

By Senator Taddeo

40-00287-22

20221934__

1 A bill to be entitled
2 An act relating to the solitary confinement of
3 incarcerated youths; creating s. 958.155, F.S.;
4 providing a short title; defining terms; prohibiting
5 the Department of Corrections and local governmental
6 bodies from placing incarcerated youths in solitary
7 confinement, with specified exceptions; limiting the
8 period of time for which incarcerated youths may be
9 placed in disciplinary cell confinement; requiring
10 staff, at specified intervals, to perform visual
11 checks of incarcerated youths who are placed in
12 disciplinary cell confinement; requiring that each
13 visual check be documented; requiring that
14 incarcerated youth placed in disciplinary cell
15 confinement be provided services and other benefits
16 that are made available to prisoners in the general
17 population; authorizing the placement of incarcerated
18 youths in emergency cell confinement when less
19 restrictive options have been exhausted; limiting the
20 period of time for which incarcerated youths may be
21 placed in emergency cell confinement; requiring
22 facility staff to document the placement of an
23 incarcerated youth in emergency cell confinement;
24 requiring that, within a specified time and at
25 specified intervals, a mental health clinician perform
26 a face-to-face evaluation of incarcerated youths who
27 are placed in emergency cell confinement; requiring
28 that each evaluation be documented; requiring facility
29 staff, at specified intervals, to perform visual

40-00287-22

20221934__

30 checks of incarcerated youths in emergency cell
31 confinement; requiring that each visual check be
32 documented; providing for creation of individualized
33 suicide crisis intervention plans for certain
34 incarcerated youths placed in emergency cell
35 confinement; requiring that such incarcerated youths
36 be transported to a mental health receiving facility
37 if such youths' suicide risk is not resolved within a
38 certain timeframe; requiring that incarcerated youths
39 placed in emergency cell confinement be provided
40 services and other benefits that are made available to
41 prisoners in the general population; requiring that
42 restrictions imposed on incarcerated youths who are
43 placed in protective custody be the least restrictive
44 necessary to maintain the safety of such youths and
45 others; requiring that such youths be provided
46 services and other benefits that are made available to
47 prisoners in the general population; requiring the
48 department and the board of county commissioners of
49 each county that administers a detention facility or
50 jail to review their policies relating to the
51 placement of incarcerated youths in solitary
52 confinement to determine the efficacy of such policies
53 and to adopt policies and procedures; requiring the
54 department and such boards, by a specified date, to
55 certify compliance with such requirements in a report
56 to the Governor and the Legislature; providing
57 construction; amending s. 944.09, F.S.; authorizing
58 the department to adopt specified rules; amending s.

40-00287-22

20221934__

59 951.23, F.S.; requiring sheriffs and chief
60 correctional officers to adopt model standards
61 relating to the confinement of incarcerated youths;
62 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 Solitary confinement of incarcerated youths.-

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

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

77 (a) "Disciplinary cell confinement" means the disciplinary
78 sanction of confining an incarcerated youth in isolation in a
79 cell for a specified period of time, which may be imposed if he
80 or she commits a violation punishable by isolation.

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

86 (c) "Incarcerated youth" means a person who is incarcerated
87 and who is younger than 18 years of age or is sentenced or

40-00287-22

20221934__

88 classified as a youthful offender as provided in s. 958.03(5).

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

91 (e) "Prisoner" means a person incarcerated in a county or
92 regional jail or in a department facility who is accused of,
93 convicted of, or sentenced for a violation of criminal law or
94 the terms and conditions of parole, probation, pretrial release,
95 or a diversionary program.

96 (f) "Protective custody" means isolation from the general
97 population which is requested by an incarcerated youth to
98 protect himself or herself from victimization by other prisoners
99 in the facility.

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

102 (h) "Violation punishable by isolation" means:

103 1. An act of violence which results in or is likely to
104 result in serious injury or death to another;

105 2. An act that occurs in connection with an act of
106 nonconsensual sex;

107 3. An act that consists of two or more discrete acts that
108 cause serious disruption to the security or order of the
109 detention center or facility operations; or

110 4. An escape, an attempted escape, or a conspiracy to
111 escape from within a security perimeter or from custody or both.

112 (3) PROTECTING INCARCERATED YOUTHS FROM SOLITARY
113 CONFINEMENT.—The department or a local governmental body in this
114 state may not place an incarcerated youth who is held under its
115 jurisdiction in solitary confinement, except as provided in this
116 section. The use of disciplinary and emergency cell confinement

40-00287-22

20221934__

117 of incarcerated youths is authorized only as provided in this
118 section.

119 (4) PROTECTING INCARCERATED YOUTHS HELD IN DISCIPLINARY
120 CELL CONFINEMENT.—

121 (a) An incarcerated youth may be placed in disciplinary
122 cell confinement for a period not to exceed 72 hours.

123 (b) During the time an incarcerated youth is placed in
124 disciplinary cell confinement, the facility staff shall conduct
125 visual checks at least four times an hour at intervals of 15
126 minutes or less. During the time the youth is awake, the staff
127 shall speak to the youth during the visual checks. After each
128 visual check, the staff shall document the status of the youth.

129 (c) An incarcerated youth who is placed in disciplinary
130 cell confinement shall be provided:

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

134 2. Daily showers; and

135 3. Access to the same meals and drinking water, clothing,
136 medical treatment, educational services, correspondence
137 privileges, contact with parents and legal guardians, and legal
138 assistance as is provided to prisoners in the general
139 population.

140 (5) PROTECTING INCARCERATED YOUTHS HELD IN EMERGENCY CELL
141 CONFINEMENT.—

142 (a) An incarcerated youth may be placed in emergency cell
143 confinement for a period not to exceed 24 hours only when all
144 less restrictive options have been exhausted.

145 (b) Facility staff shall document the placement of an

40-00287-22

20221934__

146 incarcerated youth in emergency cell confinement. Such
147 documentation must include the justification for the placement
148 and must specify the less restrictive options that were employed
149 before the imposition of emergency cell confinement.

150 (c) The period of time for which an incarcerated youth is
151 placed in emergency cell confinement must be the shortest time
152 required to address the safety risk and the youth may not be
153 held in such confinement if a mental health clinician determines
154 that the confinement is detrimental to the youth's mental or
155 physical health.

156 (d) An incarcerated youth who is placed in emergency cell
157 confinement must be evaluated face to face by a mental health
158 clinician within 1 hour after placement and at least every 4
159 hours thereafter to determine whether the youth should remain in
160 emergency cell confinement. The mental health clinician shall
161 document each evaluation and shall include the reason for
162 continuing placement.

163 (e) During the time an incarcerated youth is placed in
164 emergency cell confinement, facility staff shall conduct visual
165 checks at least four times an hour at intervals of 15 minutes or
166 less. During the time a youth is awake, the staff shall speak to
167 the youth during the visual checks. After each visual check, the
168 staff shall document the status of the youth.

169 (f) Within 4 hours after placing an incarcerated youth who
170 has exhibited suicidal behavior or committed acts of self-harm
171 in emergency cell confinement, a mental health clinician shall
172 implement an individualized suicide crisis intervention plan for
173 the incarcerated youth and closely monitor his or her condition
174 to reduce or eliminate the risk of self-harm. If the youth's

40-00287-22

20221934__

175 suicide risk is not resolved within 24 hours, the youth must be
176 moved to a mental health receiving facility.

177 (g) An incarcerated youth who is placed in emergency cell
178 confinement shall be provided:

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

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

185 (6) REDUCING ISOLATION FOR INCARCERATED YOUTHS WHO REQUIRE
186 PROTECTIVE CUSTODY.—

187 (a) For purposes of this subsection, protective custody
188 includes the period of time during which an incarcerated youth's
189 request for protection is under review.

190 (b) If an incarcerated youth is placed in protective
191 custody, the restrictions imposed must be the least restrictive
192 necessary to maintain the safety of the incarcerated youth and
193 others in the facility. At a minimum, such incarcerated youth
194 shall be provided:

195 1. Educational and programming opportunities consistent
196 with the his or her safety and security and any requirements of
197 federal and state law;

198 2. At least 5 hours daily of out-of-cell time, including a
199 minimum of 2 hours daily of out-of-cell, large-muscle exercise
200 that includes access to outdoor recreation when the weather
201 allows;

202 3. The same meals and drinking water, clothing, medical
203 treatment, correspondence privileges, contact with parents and

40-00287-22

20221934__

204 legal guardians, and legal assistance as is provided to
205 prisoners in the general population;

206 4. Access to personal property, including televisions and
207 radios, and to books, magazines, and other printed materials;

208 5. Daily showers;

209 6. The law library; and

210 7. The same number of visits and phone calls allowed to
211 prisoners in the general population.

212 (7) IMPLEMENTATION.—

213 (a) The department and the board of county commissioners of
214 each county that administers a detention facility or jail shall
215 review their policies relating to the placement of incarcerated
216 youths in solitary confinement or protective custody to
217 determine their efficacy and shall adopt policies and procedures
218 necessary to administer this section. By January 1, 2023, the
219 department and each such board shall certify compliance with
220 this section in a report submitted to the Governor, the
221 President of the Senate, and the Speaker of the House of
222 Representatives.

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

40-00287-22

20221934__

233 The rules must include rules relating to:

234 (s) Disciplinary procedures and punishment for incarcerated
235 youths in conformance with s. 958.155.

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

238 951.23 County and municipal detention facilities;
239 definitions; administration; standards and requirements.—

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

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

249 1.a. The construction, equipping, maintenance, and
250 operation of county and municipal detention facilities.

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

260
261 Notwithstanding the provisions of the otherwise applicable

40-00287-22

20221934__

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

270 2. The confinement of prisoners by classification and
271 providing, whenever possible, for classifications that ~~which~~
272 separate males from females, juveniles from adults, felons from
273 misdemeanants, and those awaiting trial from those convicted
274 and, in addition, providing for the separation of special risk
275 prisoners, such as the mentally ill, alcohol or narcotic
276 addicts, sex deviates, suicide risks, and any other
277 classification that ~~which~~ the local unit may deem necessary for
278 the safety of the prisoners and the operation of the facility
279 pursuant to degree of risk and danger criteria. Nondangerous
280 felons may be housed with misdemeanants.

281 3. The confinement of prisoners by classification and
282 providing for classifications that comply with s. 958.155.

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

287 944.279 Disciplinary procedures applicable to prisoner for
288 filing frivolous or malicious actions or bringing false
289 information before court.—

290 (1) At any time, and upon its own motion or on motion of a

40-00287-22

20221934__

291 party, a court may conduct an inquiry into whether any action or
292 appeal brought by a prisoner was brought in good faith. A
293 prisoner who is found by a court to have brought a frivolous or
294 malicious suit, action, claim, proceeding, or appeal in any
295 court of this state or in any federal court, which is filed
296 after June 30, 1996, or to have brought a frivolous or malicious
297 collateral criminal proceeding, which is filed after September
298 30, 2004, or who knowingly or with reckless disregard for the
299 truth brought false information or evidence before the court, is
300 subject to disciplinary procedures pursuant to the rules of the
301 Department of Corrections. The court shall issue a written
302 finding and direct that a certified copy be forwarded to the
303 appropriate institution or facility for disciplinary procedures
304 pursuant to the rules of the department as provided in s.
305 944.09.

306 Section 5. This act shall take effect July 1, 2022.