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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/04/2019	.	
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The Committee on Criminal Justice (Montford) recommended the following:

Senate Amendment

Delete lines 278 - 389

and insert:

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

(e) "Solitary confinement" means the involuntary placement of a child in an isolated room to separate that child from other children in the facility for any period of time.



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11 (2) PROHIBITION ON THE USE OF SOLITARY CONFINEMENT.—A child
12 may not be placed in solitary confinement, except as provided in
13 this section.

14 (3) PROTECTING A CHILD IN EMERGENCY CONFINEMENT.—

15 (a) A child may be placed in emergency confinement if all
16 of the following conditions are met:

17 1. A nonphysical intervention with the child would not be
18 effective in preventing harm or danger to the child or others.

19 2. There is imminent risk of the child physically harming
20 himself or herself, staff, or others or the child is engaged in
21 major property destruction that is likely to compromise the
22 security of the program or jeopardize the safety of the child or
23 others.

24 3. All less-restrictive means have been exhausted.

25 (b) Facility staff shall document the placement of a child
26 in emergency confinement. The documentation must include
27 justification for the placement of a child in emergency
28 confinement, in addition to a description of the less-
29 restrictive options that the facility staff exercised before the
30 child was so placed.

31 (c) A mental health clinician shall evaluate a child who is
32 placed in emergency confinement within 1 hour after such
33 placement to ensure that the confinement is not detrimental to
34 the mental or physical health of the child. Following the
35 initial evaluation, a mental health clinician shall conduct a
36 face-to-face evaluation of the child every 2 hours thereafter to
37 determine whether the child should remain in emergency
38 confinement. The mental health clinician shall document each
39 evaluation and provide justification for continued placement in



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40 emergency confinement.

41 (d) A child may not be placed in emergency confinement for
42 more than 24 hours unless an extension is sought and obtained by
43 a mental health clinician.

44 1. If a mental health clinician determines that release of
45 the child would imminently threaten the safety of the child or
46 others, the mental health clinician may grant a one-time
47 extension of 24 hours for continued placement in emergency
48 confinement.

49 2. If, at the conclusion of the 48-hour window, a mental
50 health clinician determines that it is not safe for the child to
51 be released from emergency confinement, the facility staff must
52 prepare to transfer the child to a facility that is able to
53 provide specialized treatment to address the child's needs.

54 (e) A child who is placed in emergency confinement must be
55 provided access to the same meals and drinking water, clothing,
56 medical treatment, contact with parents and legal guardians, and
57 legal assistance as provided to children in the facility.

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

60 (4) PROTECTING A CHILD IN MEDICAL CONFINEMENT.—

61 (a) A child may be placed in medical confinement if all of
62 the following conditions are met:

63 1. Isolation from staff and other children in the facility
64 is required to allow the child to rest and recover from illness
65 or to prevent the spread of a communicable illness.

66 2. A medical professional deems such placement necessary.

67 3. The use of other less-restrictive means would not be
68 sufficient to allow the child to recover from illness or to



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69 prevent the spread of a communicable illness.

70 (b) A child may be placed in medical confinement for a
71 period of time not to exceed the time that is necessary for the
72 child to recover from his or her illness or to prevent the
73 spread of a communicable illness to other children or staff in
74 the facility.

75 (c) Facility staff shall document the placement of a child
76 in medical confinement. The documentation must include a medical
77 professional's justification for the placement.

78 (d) A medical professional must conduct a face-to-face
79 evaluation of a child who is held in medical confinement at
80 least once every 12 hours to determine whether the child should
81 remain in medical confinement. The medical professional shall
82 document each evaluation and provide justification for continued
83 placement in medical confinement.

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

86 (5) IMPLEMENTATION.—

87 (a) The department and the board of county commissioners of
88 each county that administers a detention facility shall review
89 their policies and procedures relating to disciplinary treatment
90 to determine whether their policies and procedures comply with
91 this section.

92 (b) The department and the board of county commissioners of
93 each county that administers a detention facility shall certify
94 compliance with this section in a report that the department and
95 the board shall submit to the Governor, the President of the
96 Senate, and the Speaker of the House of Representatives by
97 January 1, 2020.



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98 (c) This section does not supersede any law providing
99 greater or additional protections to a child in this state.

100 Section 4. Section 985.4415, Florida Statutes, is created
101 to read:

102 985.4415 Solitary confinement in residential facilities.-

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

104 (a) "Child" means a person within the custody of the
105 department who is under the age of 19 years.

106 (b) "Emergency confinement" means a type of solitary
107 confinement that involves the involuntary placement of a child
108 in an isolated room to separate that child from other children
109 in the facility and to remove him or her from a situation in
110 which he or she presents an immediate and serious danger to the
111 security or safety of himself or herself or others.

112 (c) "Medical confinement" means a type of solitary
113 confinement that involves the involuntary placement of a child
114 in an isolated room to separate that child from the other
115 children in the facility and to allow him or her to recover from
116 illness or to prevent the spread of a communicable illness.

117 (d) "Mental health clinician" means a licensed
118 psychiatrist,