

By Senator Powell

24-00894-24

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1                   A bill to be entitled  
2       An act relating to the restrictive confinement of  
3       inmates; providing a short title; creating s. 944.022,  
4       F.S.; providing legislative findings and intent;  
5       defining terms; specifying requirements for and  
6       limitations and restrictions on the use of restrictive  
7       housing; providing documentation requirements for  
8       staff members directly involved in using restrictive  
9       housing for an individual; specifying conditions  
10      required in restrictive housing; requiring that an  
11      explanation of the restrictive confinement policy be  
12      provided by facility staff to each individual placed  
13      in custody; providing an effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17       Section 1. This act may be cited as the "Cautia Spencer End  
18 Solitary Confinement Act."

19       Section 2. Section 944.022, Florida Statutes, is created to  
20 read:

21       944.022 Restrictive confinement of inmates; limitations;  
22 required documentation; required minimum conditions during  
23 restrictive confinement.—

24       (1) FINDINGS; INTENT.—The American Psychiatric Association  
25 advises against the isolation of juveniles and persons with  
26 mental illness. In an investigation of conditions at a detention  
27 center, the United States Department of Justice found that  
28 incarcerated juveniles subjected to restrictive housing,  
29 including for short periods of time, experienced symptoms of

24-00894-24

20241674\_\_

30 paranoia, anxiety, and depression. According to Juvenile Suicide  
31 in Confinement: A National Survey by the Office of Juvenile  
32 Justice and Delinquency Prevention, individuals in restrictive  
33 housing attempt and die by suicide at a much higher rate than  
34 individuals in the general prison population. The survey found  
35 that among the incarcerated youth who die by suicide, half were  
36 in isolation when they committed suicide, and 62 percent had  
37 been in restrictive housing at some point. According to the 2006  
38 report by the Commission on Safety and Abuse in America's  
39 Prisons, restrictive housing was related to higher-than-average  
40 recidivism rates, especially when individuals were released into  
41 the community directly from restrictive housing. The United  
42 Nations declared that restrictive housing is considered a form  
43 of torture. Under The United Nations Standard Minimum Rules for  
44 the Treatment of Prisoners, restrictive housing must be banned  
45 for all vulnerable groups, including children. It is the intent  
46 of the Legislature to limit the use of any restrictive housing  
47 for all incarcerated individuals to a maximum of 8 hours.

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

49 (a) "Individual" refers to both incarcerated adults and  
50 juveniles in the custody of the department or of the Department  
51 of Juvenile Justice.

52 (b) "Juvenile" means any individual 21 years of age or  
53 younger.

54 (c) "Mental health practitioner" means a licensed  
55 psychiatrist, psychologist, mental health counselor, or clinical  
56 social worker.

57 (d) "Restrictive confinement" or "restrictive housing"  
58 means the involuntary placement of an individual in a cell,

24-00894-24

20241674\_\_

59 room, or other area except during regular sleeping hours. The  
60 term includes, but is not limited to, any behavioral  
61 intervention, seclusion, or room confinement in response to a  
62 rule violation, a staffing shortage, or any other circumstance  
63 that is not an emergency response to behavior that poses a  
64 serious and immediate threat of physical harm to the individual.  
65 Forms of restrictive housing include, but are not limited to,  
66 maximum management, close management I, II, and III,  
67 administrative confinement, and disciplinary confinement.

68 (e) "Therapeutic and restorative justice program" means any  
69 program that focuses on the rehabilitation of the individual and  
70 addresses the underlying causes of his or her negative behavior.

71 (3) REQUIREMENTS; LIMITATIONS AND RESTRICTIONS ON USE.—

72 (a) An individual may not be placed in any form of  
73 restrictive housing for any reason other than as a temporary  
74 response to behavior that poses a serious and immediate threat  
75 of physical harm to the individual or to others.

76 (b) Restrictive housing may not be used without prior  
77 approval, and such confinement lasting more than 1 hour requires  
78 the approval of the facility director, deputy director, or the  
79 supervisor with the highest level of authority who is present at  
80 the facility at the time, and may be initiated only after  
81 consultation with and with the approval of and oversight by a  
82 mental health practitioner. Approval must be reaffirmed every  
83 hour that an individual is in restrictive housing.

84 (c) Restrictive housing may only be imposed under the  
85 following circumstances:

86 1. If using progressive protocols, beginning with verbal  
87 calming and other de-escalation techniques attempted by facility

24-00894-24

20241674\_\_

88 staff, has proven unsuccessful at resolving the imminent threat  
89 of physical harm to the individual or to others;

90 2. If there is a need to eliminate the serious and  
91 immediate risk of physical harm to the individual or to others;  
92 or

93 3. If no less restrictive intervention has been, or is  
94 likely to be, effective in averting the imminent threat of  
95 physical harm to the individual or to others.

96 (d) An individual must be allowed telephone calls with  
97 legal counsel before being placed and while being housed in  
98 restrictive housing.

99 (e) An individual may only be held in restrictive housing  
100 for a period that does not compromise or harm his or her  
101 physical health or mental health, as determined by a mental  
102 health practitioner. Under no circumstances may a period of  
103 restrictive housing exceed 8 hours, and the use of consecutive  
104 periods of restrictive housing is prohibited. Upon reaching 8  
105 hours in restrictive housing, the individual must be returned to  
106 the general population. If a mental health practitioner  
107 determines that the individual, after the 8 hours in restrictive  
108 housing, continues to pose a serious and immediate threat of  
109 physical harm to himself or herself or to others, the individual  
110 must be referred to a mental health practitioner who must assess  
111 and assist the individual with an individualized therapeutic and  
112 restorative justice program. The program may include, but is not  
113 limited to:

114 1. An individual counseling plan;  
115 2. Medication management;  
116 3. Mentoring; or

24-00894-24

20241674\_\_

117 4. Scheduled time for outdoor activities.

118 (f) If, after meeting with the mental health practitioner,  
119 the individual continues to pose a serious and immediate threat  
120 of physical harm to himself or herself or others and meets the  
121 criteria for involuntary examination or placement pursuant to  
122 the Florida Mental Health Act under chapter 394, the individual  
123 may be referred to a mental health facility. The individual must  
124 be allowed to participate in meaningful programming  
125 opportunities and privileges consistent with those available to  
126 the general population.

127 (g) Restrictive housing may never be used for coercion,  
128 retaliation, humiliation, as a threat of punishment, or as a  
129 form of discipline; in lieu of adequate staffing; or for staff  
130 convenience.

131 (h) If the individual is a juvenile, each occurrence of the  
132 use of restrictive confinement must be reported to the parents  
133 or guardians as soon as possible, but in no case later than 24  
134 hours after such restrictive confinement.

135 (i) An individual in restrictive housing must be evaluated  
136 in person by a mental health practitioner within 1 hour after  
137 placement in restrictive housing to ensure that the restrictive  
138 confinement is not detrimental to the mental or physical health  
139 of the individual. After the initial in-person evaluation, a  
140 mental health practitioner must engage in continued crisis  
141 intervention and de-escalation techniques and make visual and  
142 verbal contact with the individual in restrictive housing at  
143 intervals of no more than every 2 hours and must document the  
144 time and nature of the observation and interventions. The intent  
145 and purpose of this intervention is to help de-escalate the

24-00894-24

20241674\_\_

146 individual's behavior so that he or she may rejoin the general  
147 population as soon as possible.

148 (j) In preparation for the individual's release from  
149 restrictive confinement, a mental health practitioner shall  
150 evaluate the individual and assist with creating a plan that  
151 uses techniques for self-de-escalation and crisis management to  
152 successfully reintegrate the individual to the general  
153 population.

154 (k) If an individual is placed in administrative  
155 confinement, he or she must be placed in a more permanent inmate  
156 management program within a maximum of 3 hours after having been  
157 placed in administrative confinement.

158 (l) The number of hours the individual is placed in  
159 administrative confinement counts toward the 8-hour maximum that  
160 an individual is allowed to be housed in any form of restrictive  
161 housing.

162 (4) DOCUMENTATION.—Staff members directly involved in using  
163 restrictive housing for an individual shall document each  
164 occurrence of the use of restrictive housing as soon as  
165 possible, but in no case later than 24 hours after such use.  
166 Deidentified data on the frequency and length of time that an  
167 individual spends in disciplinary confinement must be available  
168 upon request as a public record. The documentation of each use  
169 of disciplinary confinement must include an incident report  
170 written by the staff members which includes all of the  
171 following:

172 (a) The name, age, height, gender, and race of the  
173 individual.

174 (b) The date and the beginning and ending time for such

24-00894-24

20241674\_\_

175 use.

176 (c) A description of the events of the inciting incident,  
177 including the activity the individual was engaged in before the  
178 escalation and the precipitating event.

179 (d) A description of de-escalation and less intrusive  
180 methods of intervention used and the reasons for their use.

181 (e) Each supervisory, clinical, or administrative  
182 notification and approval, as applicable.

183 (f) A list of all staff involved, including their full  
184 names, titles, and relationship to the individual and whether a  
185 restraint was used. If a restraint was used, the date of the  
186 most recent formal de-escalation and restraint training of each  
187 individual must be included.

188 (g) Whether there were any witnesses to the inciting  
189 incident and subsequent restraint or seclusion.

190 (h) The name of the person making the report.

191 (i) A detailed description of any injury to the individual.

192 (j) A detailed description of any injury to staff members.

193 (k) Any action taken by the program as a result of any  
194 injury.

195 (l) Any incidents of self-harm, suicide attempts, or  
196 suicide committed by the individual while the individual was  
197 confined and where the individual was placed after leaving  
198 disciplinary confinement.

199 (5) CONDITIONS IN RESTRICTIVE HOUSING.—

200 (a) At a minimum, a room used for restrictive housing must:

201 1. Be free of objects and fixtures with which an individual  
202 could self-inflict bodily harm;

203 2. Provide the mental health or developmental disabilities

24-00894-24

20241674\_\_

204 professional an adequate and continuous view of the individual  
205 from an adjacent area; and

206 3. Provide adequate lighting and ventilation.

207 (b) Individuals in restrictive housing must have daily  
208 access to all of the following:

209 1. If the individual is a juvenile, the same meals and  
210 drinking water, clothing, medical and mental health treatment,  
211 educational services, correspondence privileges, contact with  
212 parents and legal guardians, and legal assistance as is provided  
213 to juveniles in the general population.

214 2. Sunlight.

215 3. Proper ventilation.

216 4. Toilet facilities.

217 5. Working showers.

218 6. Hygiene supplies.

219 7. Reading materials.

220 8. Vocational programs.

221 (c) All agency staff must be trained on the appropriate use  
222 of restrictive housing during their initial training and  
223 subsequently at regular intervals. Staff must demonstrate  
224 proficiency with decisions regarding when and how to use  
225 restrictive housing before completing their initial training and  
226 ongoing throughout their employment.

227 (d) The restriction of property is prohibited. As used in  
228 this paragraph, the term "property" includes, but is not limited  
229 to, uniforms and t-shirts, bed linens, reading and writing  
230 materials, hygiene products, and a mattress.

231 (e) Every individual placed in custody must receive an  
232 explanation on the restrictive confinement policy by staff

24-00894-24

20241674\_\_

233 promptly upon arrival at a facility. If the individual is a  
234 juvenile, information on this policy must also be communicated  
235 to the juvenile's parents or legal guardians through the most  
236 direct means possible, with in-person communication as the  
237 preferred means.

238 Section 3. This act shall take effect July 1, 2024.