

By Senator Thurston

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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

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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

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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 to  
72 read:

73 958.155 Youthful offenders in solitary confinement.-

74 (1) SHORT TITLE.-This section may be cited as the "Youth in  
75 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 a  
82 cell of a youth who must be temporarily removed from the general  
83 population of prisoners because he or she presents an immediate,  
84 serious danger to the security or safety of himself or herself  
85 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

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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 serious  
91 disruption to the security or order of the detention center or  
92 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 in  
108 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

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

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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

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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 a  
195 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;

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204       (f) The law library; and  
205       (g) The same correspondence privileges and number of visits  
206 and phone calls allowed to prisoners in the general population,  
207 including, but not limited to, the same contact with parents and  
208 legal guardians and the same legal assistance.

209       (7) IMPLEMENTATION.—

210       (a) The department and the board of county commissioners of  
211 each county that administers a detention facility or jail shall  
212 review their policies relating to youth prisoners in solitary  
213 confinement or protective custody to determine if such policies  
214 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 to  
232 ss. 120.536(1) and 120.54 to implement its statutory authority.



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233 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.~~

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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

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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  
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.