

Honolulu, Hawaii

FEB 07 2025

RE: S.B. No. 104
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committee on Public Safety and Military Affairs, to which was referred S.B. No. 104 entitled:

"A BILL FOR AN ACT RELATING TO CORRECTIONS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Restrict the use of solitary confinement in state-operated and state-contracted correctional facilities, with certain specified exceptions;
- (2) Require the Department of Corrections and Rehabilitation to develop policies and procedures to review committed persons placed in solitary confinement and develop a plan for committed persons currently in solitary confinement by 4/1/2026 and to develop written policies and procedures regarding solitary confinement by 7/1/2026;
- (3) Require the Hawaii Correctional System Oversight Commission to review certain housing placements; and
- (4) Require a report to the Legislature and Hawaii Correctional System Oversight Commission.



Your Committee received testimony in support of this measure from the Hawaii Correctional System Oversight Commission, Office of Hawaiian Affairs, Office of the Public Defender, ACLU Hawai'i, Community Alliance on Prisons, Hawaii Disability Rights Center, Stonewall Caucus of the Democratic Party of Hawai'i, and seven individuals.

Your Committee received testimony in opposition of this measure from the Department of Corrections and Rehabilitation.

Your Committee received comments on this measure from two individuals.

Your Committee finds that instead of addressing the root causes of violence in prisons, solitary confinement is used as a catch-all for responding to disobedience and managing populations. This has created a cycle within carceral facilities where both violent and nonviolent behaviors are punished with more violence. Solitary confinement that lasts more than fifteen consecutive days is recognized by the United Nations and various human rights organizations as torture. This practice places incarcerated persons alone in cells for twenty-two to twenty-four hours per day with little or no human interaction or outside stimulus, often causing negative psychological reactions in all persons subjected to it. Solitary confinement is known to be especially devastating for people with mental illness who are disproportionately represented in solitary confinement. Solitary confinement can also bring on mental illness where it did not exist before.

Your Committee finds that in addition to being disproportionately inflicted on people with mental illness, solitary confinement is also disproportionately inflicted on people of color. In the State, Native Hawaiians continue to be disproportionately impacted by the criminal justice system, comprising only twenty per cent of the total population but forty per cent of the prison population. This measure will address this problem by restricting certain solitary confinement practices.

Your Committee further notes the testimony provided by the Hawaii Correctional System Oversight Commission regarding the appropriate language for describing this form of custody. "Restrictive housing" allows for a more broadened description than "solitary confinement" and conforms with current language utilized



by the Department of Justice. The Department of Justice defines restrictive housing as any type of detention that involves:

- (1) Removal from the general inmate population, whether voluntary or involuntary;
- (2) Placement in a locked room or cell, whether alone or with another inmate; and
- (3) Inability to leave the room or cell for the vast majority of the day, typically twenty-two hours or more.

Accordingly, your Committee has amended this measure by:

- (1) Changing references to "solitary confinement" to "restrictive housing" throughout the measure;
- (2) Inserting an effective date of July 1, 2077, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 104, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 104, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Public Safety and
Military Affairs,



BRANDON J.C. ELEANTE, Chair



The Senate
Thirty-Third Legislature
State of Hawai'i

Record of Votes
Committee on Public Safety and Military Affairs
PSM

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB 104</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">PSM, JDC/WAH</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">1-29-25</div>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
ELEFANTE, Brandon J.C. (C)	✓			
WAKAI, Glenn (VC)	✓			
FUKUNAGA, Carol	✓			
RHOADS, Karl	✓			
DECORTE, Samantha	✓			
TOTAL	5	0	0	0
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature:				
Distribution: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="text-align: center;">Original File with Committee Report</div> <div style="text-align: center;">Yellow Clerk's Office</div> <div style="text-align: center;">Pink Drafting Agency</div> <div style="text-align: center;">Goldenrod Committee File Copy</div> </div>				

*Only one measure per Record of Votes