

JAN 22 2021

A BILL FOR AN ACT

RELATING TO THE DETENTION OF A MINOR IN AN ADULT JAIL OR LOCKUP.

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

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

3 1. By amending subsection (d) to read:

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



1 ~~community correctional center shall provide for the sight and~~
2 ~~sound separation of the child from adult offenders.]~~

3 (2) Unless a court finds, after a hearing and in writing,
4 that it is in the interest of justice as provided for
5 in subsection (g)(2), a minor believed to come within
6 section 571-11(1) or a minor awaiting trial or another
7 legal process, who is treated as an adult for purposes
8 of prosecution in criminal court and housed in a
9 secure facility shall not:

10 (A) Have sight or sound contact with adult inmates;
11 or

12 (B) Be held in any jail or lockup for adults, except
13 as provided in paragraph (3).

14 (3) Detention in a jail or lockup for adults may be
15 permitted for:

16 (A) A minor accused of a non-status offense who is
17 held for a period not to exceed six hours;
18 provided the minor is being held:

19 (i) For processing or release;

20 (ii) While awaiting transfer to a juvenile
21 facility; or



- 1 (iii) For a court appearance that occurs within
2 the period of detention; or
- 3 (B) A minor accused of a non-status offense who is
4 awaiting an initial court appearance that will
5 occur within forty-eight hours of the minor being
6 taken into custody, excluding weekends and
7 holidays, and where the jail or lockup is in a
8 location:
- 9 (i) Outside a metropolitan statistical area, as
10 defined by the Office of Management and
11 Budget, and no acceptable alternative
12 placement is available;
- 13 (ii) Where the distance to be traveled or the
14 lack of highway, road, or transportation
15 does not allow for court appearances within
16 forty-eight hours, excluding weekends and
17 holidays, such that a brief delay of not
18 more than an additional forty-eight hours is
19 excusable; or
- 20 (iii) Where safety concerns exist, such as severe
21 and life-threatening weather conditions that



1 do not allow for reasonably safe travel, in
2 which case the time for an appearance may be
3 delayed until twenty-four hours after the
4 time that conditions allow for reasonably
5 safe travel;

6 provided that the minor shall not have sight or sound
7 contact with adult inmates; and provided further that
8 the State shall have a policy in effect that requires
9 individuals who work with both minor and adult inmates
10 in collocated facilities to be trained and certified
11 to work with juveniles.

12 (4) If a court determines that it is in the interest of
13 justice to permit a minor to be held in any jail or
14 lockup for adults, the court shall follow the
15 procedures established in subsection (g)(3)."

16 2. By amending subsection (g) to read:

17 "(g) (1) Where a [child] minor transferred for criminal
18 proceedings pursuant to a waiver of family court jurisdiction is
19 detained, the [child shall be held in the detention facility
20 used for persons charged with crime. When a child is ordered
21 committed to an agency or institution, the child shall be



1 ~~transported promptly to the place of commitment.]~~ minor shall
2 not:

3 (A) Have sight or sound contact with adult inmates;
4 or

5 (B) Be held in any jail or lockup for adults unless a
6 court finds, after a hearing and in writing, that
7 it is in the interest of justice.

8 (2) In determining whether it is in the interest of
9 justice to permit a minor to be held in any jail or
10 lockup for adults, or to have sight or sound contact
11 with adult inmates, a court shall consider:

12 (A) The age of the minor;

13 (B) The physical and mental maturity of the minor;

14 (C) The present mental state of the minor, including
15 whether the minor presents an imminent risk of
16 self-harm;

17 (D) The nature and circumstances of the alleged
18 offense;

19 (E) The minor's history of prior delinquent acts;

20 (F) The relative ability of the available adult and
21 juvenile detention facilities to not only meet



1 the specific needs of the minor but also to
2 protect the safety of the public as well as other
3 detained minors; and

4 (G) Any other relevant factor.

5 (3) If a court determines that it is in the interest of
6 justice to permit a minor to be held in any jail or
7 lockup for adults:

8 (A) The court shall hold a hearing not less
9 frequently than once every thirty days, or in the
10 case of a rural jurisdiction, not less frequently
11 than once every forty-five days, to review
12 whether it remains in the interest of justice to
13 permit the minor to be held in a jail or lockup
14 for adults or to have sight or sound contact with
15 adult inmates; and

16 (B) The minor shall not be held in any jail or lockup
17 for adults, or permitted to have sight or sound
18 contact with adult inmates, for more than one
19 hundred eighty days, unless the court, in
20 writing, determines there is good cause for an



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1 extension, or the minor expressly waives this
2 limitation."

3 SECTION 2. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 3. This Act shall take effect upon its approval.
6

INTRODUCED BY: *Ann M. M.*
By Request



S.B. NO. 386

Report Title:

Judiciary Package; Detention of a Minor; Adult Jail;
Prohibition; Exceptions; Requirements

Description:

Requires a family court to make findings, after a hearing and in writing, before a minor can be transferred to an adult jail or lockup or be permitted sight or sound contact with adult offenders.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

