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# 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 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) By July 1, 2026, restrict the use of restrictive  
10 housing in state-operated and state-contracted  
11 correctional facilities, with certain specified  
12 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 September 1, 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) Except as otherwise provided in  
16 subsection (d), the use of restrictive housing in correctional  
17 facilities shall be restricted as follows:

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



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

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

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

17 (B) Appear at the hearing;

18 (C) Be represented at the hearing;

19 (D) An independent hearings officer; and

20 (E) Receive a written statement of reasons for the  
21 decision made at the hearing;



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



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



1           committed person to the general population, and work  
2           on the committed person's rehabilitation; and  
3       (11) A committed person shall not be released directly from  
4           restrictive housing to the community during the final  
5           one hundred eighty days of the committed person's term  
6           of incarceration, unless necessary for the safety of  
7           the committed person, staff, other committed persons,  
8           or the public. This paragraph shall not be  
9           interpreted to delay a committed person's scheduled  
10          release.

11       (b) Except as otherwise provided in subsection (c), a  
12 committed person who is twenty-one years of age or younger, or  
13 is pregnant, in the postpartum period, or recently suffered a  
14 miscarriage or terminated pregnancy shall not be placed in  
15 restrictive housing; provided that a committed person who:

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

19       (A) Not be subject to discipline for refusing  
20           treatment or medication, or for engaging in



1                   self-harm or related conduct or threatening to do  
2                   so; and  
3           (B) Be screened by a correctional facility clinician  
4                   or the appropriate screening service pursuant to  
5                   rules and, if found to meet the criteria for  
6                   civil commitment, shall be placed in a  
7                   specialized unit designated by the director or  
8                   deputy director of the department, or civilly  
9                   committed to the least restrictive appropriate  
10                  short-term care or psychiatric facility  
11                  designated by the department of health, but only  
12                  if the committed person would otherwise have been  
13                  placed in restrictive housing; or  
14           (2) Is pregnant, is in the postpartum period, or recently  
15                  suffered a miscarriage or terminated a pregnancy,  
16                  shall alternatively be placed in an appropriate  
17                  medical or other unit designated by the director or  
18                  deputy director of the department, but only if the  
19                  committed person would otherwise have been placed in  
20                  restrictive housing.



1        (c) The use of restrictive housing in correctional  
2 facilities shall be permitted only under the following limited  
3 circumstances:

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



- 1        (2) The warden or the warden's designee determines that a  
2        committed person should be placed in emergency  
3        confinement; provided that:
- 4        (A) A committed person shall not be held in emergency  
5        confinement for more than forty-eight hours; and
- 6        (B) A committed person placed in emergency  
7        confinement shall receive an initial medical and  
8        mental health evaluation within twelve hours and  
9        a personal and comprehensive medical and mental  
10       health examination conducted by a clinician  
11       within twenty-four hours. Reports of these  
12       evaluations shall be immediately provided to the  
13       warden or the warden's designee;
- 14       (3) A physician, based upon the physician's personal  
15       examination of a committed person, determines that the  
16       committed person should be placed or held in medical  
17       isolation; provided that any decision to place or hold  
18       a committed person in medical isolation due to a  
19       mental health emergency shall be made by a clinician  
20       and based upon the clinician's personal examination of  
21       the committed person. In any case of medical



1 isolation occurring under this paragraph, a clinical  
2 review shall be conducted at least every twelve hours  
3 and as clinically indicated. A committed person in  
4 medical isolation due to a mental health emergency  
5 pursuant to this paragraph shall be placed in a mental  
6 health unit designated by the director or deputy  
7 director of the department;

8 (4) The warden or the warden's designee determines that a  
9 committed person should be placed in protective  
10 custody; provided that:

11 (A) A committed person may be placed in voluntary  
12 protective custody only when the committed person  
13 has provided voluntary, informed, and written  
14 consent and there is reasonable cause to believe  
15 that protective custody is necessary to prevent  
16 reasonably foreseeable harm. When a committed  
17 person makes a voluntary, informed, and written  
18 request to be placed in protective custody and  
19 the request is denied, the correctional facility  
20 shall bear the burden of establishing a basis for  
21 denying the request;



- 1           (B) A committed person may be placed in involuntary  
2           protective custody only when the correctional  
3           facility is able to establish by clear and  
4           convincing evidence that protective custody is  
5           necessary to prevent reasonably foreseeable harm  
6           and that a less restrictive intervention would be  
7           insufficient to prevent the harm;
- 8           (C) A committed person placed in protective custody  
9           shall be provided opportunities for activities,  
10           movement, and social interaction, in a manner  
11           consistent with ensuring the committed person's  
12           safety and the safety of other persons, that are  
13           comparable to the opportunities provided to  
14           committed persons in the facility's general  
15           population;
- 16           (D) A committed person subject to removal from  
17           protective custody shall be provided with a  
18           timely, fair, and meaningful opportunity to  
19           contest the removal;
- 20           (E) A committed person who is currently or may be  
21           placed in voluntary protective custody may opt



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



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

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

15 (C) A committed person's placement in restrictive  
16 housing pending investigation of an alleged  
17 disciplinary offense shall be reviewed within  
18 twenty-four hours by a supervisory-level employee  
19 who was not involved in the initial placement  
20 decision; and



1           (D) A committed person who has been placed in  
2           restrictive housing pending investigation of an  
3           alleged disciplinary offense shall be considered  
4           for release to the facility's general population  
5           if the committed person demonstrates good  
6           behavior while in restrictive housing. If the  
7           committed person is found guilty of the  
8           disciplinary offense, the committed person's good  
9           behavior shall be considered when determining the  
10           appropriate penalty for the offense.

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

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



1 religious services, mail and telephone privileges,  
2 visitation by contacts, and outdoor or recreation  
3 access, shall be imposed only when necessary to ensure  
4 the safety of the committed person or other persons,  
5 and shall not restrict the committed person's access  
6 to food, water, basic necessities, or legal  
7 assistance;

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

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

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

18 (3) Requiring documentation of all decisions, procedures,  
19 and reviews of committed persons placed in restrictive  
20 housing;



- 1        (4) Requiring monitoring of compliance with all rules
- 2            governing cells, units, and other spaces used for
- 3            restrictive housing;
- 4        (5) Requiring the posting of quarterly reports on the
- 5            department's official website that:
- 6            (A) Describe the nature and extent of each
- 7            correctional facility's use of restrictive
- 8            housing and include data on the age, sex, gender
- 9            identity, ethnicity, incidence of mental illness,
- 10           and type of confinement status for committed
- 11           persons placed in restrictive housing;
- 12           (B) Include the population of committed persons as of
- 13           the last day of each quarter and a
- 14           non-duplicative, cumulative count of the number
- 15           of committed persons placed in restrictive
- 16           housing during the fiscal year;
- 17           (C) Include the incidence of emergency confinement,
- 18           self-harm, suicide, and assault in any
- 19           restrictive housing unit, as well as explanations
- 20           for each instance of facility-wide lockdown; and



1           (D) Exclude personally identifiable information  
2           regarding any committed person; and

3           (6) Updating the department's corrections administration  
4           policy and procedures manual, as necessary and  
5           appropriate, to comply with this section, including  
6           the requirement to use appropriate alternatives to  
7           restrictive housing for committed persons.

8           (e) Following the initial hearing for the placement of an  
9           individual into restrictive housing, the department shall  
10          immediately notify and transmit all relevant documentation to  
11          the Hawaii correctional system oversight commission. The Hawaii  
12          correctional system oversight commission shall review the  
13          determinations regarding the imposition, ongoing use, and  
14          termination of restrictive housing for fairness, impartiality,  
15          alignment with best practices, and availability of resources and  
16          adequate staffing, and shall issue annual reports on the  
17          utilization thereof.

18          The Hawaii correctional system oversight commission shall  
19          actively monitor and review all housing placements involving  
20          individuals subjected to twenty or more hours of cell  
21          confinement, irrespective of whether the placements are



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

6 (f) As used in this section:

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

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

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

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

20 (2) The confinement occurs in a cell or similarly  
21 physically restrictive holding or living space,



1           whether alone or with one or more other committed  
2           persons, for twenty hours or more per day; and  
3           (3) The committed person's activities, movements, and  
4           social interactions are severely restricted."

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

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

11          (A) Are sixty years of age or older;

12          (B) Have a physical or mental disability, a history  
13          of psychiatric hospitalization, or recently  
14          exhibited conduct, including serious self-  
15          mutilation, that indicates the need for further  
16          observation or evaluation to determine the  
17          presence of mental illness;

18          (C) Have a developmental disability, as defined in  
19          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 September 1, 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 co-  
17 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;

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 September 1,  
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, 3000;  
19 provided that section 2 shall take effect on July 1, 2026.



**Report Title:**

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

**Description:**

By 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 9/1/2027. 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. Effective 7/1/3000. (HD3)

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