that are made available to
43 | prisoners in the general prison population; providing
44 | reduced isolation for youth prisoners in protective
45 | custody; requiring that youth prisoners placed in
46 | protective custody be allotted services and other
47 | benefits that are made available to prisoners in the
48 | general prison population; requiring the department
49 | and the board of county commissioners of each county
50 | that administers a detention facility or jail to

51 review their policies relating to youth prisoners to
 52 evaluate whether the policies are necessary; requiring
 53 the department and the boards of county commissioners
 54 to certify compliance in a report to the Governor and
 55 the Legislature by a specified date; requiring the
 56 department and the boards of county commissioners to
 57 adopt specified policies and procedures; providing
 58 construction; amending s. 944.09, F.S.; authorizing
 59 the department to adopt rules; amending s. 951.23,
 60 F.S.; requiring sheriffs and chief correctional
 61 officers to adopt model standards relating to youth
 62 prisoners; reenacting s. 944.279(1), F.S., relating to
 63 disciplinary procedures applicable to a prisoner for
 64 filing frivolous or malicious actions or bringing
 65 false information before a court, to incorporate the
 66 amendment made to s. 944.09, F.S., in a reference
 67 thereto; providing an effective date.

68
 69 Be It Enacted by the Legislature of the State of Florida:

70
 71 Section 1. Section 958.155, Florida Statutes, is created
 72 to read:

73 958.155 Youthful offenders in solitary confinement.-

74 (1) SHORT TITLE.-This section may be cited as the "Youth
 75 in Solitary Confinement Reduction Act."

76 (2) DEFINITIONS.—As used in this section, the term:

77 (a) "Disciplinary cell confinement" means a disciplinary
78 sanction for a major rule violation in which a youth who is
79 found guilty of committing such violation is confined to a cell
80 for a specified time.

81 (b) "Emergency cell confinement" means the confinement to
82 a cell of a youth who must be temporarily removed from the
83 general population of prisoners because he or she presents an
84 immediate, serious danger to the security or safety of himself
85 or herself or others.

86 (c) "Major rule violation" means an act that:

87 1. Is an act of violence which results in or is likely to
88 result in serious injury or death to another;

89 2. Occurs in connection with an act of nonconsensual sex;

90 3. Consists of two or more discrete acts that cause
91 serious disruption to the security or order of the detention
92 center or facility operations; or

93 4. Is an escape, attempted escape, or conspiracy to escape
94 from within a security perimeter or from custody or both.

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

97 (e) "Prisoner" means a person incarcerated in a county or
98 regional jail or in a department facility who is accused of,
99 convicted of, or sentenced for a violation of criminal law or
100 the terms and conditions of parole, probation, pretrial release,

101 or a diversionary program.

102 (f) "Protective custody" means a status for a youth who
103 requires protection because he or she is in danger of being
104 victimized by other prisoners in the facility. The term includes
105 time spent under this status pending review of the youth's
106 request for protection.

107 (g) "Solitary confinement" means involuntary confinement
108 in a cell in isolation for more than 20 hours a day.

109 (h) "Youth" means a person who is younger than 18 years of
110 age, or a person who is sentenced as a "youthful offender" by a
111 court or is classified as such by the department pursuant to
112 this chapter.

113 (3) PROTECTING YOUTH FROM SOLITARY CONFINEMENT.—A youth
114 prisoner who is held under the jurisdiction of the department or
115 a local governmental body in this state may not be placed in
116 solitary confinement, except as provided in this section. Cell
117 confinement of all youth prisoners is limited to the types and
118 parameters of confinement specified in this section.

119 (4) PROTECTING YOUTH HELD IN EMERGENCY CELL CONFINEMENT.—

120 (a) A youth prisoner may be placed in emergency cell
121 confinement for a period not to exceed 24 hours.

122 (b) A youth prisoner may not be placed in emergency cell
123 confinement unless all other less restrictive options have been
124 exhausted. Facility staff must document the placement of a youth
125 prisoner in emergency cell confinement and include the

126 justification for the placement and all the attempts for other
127 less restrictive options before the placement.

128 (c) A youth prisoner may be placed in emergency cell
129 confinement for the shortest time required to address the safety
130 risk and may not be held in such confinement if a mental health
131 clinician determines that the confinement is detrimental to the
132 youth's mental or physical health.

133 (d) A youth prisoner who is placed in emergency cell
134 confinement must be evaluated face to face by a mental health
135 clinician within 1 hour after placement and at least every 4
136 hours thereafter to determine if the youth should remain in
137 emergency cell confinement. The mental health clinician shall
138 document each evaluation and shall include the reason for
139 continued placement in emergency cell confinement.

140 (e) During the time a youth prisoner is placed in
141 emergency cell confinement, the facility staff shall conduct
142 visual checks at least four times an hour at intervals of 15
143 minutes or less. During the time a youth is awake, the staff
144 shall speak to the youth during the visual checks. After each
145 visual check, the staff shall document the status of the youth.

146 (f) Within 4 hours after placing a youth prisoner who has
147 exhibited suicidal behavior or committed acts of self-harm in
148 emergency cell confinement, a mental health clinician shall
149 implement an individualized suicide crisis intervention plan for
150 the youth prisoner and closely monitor the youth prisoner's

151 condition in order to reduce or eliminate the risk of self-harm.
152 If the youth's suicide risk is not resolved within 24 hours, the
153 youth must be moved to a mental health receiving facility.

154 (g) A youth prisoner who is placed in emergency cell
155 confinement must be provided:

156 1. At least 1 hour of daily out-of-cell, large-muscle
157 exercise that includes access to outdoor recreation when the
158 weather allows; and

159 2. Access to the same meals and drinking water, medical
160 treatment, contact with parents and legal guardians, and legal
161 assistance as provided to prisoners in the general population.

162 (5) PROTECTING YOUTH HELD IN DISCIPLINARY CELL
163 CONFINEMENT.—

164 (a) A youth prisoner may be placed in disciplinary cell
165 confinement by himself or herself for a period not to exceed 72
166 hours.

167 (b) During the time a youth prisoner is placed in
168 disciplinary cell confinement in a cell by himself or herself,
169 the facility staff shall conduct visual checks at least four
170 times an hour at intervals of 15 minutes or less. During the
171 time the youth is awake, the staff shall speak to the youth
172 during the visual checks. After each visual check, the staff
173 shall document the status of the youth.

174 (c) A youth prisoner who is placed in disciplinary cell
175 confinement must be provided:

176 1. At least 2 hours of daily out-of-cell, large-muscle
177 exercise that includes access to outdoor recreation when the
178 weather allows;

179 2. Daily showers; and

180 3. Access to the same meals and drinking water, clothing,
181 medical treatment, educational services, correspondence
182 privileges, contact with parents and legal guardians, and legal
183 assistance as is provided to prisoners in the general
184 population.

185 (6) REDUCING ISOLATION FOR YOUTH WHO REQUIRE PROTECTIVE
186 CUSTODY.—If a youth prisoner is placed in protective custody,
187 the restrictions to which the youth prisoner is subjected due to
188 such custody status must be the least restrictive to maintain
189 the safety of the youth prisoner and the facility. At a minimum,
190 such youth prisoner must have access to:

191 (a) Educational and programming opportunities consistent
192 with the youth prisoner's safety and security and any federal
193 and state law requirements;

194 (b) At least 5 hours a day of out-of-cell time, including
195 a minimum of 2 hours of daily out-of-cell, large-muscle exercise
196 that includes access to outdoor recreation when the weather
197 allows;

198 (c) The same meals and drinking water, clothing, and
199 medical treatment as provided to prisoners in the general
200 population;

201 (d) Personal property, including televisions and radios,
 202 and access to books, magazines, and other printed materials;
 203 (e) Daily showers;
 204 (f) The law library; and
 205 (g) The same correspondence privileges and number of
 206 visits and phone calls allowed to prisoners in the general
 207 population, including, but not limited to, the same contact with
 208 parents and legal guardians and the same legal assistance.

209 (7) IMPLEMENTATION.—

210 (a) The department and the board of county commissioners
 211 of each county that administers a detention facility or jail
 212 shall review their policies relating to youth prisoners in
 213 solitary confinement or protective custody to determine if such
 214 policies are necessary. The department and the board of county
 215 commissioners of each county that administers a detention
 216 facility or jail shall certify compliance with this section in a
 217 report that the department and the commission shall submit to
 218 the Governor, the President of the Senate, and the Speaker of
 219 the House of Representatives by January 1, 2022. The department
 220 and the board of county commissioners of each such county shall
 221 adopt policies and procedures necessary to administer this
 222 section.

223 (b) To the extent that this section conflicts with any
 224 other provision of law relating to youth prisoners in this
 225 state, the provisions that afford the greater or additional

226 | protections to youth prisoners in this state shall prevail.

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

229 | 944.09 Rules of the department; offenders, probationers,
230 | and parolees.—

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

234 | (s) Disciplinary procedures and punishment for youth
235 | prisoners in compliance with s. 958.155, the Youth in Solitary
236 | Confinement Reduction Act.

237 | Section 3. Paragraph (a) of subsection (4) of section
238 | 951.23, Florida Statutes, is amended to read:

239 | 951.23 County and municipal detention facilities;
240 | definitions; administration; standards and requirements.—

241 | (4) STANDARDS FOR SHERIFFS AND CHIEF CORRECTIONAL
242 | OFFICERS.—

243 | (a) ~~There shall be established~~ A five-member working group
244 | consisting of three persons appointed by the Florida Sheriffs
245 | Association and two persons appointed by the Florida Association
246 | of Counties is established to develop model standards for county
247 | and municipal detention facilities. ~~By October 1, 1996,~~ Each
248 | sheriff and chief correctional officer shall adopt, at a
249 | minimum, the model standards with reference to:

250 | 1.a. The construction, equipping, maintenance, and

251 operation of county and municipal detention facilities.

252 b. The cleanliness and sanitation of county and municipal
253 detention facilities; the number of county and municipal
254 prisoners who may be housed therein per specified unit of floor
255 space; the quality, quantity, and supply of bedding furnished to
256 such prisoners; the quality, quantity, and diversity of food
257 served to them and the manner in which it is served; the
258 furnishing to them of medical attention and health and comfort
259 items; and the disciplinary treatment that ~~which~~ may be provided
260 ~~meted out to them~~.

261
262 Notwithstanding the provisions of the otherwise applicable
263 building code, a reduced custody housing area may be occupied by
264 inmates or may be used for sleeping purposes as allowed in
265 subsection (7). The sheriff or chief correctional officer shall
266 provide that a reduced custody housing area shall be governed by
267 fire and life safety standards that ~~which~~ do not interfere with
268 the normal use of the facility and that ~~which~~ affect a
269 reasonable degree of compliance with rules of the State Fire
270 Marshal for correctional facilities.

271 2. The confinement of prisoners by classification and
272 providing, whenever possible, for classifications that ~~which~~
273 separate males from females, juveniles from adults, felons from
274 misdemeanants, and those awaiting trial from those convicted
275 and, in addition, providing for the separation of special risk

276 prisoners, such as the mentally ill, alcohol or narcotic
277 addicts, sex deviates, suicide risks, and any other
278 classification that ~~which~~ the local unit may deem necessary for
279 the safety of the prisoners and the operation of the facility
280 pursuant to degree of risk and danger criteria. Nondangerous
281 felons may be housed with misdemeanants.

282 3. The confinement of prisoners by classification and
283 providing for classifications that comply with s. 958.155, the
284 Youth in Solitary Confinement Reduction Act.

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

289 944.279 Disciplinary procedures applicable to prisoner for
290 filing frivolous or malicious actions or bringing false
291 information before court.—

292 (1) At any time, and upon its own motion or on motion of a
293 party, a court may conduct an inquiry into whether any action or
294 appeal brought by a prisoner was brought in good faith. A
295 prisoner who is found by a court to have brought a frivolous or
296 malicious suit, action, claim, proceeding, or appeal in any
297 court of this state or in any federal court, which is filed
298 after June 30, 1996, or to have brought a frivolous or malicious
299 collateral criminal proceeding, which is filed after September
300 30, 2004, or who knowingly or with reckless disregard for the

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301 truth brought false information or evidence before the court, is
302 subject to disciplinary procedures pursuant to the rules of the
303 Department of Corrections. The court shall issue a written
304 finding and direct that a certified copy be forwarded to the
305 appropriate institution or facility for disciplinary procedures
306 pursuant to the rules of the department as provided in s.
307 944.09.

308 Section 5. This act shall take effect July 1, 2021.