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## 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 for  
16 the minimum time necessary for the child to regain  
17 self-control, and only after less restrictive options  
18 or techniques, including de-escalation, conflict and  
19 behavioral management techniques, and intervention by  
20 a qualified mental health professional, have been  
21 attempted, exhausted, and failed;



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- 1        (3) If a child is placed in room confinement, the reasons  
2        for the room confinement shall be explained to the  
3        child. The child shall also be informed that release  
4        from room confinement will occur immediately when the  
5        child exhibits self-control and is no longer deemed a  
6        threat to the child's safety or the safety of others;
- 7        (4) If a child is placed in room confinement, the  
8        following individuals shall be notified on the next  
9        business day and provided the reasons for the room  
10       confinement as well as the location and duration of  
11       the confinement:
- 12       (A) The senior judge of the family court;  
13       (B) The presiding judge who ordered the child to be  
14       held at the facility;  
15       (C) The deputy chief court administrator; and  
16       (D) The social services manager of the juvenile  
17       client services branch for the circuit court of  
18       the first circuit.
- 19       (5) Room confinement shall never be used for purposes of  
20       punishment or disciplinary sanction, coercion,



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- 1           convenience, retaliation, or to address staffing  
2           shortages at the facility;
- 3       (6) A child may be held in room confinement for no more  
4           than three hours unless the on-call duty judge grants  
5           an extension of no more than three additional hours of  
6           confinement. Thereafter, the child shall be returned  
7           to the general population; provided that, if a child  
8           is held in room confinement for more than three hours,  
9           a hearing shall be held before the family court on the  
10          next business day, at which the child shall be  
11          provided legal representation;
- 12       (7) If the child is not returned to the general population  
13          following a hearing pursuant to paragraph (6), one or  
14          more of the following shall occur:
- 15           (A) Mental health or medical personnel shall be  
16               consulted about the child's care;
- 17           (B) An individualized plan shall be developed that  
18               includes goals and objectives to be met in order  
19               to reintegrate the child into the general  
20               population; or



- 1           (C) The child shall be transferred to a location  
2           where services may be provided to the child  
3           without the need for room confinement; provided  
4           that, if a qualified mental health professional  
5           determines that the level of crisis service  
6           needed is not presently available at the  
7           location, the superintendent or deputy  
8           superintendent of the facility shall initiate a  
9           referral to a facility that can meet the needs of  
10           the child;
- 11       (8) All rooms used for room confinement shall have  
12       adequate and operational lighting, ventilation for the  
13       comfort of the child, and shall be clean and resistant  
14       to suicide and self-harm;
- 15       (9) Children in room confinement shall have access to  
16       drinking water, toilet facilities, hygiene supplies,  
17       and reading materials approved by a qualified mental  
18       health professional;
- 19       (10) Children in room confinement shall have the same  
20       access as provided to children in the general  
21       population of the facility to meals, contact with



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1 parents or legal guardians, legal assistance,  
2 educational programs, and medical and mental health  
3 services; and

4 (11) Children in room confinement shall be continuously  
5 monitored by facility staff.

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

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



1 center. The detention shall be limited to six hours. In areas  
2 which are outside a standard metropolitan statistical area, the  
3 detention may be up to twenty-four hours, excluding weekends and  
4 holidays, if no detention facility for juveniles is reasonably  
5 available. Any detention in a police station cellblock or  
6 community correctional center shall provide for the sight and  
7 sound separation of the child from adult offenders.

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



1 Juveniles, or is allegedly in or has already been adjudicated  
2 for a violation of a valid court order, as provided under the  
3 federal Juvenile Justice and Delinquency Prevention Act of 1974,  
4 as amended.

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

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

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

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



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1        [~~(j)~~] (k) Any other provision of law to the contrary  
2 notwithstanding, any person otherwise subject to proceedings  
3 under chapter 832 and who is under the age of eighteen may be  
4 confined in a detention facility or correctional facility by  
5 order of a judge for the purposes set forth in section 832-12,  
6 832-15, or 832-17.

7        [~~(k)~~] (l) The department of human services through the  
8 office of youth services shall certify police station cellblocks  
9 and community correctional centers that provide sight and sound  
10 separation between children and adults in secure custody. Only  
11 cellblocks and centers certified under this subsection shall be  
12 authorized to detain juveniles pursuant to [~~section 571-32(d).~~]  
13 subsection (e). The office of youth services may develop sight  
14 and sound separation standards, issue certifications, monitor  
15 and inspect facilities for compliance, cite facilities for  
16 violations, withdraw certifications, and require certified  
17 facilities to submit such data and information as requested. In  
18 addition, the office of youth services may monitor and inspect  
19 all cellblocks and centers for compliance with [~~section 571-~~  
20 ~~32(d).~~] subsection (e)."



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

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

4

INTRODUCED BY: \_\_\_\_\_ 

By Request

JAN 21 2021



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**Report Title:**

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

**Description:**

Establishes conditions and time limits for placing a child in  
room confinement at a detention or shelter facility.

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

