
A BILL FOR AN ACT

RELATING TO CORRECTIONS.

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

1 SECTION 1. The legislature finds that experts have long
2 documented the detrimental effects of restrictive housing on
3 individuals. Spending time in restrictive housing has been
4 found to increase the risk of premature death, even after
5 release from incarceration. Restrictive housing is a severe
6 form of punishment that is closely associated with long-lasting
7 psychological harm and poor post-release outcomes. The official
8 purposes of restrictive housing are typically divided into
9 punishment and correctional facility management. When used as
10 punishment by facility authorities, sometimes called
11 "disciplinary custody" or "disciplinary segregation",
12 restrictive housing serves as a response to misconduct charges
13 such as fighting or drug use. When used for correctional
14 facility management, often called "administrative custody" or
15 "administrative segregation", restrictive housing serves to
16 separate inmates deemed to pose a threat to ^{Self,} staff or other
17 inmates, or as protective custody for inmates who seem or are



1 determined to be unsafe in the general prison population.
2 Although the purposes of restrictive housing vary, correctional
3 facility conditions and restrictions are often similar whether
4 an incarcerated person is in disciplinary or administrative
5 custody.

6 The legislature also finds that an overwhelming body of
7 evidence shows that restrictive housing, which deprives inmates
8 of meaningful human contact, including phone privileges that
9 allow them to speak with loved ones, creates permanent
10 psychological, neurological, and physical damage. Studies show
11 that the detrimental effects of restrictive housing far exceed
12 the immediate psychological consequences identified by previous
13 research, such as anxiety, depression, and hallucinations.
14 Unfortunately, these detrimental effects do not disappear once
15 an inmate is released from restrictive housing. Even after
16 release back into a community setting, a former inmate faces an
17 elevated risk of suicide, drug overdose, heart attack, and
18 stroke.

19 The legislature recognizes that as of 2021, legislation to
20 ban or limit the use of restrictive housing in prison has been
21 introduced in thirty-two states and the United States Congress.



1 Further, twenty-four states have enacted statutes that limit or
2 prohibit restrictive housing while other states have limited its
3 use through administrative code, policy, or court rules. Many
4 of these new laws, codes, policies, or court rules represent
5 significant reforms to existing practices and thus have the
6 potential to facilitate more humane and effective practices in
7 prisons and jails.

8 Accordingly, the purpose of this Act is to:

- 9 (1) Beginning July 1, 2026, restrict the use of
10 restrictive housing in state-operated and
11 state-contracted correctional facilities, with certain
12 specified exceptions;
- 13 (2) Establish a restrictive housing legislative working
14 group by August 1, 2025, to develop and recommend more
15 comprehensive laws, policies, and procedures regarding
16 restrictive housing for members of vulnerable
17 populations by January 8, 2027;
- 18 (3) Require the Hawaii correctional system oversight
19 commission to review restrictive housing placements on
20 an annual basis;



- 1 (4) Authorize the department of corrections and
- 2 rehabilitation, by December 1, 2027, to implement, if
- 3 practicable, policies and procedures recommended by
- 4 the restrictive housing working group related to
- 5 committed persons who are members of certain
- 6 vulnerable populations and placed in restrictive
- 7 housing and develop transition and service plans for
- 8 these committed persons in restrictive housing; and
- 9 (5) Require interim and final reports to the legislature
- 10 and Hawaii correctional system oversight commission.

11 SECTION 2. Chapter 353, Hawaii Revised Statutes, is
 12 amended by adding a new section to be appropriately designated
 13 and to read as follows:

14 "§353- Restrictive housing; restrictions on use;
 15 policies and procedures. (a) Beginning July 1, 2026, except as
 16 otherwise provided in subsection (d), the use of restrictive
 17 housing in correctional facilities shall be restricted as
 18 follows:

- 19 (1) A committed person shall not be placed in restrictive
- 20 housing unless there is reasonable cause to believe
- 21 that the committed person would create a substantial



1 risk of immediate serious harm to the committed
2 person's self or another, as evidenced by recent
3 threats or conduct, and that a less restrictive
4 intervention would be insufficient to reduce this
5 risk; [provided that the correctional facility shall
6 bear the burden of establishing the foregoing by clear
7 and convincing evidence.]

8 (2) A committed person shall only be held in restrictive
9 housing pursuant to initial procedures and reviews
10 that provide timely, fair, and meaningful
11 opportunities for the committed person to contest the
12 confinement. These procedures and reviews shall
13 include [the right to:

14 (A) An initial ^{review} hearing held within twenty-four hours
15 of placement in restrictive housing, in the
16 absence of exceptional circumstances, unavoidable
17 delays, or reasonable postponements;

18 [~~(B) Appear at the hearing;~~

19 [~~(C) Be represented at the hearing;~~

20 (D) An independent hearings officer; and



- 1 (E) Receive a written statement of reasons for the
2 decision made ~~[at the hearing]~~;
- 3 (3) The final decision to place a committed person in
4 restrictive housing shall be made by the warden or the
5 warden's designee; ^{unless medically indicated}
6 (4) A committed person shall not be placed or held in
7 restrictive housing if the warden or the warden's
8 designee determines that the committed person no
9 longer meets the criteria for the confinement; ^{unless medically}
10 ~~(5) A disciplinary sanction of restrictive housing imposed~~
11 ~~on a committed person who is subsequently removed from~~
12 ~~restrictive housing pursuant to this subsection shall~~
13 ~~be deemed completed;~~
14 ~~(6) During a facility-wide lockdown, a committed person~~
15 ~~shall not be placed in restrictive housing for more~~
16 ~~than thirty consecutive days, or for more than~~
17 ~~forty-five days total during any sixty-day period;~~
- 18 (7) Cells or other holding or living space used for
19 restrictive housing shall be properly ventilated, lit,
20 temperature-controlled, clean, and equipped with
21 properly functioning sanitary fixtures;



- 1 (8) A correctional facility shall ^{strive to} maximize the amount of
2 time spent outside of the cell by a committed person
3 held in restrictive housing by providing the committed
4 person with access to recreation, education,
5 clinically appropriate treatment therapies,
6 skill-building activities, and social interaction with
7 staff and other committed persons, as appropriate;
- 8 (9) A committed person held in restrictive housing shall
9 not be denied access to:
- 10 (A) Food, water, or any other necessity;
11 (B) Appropriate medical care, including emergency
12 medical care; and
13 (C) Legal counsel;
- 14 (10) Each committed person held in restrictive housing
15 shall receive a written copy of the committed person's
16 sanction and the criteria for a pathway back into the
17 general population. The department shall ensure that
18 the committed person understands the reason for the
19 sanction and the criteria for the pathway back into
20 the general population. The committed person's case
21 manager shall work with the committed person in



1 restrictive housing to develop a plan of action to
 2 ~~reduce the committed person's violations,~~ return the
 3 committed person to the general population, and work
 4 on the committed person's rehabilitation; and
 5 Facilities will attempt to ensure will
 6 (11) [^] A committed person ~~shall~~ [^] not be released directly from
 7 restrictive housing to the community ~~[during the final~~
 8 ~~one hundred eighty days of the committed person's term~~
 9 ~~of incarceration,~~ unless necessary for the safety of
 10 the committed person, staff, other committed persons,
 11 or the public. This paragraph shall not be
 12 interpreted to delay a committed person's scheduled
 13 release.

14 (b) Beginning July 1, 2026, except as otherwise provided
 15 in subsection (c), a committed person who is twenty-one years of
 16 age or younger, or is pregnant, in the postpartum period, or
 17 recently suffered a miscarriage or terminated pregnancy shall
 18 not be placed in restrictive housing; provided that a committed
 19 person who:

20 (1) Is twenty-one years of age or younger, has a
 21 disability based on mental illness, or has a
developmental disability shall:



1 (A) Not be subject to discipline for refusing
2 treatment or medication, or for engaging in
3 self-harm ~~or related conduct~~ or threatening to do
4 ~~so;~~ ^{unless medically determined} and

5 (B) Be screened by a correctional facility clinician
6 or the appropriate screening service pursuant to
7 rules and, if found to meet the criteria for
8 civil commitment, shall be placed in a
9 specialized unit designated by the ^{facility Warden as} ~~director or~~
10 ^{ordered by the clinician} ~~deputy director of the department,~~ or civilly
11 ^{by the courts} committed to the least restrictive appropriate
12 short-term care or psychiatric facility
13 designated by the department of health, but only
14 if the committed person would otherwise have been
15 placed in restrictive housing; or

16 (2) Is pregnant, is in the postpartum period, or recently
17 suffered a miscarriage or terminated a pregnancy,
18 shall alternatively be placed in an appropriate
19 medical or other unit designated by ^{facility Warden as} ~~the director or~~
20 ^{ordered by the clinician} ~~deputy director of the department,~~ but only if the



1 committed person would otherwise have been placed in
2 restrictive housing.

3 (c) Beginning July 1, 2026, the use of restrictive housing
4 in correctional facilities shall be permitted only under the
5 following limited circumstances:

6 (1) ~~The warden or the warden's designee determines that a~~
7 ~~facility-wide lockdown is necessary to ensure the~~
8 ~~safety of committed persons in the facility, until the~~
9 ~~warden or the warden's designee determines that the~~
10 ~~threat to a committed person's safety no longer~~
11 ~~exists. The warden or the warden's designee shall~~
12 ~~document the specific reasons that any facility-wide~~
13 ~~lockdown was necessary for more than twenty-four~~
14 ~~hours, and the specific reasons why less restrictive~~
15 ~~interventions were insufficient to accomplish the~~
16 ~~facility's safety goals. Within twelve hours of a~~
17 ~~decision to extend a facility-wide lockdown beyond~~
18 ~~twenty-four hours, the director or deputy director of~~
19 ~~the department shall publish the foregoing reasons on~~
20 ~~the department's website and shall provide meaningful~~



~~notice to the legislature of the reasons for the
 lockdown;~~]

(2) The warden or the warden's designee ^{or the clinician} determines that a
 committed person should be placed in ~~emergency~~ ^{restrictive housing}
~~confinement~~; provided that:

~~(A) A committed person shall not be held in emergency
 confinement for more than forty-eight hours; and~~]

(B) A committed person placed in ~~emergency~~ ^{restrictive housing}
~~confinement~~ shall receive an initial medical and
 mental health ~~evaluation~~ ^{Screen} within twelve hours and
 a personal and comprehensive medical and mental
 health examination conducted by a clinician
 within ~~twenty-four~~ ^{seventy-two} hours. Reports of these
~~evaluations shall be immediately provided to the
 warden or the warden's designee;~~

(3) A ~~physician~~ ^{clinician}, based upon the physician's personal
 examination of a committed person, determines that the
 committed person should be placed or held in medical
 isolation; ~~provided that any decision to place or hold
 a committed person in medical isolation due to a
 mental health emergency shall be made by a clinician~~



1 ~~and based upon the clinician's personal examination of~~
 2 ~~the committed person.]~~ In any case of medical
 3 isolation occurring under this paragraph, a clinical
 4 review shall be conducted ~~[at least every twelve hours~~
 5 ~~and]~~ as clinically indicated. A committed person in
 6 medical isolation due to a mental health emergency
 7 pursuant to this paragraph shall be placed in a mental
 8 health unit ~~[designated by the director or deputy~~
 9 ~~director of the department];~~ ^{by the mental health clinician;}

10 (4) The warden or the warden's designee determines that a ^{If a unit is not available at the} ~~committed person~~ may be ^{transferred}
 11 committed person should be placed in protective ^{to a facility}
 12 custody; provided that: ^{with a higher}
 13 ^{level of care;}

13 (A) A committed person may be placed in voluntary
 14 protective custody only when the committed person
 15 has provided voluntary, ^{information} ~~informed,~~ and written
 16 ~~consent]~~ and there is reasonable cause to believe
 17 that protective custody is necessary to prevent
 18 reasonably foreseeable harm. When a committed
 19 person ^{provides} ~~[makes a]~~ voluntary, ^{information} ~~[informed,]~~ and written
 20 request to be placed in protective custody and
 21 the request is denied, the correctional facility



1 shall bear the burden of establishing a basis for
2 denying the request;

3 (B) A committed person may be placed in involuntary
4 protective custody only when the correctional
5 facility is able to establish by clear and
6 convincing ^{information} ~~evidence~~ that protective custody is
7 necessary to prevent reasonably foreseeable harm
8 and that a less restrictive intervention would be
9 insufficient to prevent the harm;

The department will strive to provide

10 (C) A committed person placed in protective custody
11 [^] ~~shall be provided~~ opportunities for activities,
12 movement, and social interaction, in a manner
13 consistent with ensuring the committed person's
14 safety and the safety of other persons, that are
15 comparable to the opportunities provided to
16 committed persons in the facility's general
17 population;

18 (D) A committed person subject to removal from
19 protective custody shall be provided with a
20 timely, fair, and meaningful opportunity to
21 contest the removal;



- 1 (E) A committed person who is currently or may be
 2 placed in voluntary protective custody may opt ^{request to}
 3 out of that status by providing voluntary ^{information}
 4 informed, and written refusal of that status; ^{stipulating the person's request for refusal} and
 5 (F) Before placing a committed person in protective
 6 custody, the warden or the warden's designee
 7 shall use a less restrictive intervention ^{fully review the information surrounding the reasons and use of the protective custody and, if possible, implement} ^{as that may include}
 8 ^{including} transfer to the general population of
 9 another facility or to a special-purpose housing
 10 unit for committed persons who face similar
 11 threats, unless the committed person poses an
 12 extraordinary security risk so great that
 13 transferring the committed person would be
 14 insufficient to ensure the committed person's
 15 safety; and
- 16 (5) The warden or the warden's designee determines that a
 17 committed person should be placed in restrictive
 18 housing pending investigation of an alleged
 19 disciplinary offense; provided that:
- 20 (A) The committed person's placement in restrictive
 21 housing is pursuant to approval granted by the



1 warden or the warden's designee [~~in an emergency~~
2 ~~situation, or is~~] because the committed person's
3 presence in the facility's general population
4 while the investigation is ongoing poses a danger
5 to the committed person, staff, other committed
6 persons, or the public; provided further that the
7 determination of danger shall be based upon a
8 consideration of the seriousness of the committed
9 person's alleged offense, including whether the
10 offense involved violence or escape, or posed a
11 threat to institutional safety by encouraging
12 other persons to engage in misconduct;

13 [~~(B) The committed person's placement in restrictive~~
14 ~~housing shall not revert to another form of~~
15 ~~segregation after the initial sanction has been~~
16 ~~served;~~]

17 (C) A committed person's placement in restrictive
18 housing pending investigation of an alleged
19 disciplinary offense shall be reviewed within
20 twenty-four hours by a supervisory-level employee



1 who was not involved in the initial placement
 2 decision; and
 3 (D) A committed person who has been placed in
 4 restrictive housing pending investigation of an
 5 alleged disciplinary offense shall be considered
 6 for release to the facility's general population
 7 if the committed person demonstrates good
 8 behavior while in restrictive housing. If the
 9 committed person is found guilty of the
 10 disciplinary offense, the committed person's good
 11 behavior shall be considered when determining the
 12 appropriate penalty for the offense.

*if the review of
the initial incident,
and the threat
to the safety of
the inmate, staff,
other inmates,
and the general
facility would
not be
jeopardized
and*

*and the threat thereof has
been mitigated*

13 (d) No later than July 1, 2026, the department shall
 14 develop written policies and implement procedures, as necessary
 15 and appropriate, to effectuate this section, including:

16 (1) Establishing less restrictive interventions as
 17 alternatives to restrictive housing, including
 18 separation from other committed persons, transfer to
 19 other correctional facilities, and any other sanction
 20 not involving restrictive housing that is authorized
 21 by the department's policies and procedures; provided



1 that any temporary restrictions on a committed
2 person's privileges or access to resources, including
3 religious services, mail and telephone privileges,
4 visitation by contacts, and outdoor or recreation
5 access, [shall be imposed only when necessary to ensure
6 the safety of the committed person or other persons,]
7 and shall not restrict the committed person's access
8 to food, water, basic necessities, or legal
9 assistance;

10 (2) Requiring periodic training of disciplinary staff and
11 all other staff who interact with committed persons
12 held in restrictive housing; provided that the
13 training:

14 (A) Is developed and conducted with assistance from
15 appropriately trained and qualified
16 professionals; and

17 (B) Clearly communicates the applicable standards for
18 restrictive housing, including the standards set
19 forth in this section;



1 (3) Requiring documentation of all decisions, procedures,
2 and reviews of committed persons placed in restrictive
3 housing;

4 (4) Requiring monitoring of compliance with all rules
5 governing cells, units, and other spaces used for
6 restrictive housing;

7 ~~(5) Requiring the posting of quarterly reports on the~~
8 department's official website that:

9 (A) Describe the nature and extent of each
10 correctional facility's use of restrictive
11 housing and include data on the age, sex, gender
12 identity, ethnicity, incidence of mental illness,
13 and type of confinement status for committed
14 persons placed in restrictive housing;

15 (B) Include the population of committed persons as of
16 the last day of each quarter and a
17 non-duplicative, cumulative count of the number
18 of committed persons placed in restrictive
19 housing during the fiscal year;

20 (C) Include the incidence of emergency confinement,
21 self-harm, suicide, and assault in any



1 ~~restrictive housing unit, as well as explanations~~
2 ~~for each instance of facility-wide lockdown; and~~
3 ~~(D) Exclude personally identifiable information~~
4 ~~regarding any committed person; and~~
5 ~~(6) Updating the department's corrections administration~~
6 ~~policy and procedures manual, as necessary and~~
7 ~~appropriate, to comply with this section, including~~
8 ~~the requirement to use appropriate alternatives to~~
9 ~~restrictive housing for committed persons.~~
10 ~~(e) Following the initial hearing for the placement of an~~
11 ~~individual into restrictive housing, the department shall~~
12 ~~immediately notify and transmit all relevant documentation to~~
13 ~~the Hawaii correctional system oversight commission. The Hawaii~~
14 ~~correctional system oversight commission shall review the~~
15 ~~determinations regarding the imposition, ongoing use, and~~
16 ~~termination of restrictive housing for fairness, impartiality,~~
17 ~~alignment with best practices, and availability of resources and~~
18 ~~adequate staffing, and shall issue annual reports on the~~
19 ~~utilization thereof.~~
20 ~~The Hawaii correctional system oversight commission shall~~
21 ~~actively monitor and review all housing placements involving.~~



1 ~~individuals subjected to twenty or more hours of cell~~
2 ~~confinement, irrespective of whether the placements are~~
3 ~~designated as restrictive housing by the department or~~
4 ~~state-contracted facilities, to ensure that the department and~~
5 ~~its contracted entities do not implement cell confinement~~
6 ~~exceeding twenty or more hours without proper adherence to the~~
7 ~~procedures set forth in this section.~~

8 (f) As used in this section:

9 "Correctional facility" means a state prison, other penal
10 institution, or an institution or a facility designated by the
11 department as a place of confinement under this chapter.

12 "Correctional facility" includes community correctional centers,
13 high-security correctional facilities, temporary correctional
14 facilities, in-state correctional facilities, state-contracted
15 correctional facilities operated by private entities, and jails
16 maintained by county police departments.]

17 "Restrictive housing" is defined as occurring when all of
18 the following conditions are present:

19 (1) A committed person is confined in a correctional
20 facility pursuant to disciplinary, administrative,
21 protective, investigative, medical, or other purposes;



- 1 (2) The confinement occurs in a cell or similarly
- 2 physically restrictive holding or living space,
- 3 whether alone or with one or more other committed
- 4 persons, for ^{two} twenty hours or more per day; and
- 5 (3) The committed person's activities, movements, and
- 6 social interactions are severely restricted."

7 SECTION 3. (a) A restrictive housing legislative working
8 group shall be convened by August 1, 2025, to:

9 (1) Review, consider, and identify laws, policies, and
10 procedures regarding restrictive housing for members
11 of vulnerable populations including committed persons
12 who:

- 13 (A) Are sixty years of age or older;
- 14 (B) Have a physical or mental disability, a history
15 of psychiatric hospitalization, or recently
16 exhibited conduct, including serious
17 self-mutilation, that indicates the need for
18 further observation or evaluation to determine
19 the presence of mental illness;
- 20 (C) Have a developmental disability, as defined in
21 section 333F-1, Hawaii Revised Statutes;



1 (D) Have a serious medical condition that cannot be
2 effectively treated while the committed person is
3 in restrictive housing;

4 (E) Have a significant auditory or visual impairment;
5 or

6 ~~(F) Is perceived to be lesbian, gay, bisexual,~~
7 ~~transgender, or intersex;~~ and

8 ~~(2) By January 8, 2027, make recommendations to the~~
9 ~~legislature regarding more comprehensive laws,~~
10 ~~policies, and procedures regarding restrictive housing~~
11 ~~for members of vulnerable populations.]~~

12 (b) The restrictive housing legislative working group
13 shall consist of the following members, or their designees:

14 (1) The chairperson of the house of representatives
15 standing committee with primary jurisdiction over
16 corrections and rehabilitation, who shall serve as
17 co-chairperson;

18 (2) The chairperson of the senate standing committee with
19 primary jurisdiction over corrections and
20 rehabilitation, who shall serve as co-chairperson;

21 (3) The director of corrections and rehabilitation;



1 (4) The senior advisor for mental health and the justice
2 system in the office of the governor; and

3 (5) A commissioner on the Hawaii correctional system
4 oversight commission.

5 (c) The co-chairpersons of the working group shall invite
6 the following individuals to serve as members of the working
7 group:

8 (1) A representative of the office of Hawaiian affairs;

9 (2) A representative from the American Civil Liberties
10 Union of Hawaii; and

11 (3) A representative from the Community Alliance on
12 Prisons; [and

13 ~~(4) Any other individuals identified by the chairpersons~~
14 ~~of the working group.]~~

15 (d) The working group shall be dissolved on January 8,
16 2027, or upon submission of its final report to the legislature,
17 whichever is later.

18 (e) The department of corrections and rehabilitation may
19 implement, if practicable by December 1, 2027, recommended
20 policies and procedures of the restrictive housing legislative
21 working group regarding the placement of committed persons who



1 are members of certain vulnerable populations into restrictive
2 housing and develop transition and service plans for these
3 committed persons in restrictive housing.

4 SECTION 4. (a) No later than forty days prior to the
5 convening of the regular sessions of 2026 and 2027, the
6 department of corrections and rehabilitation shall submit to the
7 legislature and Hawaii correctional system oversight commission
8 interim reports of the department's progress toward full
9 compliance with this Act, along with draft copies of written
10 policies and procedures implemented pursuant to this Act.

11 (b) No later than January 12, 2028, the department of
12 corrections and rehabilitation shall submit to the legislature
13 and Hawaii correctional system oversight commission a final
14 report of the department's progress toward full compliance with
15 this Act and implementing any recommendations in the final
16 report of the restrictive housing legislative working group.

17 SECTION 5. New statutory material is underscored.

18 SECTION 6. This Act shall take effect on July 1, 2025.



Report Title:

DCR; Hawaii Correctional System Oversight Commission;
Correctional Facilities; Committed Persons; Restrictive Housing;
Restrictive Housing Legislative Working Group; Restrictions;
Report

Description:

Beginning 7/1/2026, restricts the use of restrictive housing in state-operated and state-contracted correctional facilities, with certain specified exceptions. Establishes a restrictive housing legislative working group to develop and recommend more comprehensive laws, policies, and procedures regarding restrictive housing for members of vulnerable populations by 1/8/2027. Requires the Hawaii Correctional System Oversight Commission to review restrictive housing placements on an annual basis. Authorizes the Department of Corrections and Rehabilitation, by 12/1/2027, to implement policies and procedures recommended by the restrictive housing working group related to committed persons. Requires interim and final reports to the Legislature and Hawaii Correctional System Oversight Commission. (CD1)

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

