
A BILL FOR AN ACT

RELATING TO THE ROOM CONFINEMENT OF CHILDREN AT DETENTION AND
SHELTER FACILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 571-32, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§571-32 **Detention; shelter; release; notice.** (a) If a
4 child who is believed to come within section 571-11(1) or (2) is
5 not released as provided in section 571-31 and is not deemed
6 suitable for diversion, the child shall be taken without
7 unnecessary delay to the court or to the place of detention or
8 shelter designated by the court. If the court determines that
9 the child requires care away from the child's own home but does
10 not require secure physical restriction, the child shall be
11 given temporary care in any available nonsecure child caring
12 institution, foster family home, or other shelter facility.

13 (b) The officer or other person who brings a child to a
14 detention or shelter facility shall give notice to the court at
15 once, stating the legal basis therefor and the reason why the
16 child was not released to the child's parents. If the facility



1 to which the child is taken is not an agency of the court, the
2 person in charge of the facility in which the child is placed
3 shall promptly give notice to the court that the child is in
4 that person's custody. Prior to acceptance of the child for
5 detention or shelter care, a prompt inquiry shall be made by a
6 duly authorized staff member of the detention or shelter
7 facility or officer of the court. Where it is deemed in the
8 best interests of the child, the judge, officer, staff member,
9 or the director of detention services may then order the child
10 to be released, if possible, to the care of the child's parent,
11 guardian, legal custodian, or other responsible adult, or the
12 judge may order the child held in the facility subject to
13 further order or placed in some other appropriate facility.

14 (c) As soon as a child is detained, the child's parents,
15 guardian, or legal custodian shall be informed, by personal
16 contact or by notice in writing on forms prescribed by the
17 court, that they may have a prompt hearing held by a circuit
18 judge or district family judge regarding release or detention.
19 A child may be released on the order of the judge with or
20 without a hearing. The director of detention services may order



1 the release of the child if an order of detention has not been
2 made.

3 (d) A child may be placed in room confinement in a
4 detention or shelter facility only under the following
5 conditions:

6 (1) Room confinement may only be used as a temporary
7 response to a child's behavior, and only if:

8 (A) The behavior poses an immediate and substantial
9 risk of danger to the child's self or another
10 individual, or a serious and immediate threat to
11 the safety and orderly operation of the facility;
12 or

13 (B) The child is an imminent escape risk;

14 (2) Because of the potential impact on a child's mental or
15 physical health, room confinement may only be used
16 when less restrictive options or techniques have been
17 attempted, exhausted, and failed, and may only be used
18 for the least amount of time needed for the child to
19 regain self-control. Less restrictive options or
20 techniques may include de-escalation, conflict and



- 1 behavioral management techniques, and intervention by
2 a qualified mental health professional;
- 3 (3) If a child is placed in room confinement, the reasons
4 for the room confinement shall be explained to the
5 child. The child shall also be informed that release
6 from room confinement will occur immediately when the
7 child exhibits self-control and is no longer deemed a
8 threat to the safety of the child's self or others;
- 9 (4) If a child is placed in room confinement, the senior
10 judge of the family court, presiding judge who ordered
11 the child to be held at the facility, and deputy chief
12 court administrator of the circuit court of the first
13 circuit shall be notified and provided the reasons for
14 the room confinement of the child, as well as the
15 location and time period of the confinement on the
16 next business day;
- 17 (5) Room confinement shall never be used for purposes of
18 punishment or disciplinary sanction; coercion;
19 convenience; or retaliation; or because of staffing
20 shortages at the facility;



- 1 (6) A child may be held for no more than three hours in
2 room confinement unless the on-call duty judge grants
3 additional extensions of confinement of no more than
4 three hours. Thereafter, the child shall be returned
5 to the general population. If a child is held in room
6 confinement for more than three hours, then a hearing
7 before the family court shall be held on the next
8 business day, at which the child shall be provided
9 legal representation;
- 10 (7) Following a hearing under paragraph (6), if the child
11 is not returned to the general population, one or more
12 of the following shall occur:
- 13 (A) Mental health or medical personnel shall be
14 consulted about the child's care;
- 15 (B) An individualized plan shall be developed that
16 includes the goals and objectives to be met in
17 order to reintegrate the child into the general
18 population; or
- 19 (C) The child shall be transferred to a location
20 where services may be provided to the child
21 without the need for room confinement; provided



1 that if a qualified mental health professional
2 determines that the level of crisis service
3 needed is not presently available at the
4 location, the superintendent or deputy
5 superintendent of the facility shall initiate a
6 referral to a facility that can meet the needs of
7 the child;

8 (8) All rooms used for room confinement shall have
9 adequate and operating lighting and ventilation for
10 the comfort of the child. Rooms shall be clean and
11 resistant to suicide and self-harm;

12 (9) Children in room confinement shall have access to
13 drinking water, toilet facilities, hygiene supplies,
14 and reading materials approved by a licensed mental
15 health professional;

16 (10) Children in room confinement shall have the same
17 access as provided to children in the general
18 population of the facility to meals, contact with
19 parents or legal guardians, legal assistance,
20 educational programs, and medical and mental health
21 services; and



1 (11) Children in room confinement shall be continuously
2 monitored by facility staff.

3 For the purposes of this subsection, "room confinement"
4 means the placement of a child in a room, cell, or area with
5 minimal or no contact with persons other than court staff and
6 attorneys. "Room confinement" does not include confinement of a
7 child in a single-person room or cell for brief periods of
8 locked room time necessary for required institutional operations
9 and does not include confinement during sleep hours.

10 [~~d~~] (e) No child shall be held in a detention facility
11 for juveniles or shelter longer than twenty-four hours,
12 excluding weekends and holidays, unless a petition or motion for
13 revocation of probation, or motion for revocation of protective
14 supervision has been filed, or unless the judge orders otherwise
15 after a court hearing. No ex parte motions shall be considered.
16 If there is probable cause to believe that the child comes
17 within section 571-11(1), the child may be securely detained in
18 a certified police station cellblock or community correctional
19 center. The detention shall be limited to six hours. In areas
20 which are outside a standard metropolitan statistical area, the
21 detention may be up to twenty-four hours, excluding weekends and



1 holidays, if no detention facility for juveniles is reasonably
2 available. Any detention in a police station cellblock or
3 community correctional center shall provide for the sight and
4 sound separation of the child from adult offenders.

5 ~~[(e)]~~ (f) No child may be held after the filing of a
6 petition or motion, as specified in subsection ~~[(d)],~~ (e),
7 unless an order for continued detention or shelter has been made
8 by a judge after a court hearing. If there is probable cause to
9 believe that the child comes within section 571-11(1), the child
10 may be securely detained, following a court hearing, in a
11 detention facility for juveniles or may be held in a shelter.
12 If there is probable cause to believe that the child comes
13 within section 281-101.5 or 571-11(2), the child may be held,
14 following a court hearing, in a shelter but may not be securely
15 detained in a detention facility for juveniles for longer than
16 twenty-four hours, excluding weekends and holidays, unless the
17 child is subject to the provisions of chapter 582, Interstate
18 Compact on Juveniles, or chapter 582D, Interstate Compact for
19 Juveniles, or is allegedly in or has already been adjudicated
20 for a violation of a valid court order, as provided under the



1 federal Juvenile Justice and Delinquency Prevention Act of 1974,
2 as amended.

3 ~~[(f)]~~ (g) No child shall be released from detention except
4 in accordance with this chapter.

5 ~~[(g)]~~ (h) Where a child transferred for criminal
6 proceedings pursuant to waiver of family court jurisdiction is
7 detained, the child shall be held in the detention facility used
8 for persons charged with crime. When a child is ordered
9 committed to an agency or institution, the child shall be
10 transported promptly to the place of commitment.

11 ~~[(h)]~~ (i) Provisions regarding bail shall not be
12 applicable to children detained in accordance with this chapter,
13 except that bail may be allowed after a child has been
14 transferred for criminal prosecution pursuant to waiver of
15 family court jurisdiction.

16 ~~[(i)]~~ (j) The official in charge of a facility for the
17 detention of adult offenders or persons charged with crime shall
18 inform the court immediately when a child who is or appears to
19 be under eighteen years of age is received at the facility.

20 ~~[(j)]~~ (k) Any other provision of law to the contrary
21 notwithstanding, any person otherwise subject to proceedings



1 under chapter 832 and who is under the age of eighteen may be
2 confined in a detention facility or correctional facility by
3 order of a judge for the purposes set forth in section 832-12,
4 832-15, or 832-17.

5 ~~[(k)]~~ (l) The department of human services through the
6 office of youth services shall certify police station cellblocks
7 and community correctional centers that provide sight and sound
8 separation between children and adults in secure custody. Only
9 cellblocks and centers certified under this subsection shall be
10 authorized to detain juveniles pursuant to ~~[section 571-32(d).]~~
11 subsection (e). The office of youth services may develop sight
12 and sound separation standards, issue certifications, monitor
13 and inspect facilities for compliance, cite facilities for
14 violations, withdraw certifications, and require certified
15 facilities to submit such data and information as requested. In
16 addition, the office of youth services may monitor and inspect
17 all cellblocks and centers for compliance with ~~[section 571-~~
18 ~~32(d)-.]~~ subsection (e).

19 (m) All detention and shelter facilities designated by the
20 court for children under this section shall report annually to



1 the judiciary on their compliance with the requirements of this
2 section. The report shall include the following information:

3 (1) The number of incidents of room confinement of
4 children each year, including the number of children
5 affected and the age, gender, and race of each
6 impacted child;

7 (2) The number of times room confinement exceeded three
8 hours and the authorizing official's name; and

9 (3) Alternative strategies that were employed prior to the
10 use of room confinement and reasons the alternative
11 strategies failed and room confinement was necessary.

12 The judiciary shall post the report required under this
13 subsection on its website."

14 SECTION 2. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 3. This Act shall take effect on December 31,
17 2059.



Report Title:

Judiciary Package; Juveniles; Detention; Shelter Facilities;
Room Confinement

Description:

Limits the circumstances under which children at detention and shelter facilities are subject to room confinement. Specifies the conditions and time limits for which room confinement may be imposed. Requires certain information to be reported to the judiciary annually. Takes effect on 12/31/2059. (HD1)

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