
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) No ~~[child]~~ minor shall be held in a detention facility
5 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.] For the~~
3 purposes of this section:

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

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

13 (B) Be held in any jail or lockup for adults, except
14 as provided in subsection (g) (3); and

15 (2) Detention in a jail or lockup for adults may be
16 permitted for:

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

20 (i) For processing or release;



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



1 (iii) Where safety concerns exist, such as severe
2 and life-threatening weather conditions that
3 do not allow for reasonably safe travel, in
4 which case the time for an appearance may be
5 delayed until twenty-four hours after the
6 time that conditions allow for reasonably
7 safe travel;

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

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

15 "(g) When a minor is ordered to be held or detained by the
16 court:

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



1 ~~or institution, the child shall be transported~~
2 ~~promptly to the place of commitment.]~~ minor shall 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; and

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 no less frequently
9 than once every thirty days to review whether it
10 remains in the interest of justice to permit the
11 minor to be held in a jail or lockup for adults
12 or to have sight or sound contact with adult
13 inmates; and

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



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.



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. (SD1)

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

