

JAN 22 2021

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;



- 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,



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



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)~~], (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.



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)."



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: *M. N. M.*
By Request



S.B. NO. 387

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.

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