

By Senator Farmer

34-00613-21

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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 monthly; requiring the  
18      Department of Corrections to provide a specified  
19      report to the Department of Law Enforcement; providing  
20      that an inmate is entitled to a review of his or her  
21      placement in restrictive confinement within a  
22      specified timeframe by a specified review committee;  
23      amending s. 944.09, F.S.; requiring the department to  
24      adopt certain rules; amending s. 951.23, F.S.;  
25      requiring sheriffs and chief correctional officers to  
26      adopt model standards relating to confinement;  
27      amending s. 985.601, F.S.; requiring the Department of  
28      Juvenile Justice to adopt rules relating to  
29      restrictive confinement; reenacting s. 944.279(1),

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

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

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

41 944.175 Restrictions on the use of confinement.—

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

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

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

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

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

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

56 (f) "Young adult" means a person in the custody of the  
57 department who is 18 years of age or older but younger than 21  
58 years of age.

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59 (g) "Youth" means a person in the custody of the department  
60 who is younger than 18 years of age.

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

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

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

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

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

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

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88 (e) Must be allowed to have as much meaningful interaction  
89 with others, such as other inmates, visitors, clergy, and  
90 licensed mental health professionals, as practicable; and

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

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

109 (5) YOUTHS AND YOUNG ADULTS.—

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

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

115 2. All other options to deescalate the situation resulting  
116 from the youth's or young adult's behavior have been exhausted,

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

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

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

142 (6) INMATES WITH MEDICAL NEEDS.—An inmate who has a serious  
143 mental illness, has an intellectual disability, has a physical  
144 disability that a licensed medical health professional  
145 determines is likely to be exacerbated by placement in

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146 restrictive confinement, is pregnant or in the first 8 weeks of  
147 postpartum recovery, or has been determined by a licensed mental  
148 health professional to likely be significantly and adversely  
149 affected by placement in restrictive confinement may not be  
150 placed in restrictive confinement unless all of the following  
151 apply:

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

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

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

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

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

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

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175 review to the Department of Law Enforcement each month.

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

182 (a) A licensed mental health professional.

183 (b) A licensed medical professional.

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

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

187 944.09 Rules of the department; offenders, probationers,  
188 and parolees.—

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

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

193 Section 3. Paragraph (a) of subsection (4) of section  
194 951.23, Florida Statutes, is amended to read:

195 951.23 County and municipal detention facilities;  
196 definitions; administration; standards and requirements.—

197 (4) STANDARDS FOR SHERIFFS AND CHIEF CORRECTIONAL  
198 OFFICERS.—

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

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204 At a minimum ~~By October 1, 1996,~~ each sheriff and chief  
205 correctional officer shall adopt, ~~at a minimum,~~ the model  
206 standards with reference to:

207 1.a. The construction, equipping, maintenance, and  
208 operation of county and municipal detention facilities.

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

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

228 2. The confinement of prisoners by classification and  
229 providing, whenever possible, for classifications that ~~which~~  
230 separate males from females, juveniles from adults, felons from  
231 misdemeanants, and those awaiting trial from those convicted  
232 and, in addition, providing for the separation of special risk



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233 prisoners, such as the mentally ill, alcohol or narcotic  
234 addicts, sex deviates, suicide risks, and any other  
235 classification which the local unit may deem necessary for the  
236 safety of the prisoners and the operation of the facility  
237 pursuant to degree of risk and danger criteria. Nondangerous  
238 felons may be housed with misdemeanants.

239 3. The confinement of prisoners, in compliance with s.  
240 944.175.

241 Section 4. Paragraph (b) of subsection (9) of section  
242 985.601, Florida Statutes, is amended to read:

243 985.601 Administering the juvenile justice continuum.—

244 (9)

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

247 1. The construction, equipping, maintenance, staffing,  
248 programming, and operation of detention facilities;

249 2. The treatment, training, and education of children  
250 confined in detention facilities;

251 3. The cleanliness and sanitation of detention facilities;

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

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

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

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

260 8. The disciplinary treatment administered in detention  
261 facilities; and

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262       9. The use of restrictive confinement for prisoners, in  
263 compliance with s. 944.175.

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

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

271       (1) At any time, and upon its own motion or on motion of a  
272 party, a court may conduct an inquiry into whether any action or  
273 appeal brought by a prisoner was brought in good faith. A  
274 prisoner who is found by a court to have brought a frivolous or  
275 malicious suit, action, claim, proceeding, or appeal in any  
276 court of this state or in any federal court, which is filed  
277 after June 30, 1996, or to have brought a frivolous or malicious  
278 collateral criminal proceeding, which is filed after September  
279 30, 2004, or who knowingly or with reckless disregard for the  
280 truth brought false information or evidence before the court, is  
281 subject to disciplinary procedures pursuant to the rules of the  
282 Department of Corrections. The court shall issue a written  
283 finding and direct that a certified copy be forwarded to the  
284 appropriate institution or facility for disciplinary procedures  
285 pursuant to the rules of the department as provided in s.  
286 944.09.

287       Section 6. This act shall take effect July 1, 2021.