

By Senator Thurston

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

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30 amending s. 951.23, F.S.; requiring sheriffs and chief
31 correctional officers to adopt model standards
32 relating to youth; amending s. 944.09, F.S.;

33 authorizing the Department of Corrections to adopt
34 rules; reenacting s. 944.279(1), F.S., relating to
35 disciplinary procedures applicable to a prisoner for
36 filing frivolous or malicious actions or bringing
37 false information before a court, to incorporate the
38 amendment made to s. 944.09, F.S., in a reference
39 thereto; providing an effective date.

40
41 Be It Enacted by the Legislature of the State of Florida:

42
43 Section 1. Section 945.425, Florida Statutes, is created to
44 read:

45 945.425 Youth in confinement.—

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

47 (a) "Disciplinary confinement" means the involuntary
48 placement of a youth in an isolated room to separate the youth
49 from the general inmate population as a disciplinary action for
50 violating department rules.

51 (b) "Emergency confinement" means the involuntary placement
52 of a youth in an isolated room to separate that youth from the
53 general inmate population and to remove that youth from a
54 situation in which he or she presents an immediate and serious
55 danger to the security or safety of himself or herself or
56 others.

57 (c) "Medical confinement" means the involuntary placement
58 of a youth in an isolated room to separate that youth from the

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59 general inmate population to allow him or her to recover from an
60 illness or to prevent the spread of a communicable disease.

61 (d) "Mental health clinician" means a licensed
62 psychiatrist, psychologist, social worker, mental health
63 counselor, nurse practitioner, or physician assistant.

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

66 (2) PROHIBITION ON THE USE OF CONFINEMENT.-

67 (a) A youth may not be placed in disciplinary confinement.

68 (b) A youth may be placed in emergency confinement pending
69 a disciplinary hearing only if such confinement complies with
70 this section.

71 (c) This section does not prohibit the department from
72 applying less restrictive penalties to a youth who is found in a
73 disciplinary hearing to have committed a rule violation.

74 (3) PROTECTING YOUTH IN EMERGENCY CONFINEMENT.-

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

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

79 2. There is imminent risk of the youth physically harming
80 himself or herself, staff, or others or the youth is engaged in
81 major property destruction that is likely to compromise the
82 security of the program or jeopardize the safety of the youth or
83 others.

84 3. All less restrictive means have been exhausted.

85 (b) Facility staff shall document the placement of a youth
86 in emergency confinement. The documentation must include
87 justification for the placement, in addition to a description of

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88 the less restrictive options the facility staff exercised before
89 the youth was so placed.

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

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

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

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

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

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117 population.

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

120 (4) PROTECTING YOUTH IN MEDICAL CONFINEMENT.—

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

123 1. Isolation from the general inmate population and staff
124 is required to allow the youth to rest and recover from his or
125 her illness or to prevent the spread of a communicable disease.

126 2. A medical professional deems such placement necessary.

127 3. The use of other less restrictive means would not be
128 sufficient to allow the youth to recover from his or her illness
129 or to prevent the spread of a communicable disease.

130 (b) A youth may be placed in medical confinement for a
131 period not to exceed the time necessary for the youth to recover
132 from his or her illness or to prevent the spread of a
133 communicable disease to other inmates or staff in the facility.

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

137 (d) A medical professional must conduct a face-to-face
138 evaluation of a youth held in medical confinement at least once
139 every 12 hours to determine whether the youth should remain in
140 medical confinement. The medical professional shall document
141 each evaluation and provide justification for continued
142 placement in medical confinement.

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

145 (5) IMPLEMENTATION.—

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146 (a) The department shall review its policies and procedures
 147 relating to youth in confinement to determine whether the
 148 policies and procedures comply with this section.

149 (b) The department shall certify compliance with this
 150 section in a report that the department shall submit to the
 151 Governor, the President of the Senate, and the Speaker of the
 152 House of Representatives by January 1, 2022.

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

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

157 Section 2. Paragraph (a) of subsection (4) of section
 158 951.23, Florida Statutes, is amended to read:

159 951.23 County and municipal detention facilities;
 160 definitions; administration; standards and requirements.—

161 (4) STANDARDS FOR SHERIFFS AND CHIEF CORRECTIONAL
 162 OFFICERS.—

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

171 1.a. The construction, equipping, maintenance, and
 172 operation of county and municipal detention facilities.

173 b. The cleanliness and sanitation of county and municipal
 174 detention facilities; the number of county and municipal

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175 prisoners who may be housed therein per specified unit of floor
176 space; the quality, quantity, and supply of bedding furnished to
177 such prisoners; the quality, quantity, and diversity of food
178 served to them and the manner in which it is served; the
179 furnishing to them of medical attention and health and comfort
180 items; and the disciplinary treatment that ~~which~~ may be meted
181 out to them.

182

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

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

203 3. The confinement of prisoners by classification on the

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204 basis of age and a strict prohibition on the use of disciplinary
205 confinement for prisoners under 19 years of age, in compliance
206 with s. 945.425.

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

209 944.09 Rules of the department; offenders, probationers,
210 and parolees.—

211 (1) The department has authority to adopt rules pursuant to
212 ss. 120.536(1) and 120.54 to implement its statutory authority.
213 The rules must include rules relating to:

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

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

219 944.279 Disciplinary procedures applicable to prisoner for
220 filing frivolous or malicious actions or bringing false
221 information before court.—

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

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233 Department of Corrections. The court shall issue a written
234 finding and direct that a certified copy be forwarded to the
235 appropriate institution or facility for disciplinary procedures
236 pursuant to the rules of the department as provided in s.
237 944.09.

238 Section 5. This act shall take effect October 1, 2021.