

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 a youth to solitary confinement except
7 under certain circumstances; limiting cell confinement
8 of all youth prisoners; providing protection for youth
9 prisoners held in emergency cell confinement;
10 prohibiting a youth prisoner from being subjected to
11 emergency cell confinement under certain
12 circumstances; requiring facility staff to document
13 the placement in emergency cell confinement; requiring
14 that within a specified time and at specified
15 intervals a mental health clinician evaluate face to
16 face a youth prisoner who is subjected to emergency
17 cell confinement; requiring facility staff to perform
18 visual checks at specified intervals; requiring each
19 evaluation to be documented; providing for an
20 individualized suicide crisis intervention plan, if
21 applicable; requiring the transporting of a youth to a
22 mental health receiving facility if the youth's
23 suicide risk is not resolved within a certain time;
24 requiring that youth prisoners in emergency cell
25 confinement be allotted services and other benefits

26 | that are made available to prisoners in the general
27 | prison population; providing for the protection of
28 | youth prisoners in disciplinary cell confinement;
29 | limiting the time a youth may be subjected to
30 | disciplinary cell confinement; requiring staff to
31 | perform visual checks at specified intervals;
32 | requiring that youth prisoners in disciplinary cells
33 | be allotted services and other benefits that are made
34 | available to prisoners in the general prison
35 | population; providing reduced isolation for youth
36 | prisoners in protective custody; requiring the
37 | department and the boards of county commissioners to
38 | review their policies relating to youth prisoners to
39 | evaluate whether the policies are necessary; requiring
40 | the department and the board of county commissioners
41 | of each county that administers a detention facility
42 | or jail to certify compliance in a report to the
43 | Governor and Legislature by a specified date;
44 | requiring the department and the boards of county
45 | commissioners to adopt rules; providing construction;
46 | amending s. 944.09, F.S.; authorizing the department
47 | to adopt rules; amending s. 951.23, F.S.; requiring
48 | sheriffs and chief correctional officers to adopt
49 | model standards relating to youth prisoners; providing
50 | an effective date.

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

Section 1. Section 958.155, Florida Statutes, is created to read:

958.155 Youthful offenders in solitary confinement.-

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

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

(a) "Disciplinary cell confinement" means a disciplinary sanction for a major rule violation in which a youth who is found guilty of committing a major rule violation is confined to a cell for a specified time.

(b) "Emergency cell confinement" means the confinement to a cell of a youth who needs to be temporarily removed from the general population of prisoners because he or she presents an immediate, serious danger to the security or safety of himself or herself or others.

(c) "Major rule violation" means an act that:

- 1. Is an act of violence which results in or is likely to result in serious injury or death to another;
- 2. Occurs in connection with an act of nonconsensual sex;
- 3. Consists of two or more discrete acts that cause serious disruption to the security or order of the detention center or facility operations; or

76 4. Is an escape, attempted escape, or conspiracy to escape
77 from within a security perimeter or from custody or both.

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

80 (e) "Prisoner" means a person incarcerated in a county or
81 regional jail or in a department facility who is accused of,
82 convicted of, or sentenced for a violation of criminal law or
83 the terms and conditions of parole, probation, pretrial release,
84 or a diversionary program.

85 (f) "Protective custody" means a status for a youth who
86 requires protection because he or she is in danger of being
87 victimized by other prisoners in the facility. The term includes
88 time spent under this status pending review of the youth's
89 request for protection.

90 (g) "Solitary confinement" means involuntary confinement
91 in a cell for more than 20 hours a day, in isolation.

92 (h) "Youth" means a person who is younger than 18 years of
93 age, or a person who is sentenced as a youthful offender by a
94 court or is classified as such by the department pursuant to
95 this chapter.

96 (3) PROTECTING YOUTH FROM SOLITARY CONFINEMENT.—A youth
97 prisoner who is held under the jurisdiction of the department or
98 a local governmental body in this state may only be subjected to
99 solitary confinement, except as provided in this section. Cell
100 confinement of all youth prisoners is limited to the types and

101 parameters of confinement specified in this section.

102 (4) PROTECTING YOUTH IN EMERGENCY CELL CONFINEMENT.—

103 (a) A youth may be subjected to emergency cell confinement
104 for no more than 24 hours.

105 (b) A youth prisoner may be subjected to emergency cell
106 confinement after all other less-restrictive options have been
107 exhausted. Facility staff shall document the placement of a
108 youth prisoner in emergency cell confinement and include the
109 justification for the placement and all the attempts for other
110 less-restrictive options before the placement.

111 (c) A youth prisoner may be subjected to emergency cell
112 confinement for the shortest time that is required to address
113 the safety risk and may not be held in such confinement if a
114 mental health clinician determines that the confinement is
115 detrimental to the youth's mental or physical health.

116 (d) A youth prisoner who is subjected to emergency cell
117 confinement shall be evaluated face-to-face by a mental health
118 clinician within 1 hour after placement and at least every 4
119 hours thereafter to determine whether the youth should remain in
120 emergency cell confinement. The mental health clinician shall
121 document each evaluation and shall include the reason for
122 continued emergency cell confinement.

123 (e) During the time a youth prisoner is subjected to
124 emergency cell confinement, the facility staff shall conduct
125 visual checks at least 4 times an hour and not longer than 15

126 minutes apart. During the time a youth is awake, the staff shall
127 speak to the youth during the visual checks. After each visual
128 check, the staff shall document the status of the youth.

129 (f) Within 4 hours after placing a youth prisoner who has
130 exhibited suicidal behavior or committed an act of self-harm in
131 emergency cell confinement, a mental health clinician shall
132 implement an individualized suicide crisis intervention plan for
133 the youth and closely monitor the youth's condition in order to
134 reduce or eliminate the risk of self-harm. If the youth's
135 suicide risk is not resolved within 24 hours, the youth must be
136 moved to a mental health receiving facility.

137 (g) A youth prisoner who is subjected to emergency cell
138 confinement shall be provided:

139 1. At least 1 hour of daily out-of-cell large-muscle
140 exercise that includes access to outdoor recreation when the
141 weather allows.

142 2. Access to the same meals, drinking water, medical
143 treatment, contact with parents and legal guardians, and legal
144 assistance as provided to youth in the general population.

145 (5) PROTECTING YOUTH IN DISCIPLINARY CELL CONFINEMENT.—

146 (a) A youth prisoner may be subjected to disciplinary cell
147 confinement by himself or herself for a period not to exceed 72
148 hours.

149 (b) During the time a youth prisoner is subjected to
150 disciplinary cell confinement in a cell by himself or herself,

151 the facility staff shall conduct visual checks at least 4 times
152 an hour and not longer than 15 minutes apart. During the time
153 the youth is awake, the staff shall speak to the youth during
154 the visual checks. After each visual check, the staff shall
155 document the status of the youth.

156 (c) A youth prisoner who is subjected to disciplinary cell
157 confinement shall be provided:

158 1. At least 2 hours of daily out-of-cell large-muscle
159 exercise that includes access to outdoor recreation when the
160 weather allows.

161 2. Daily showers.

162 3. Access to the same meals and drinking water, clothing,
163 medical treatment, educational services, correspondence
164 privileges, contact with parents and legal guardians, and legal
165 assistance as provided to prisoners in the general population.

166 (6) REDUCING ISOLATION FOR YOUTH IN PROTECTIVE CUSTODY.—If
167 a youth prisoner is subjected to protective custody, the
168 restrictions to which the youth prisoner is subjected due to
169 such custody status must be the least restrictive to maintain
170 the safety of the youth prisoner and the facility. At a minimum,
171 such youth prisoner shall have access to:

172 (a) Educational and programming opportunities consistent
173 with the youth prisoner's safety and security and any federal
174 and state law requirements.

175 (b) At least 5 hours a day of out-of-cell time, including

176 at least 2 hours of daily out-of-cell large-muscle exercise that
177 includes access to outdoor recreation when the weather allows.

178 (c) The same meals, drinking water, clothing, and medical
179 treatment as provided to youth in the general population.

180 (d) Personal property, including televisions and radios,
181 and access to books, magazines, and other printed materials;

182 (e) Daily showers.

183 (f) The law library.

184 (g) The same correspondence privileges and number of
185 visits and phone calls allowed to prisoners in the general
186 population, including, but not limited to, the same contact with
187 parents and legal guardians and the same legal assistance.

188 (7) IMPLEMENTATION.—

189 (a) The department and the board of county commissioners
190 of each county that administers a detention facility or jail
191 shall review their policies relating to youth prisoners in
192 solitary confinement or protective custody to determine if the
193 policies are necessary. The department and the board of county
194 commissioners of each county that administers a detention
195 facility or jail shall certify compliance with this section in a
196 report that the department and the commission shall submit to
197 the Governor, the President of the Senate, and the Speaker of
198 the House of Representatives by January 1, 2021. The department
199 and the board of county commissioners of each such county shall
200 adopt policies and procedures necessary to administer this

201 section.

202 (b) This section does not conflict with any law providing
 203 greater or additional protections to youth prisoners in this
 204 state.

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

207 944.09 Rules of the department; offenders, probationers,
 208 and parolees.—

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

212 (s) Disciplinary procedures and punishment for youth
 213 prisoners in compliance with the Youth in Solitary Confinement
 214 Reduction Act.

215 Section 3. Paragraph (a) of subsection (4) of section
 216 951.23, Florida Statutes, is amended to read:

217 951.23 County and municipal detention facilities;
 218 definitions; administration; standards and requirements.—

219 (4) STANDARDS FOR SHERIFFS AND CHIEF CORRECTIONAL
 220 OFFICERS.—

221 (a) There shall be established a five-member working group
 222 consisting of three persons appointed by the Florida Sheriffs
 223 Association and two persons appointed by the Florida Association
 224 of Counties to develop model standards for county and municipal
 225 detention facilities. ~~By October 1, 1996,~~ Each sheriff and chief

226 | correctional officer shall adopt, at a minimum, the model
227 | standards with reference to:

228 | 1.a. The construction, equipping, maintenance, and
229 | operation of county and municipal detention facilities.

230 | b. The cleanliness and sanitation of county and municipal
231 | detention facilities; the number of county and municipal
232 | prisoners who may be housed therein per specified unit of floor
233 | space; the quality, quantity, and supply of bedding furnished to
234 | such prisoners; the quality, quantity, and diversity of food
235 | served to them and the manner in which it is served; the
236 | furnishing to them of medical attention and health and comfort
237 | items; and the disciplinary treatment that ~~which~~ may be meted
238 | out to them.

239 |
240 | Notwithstanding the provisions of the otherwise applicable
241 | building code, a reduced custody housing area may be occupied by
242 | inmates or may be used for sleeping purposes as allowed in
243 | subsection (7). The sheriff or chief correctional officer shall
244 | provide that a reduced custody housing area shall be governed by
245 | fire and life safety standards which do not interfere with the
246 | normal use of the facility and which affect a reasonable degree
247 | of compliance with rules of the State Fire Marshal for
248 | correctional facilities.

249 | 2. The confinement of prisoners by classification and
250 | providing, whenever possible, for classifications that ~~which~~

251 separate males from females, juveniles from adults, felons from
252 misdemeanants, and those awaiting trial from those convicted
253 and, in addition, providing for the separation of special risk
254 prisoners, such as the mentally ill, alcohol or narcotic
255 addicts, sex deviates, suicide risks, and any other
256 classification that ~~which~~ the local unit may deem necessary for
257 the safety of the prisoners and the operation of the facility
258 pursuant to degree of risk and danger criteria. Nondangerous
259 felons may be housed with misdemeanants.

260 3. The confinement of prisoners by classification and
261 providing for classifications that comply with the Youth
262 Solitary Confinement Reduction Act.

263 Section 4. This act shall take effect July 1, 2020.