
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) Beginning July 1, 2026, restrict the use of
10 restrictive housing in state-operated and
11 state-contracted correctional facilities, with certain
12 specified 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 January 8, 2027;
- 18 (3) Require the Hawaii correctional system oversight
19 commission to review restrictive housing placements on
20 an annual basis;



- (4) Authorize the department of corrections and rehabilitation, by December 1, 2027, to implement, if practicable, policies and procedures recommended by the restrictive housing working group related to committed persons who are members of certain vulnerable populations and placed in restrictive housing and develop transition and service plans for these committed persons in restrictive housing; and
- (5) Require interim and final reports to the legislature and Hawaii correctional system oversight commission.

SECTION 2. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§353- Restrictive housing; restrictions on use; policies and procedures. (a) Beginning July 1, 2026, except as otherwise provided in subsection (d), the use of restrictive housing in correctional facilities shall be restricted as follows:

- (1) A committed person shall not be placed in restrictive housing unless there is reasonable cause to believe that the committed person would create a substantial



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

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

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

18 (B) Appear at the hearing;

19 (C) Be represented at the hearing;

20 (D) An independent hearings officer; and



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

3 (3) The final decision to place a committed person in
4 restrictive housing shall be made by the warden or the
5 warden's designee;

6 (4) A committed person shall not be placed or held in
7 restrictive housing if the warden or the warden's
8 designee determines that the committed person no
9 longer meets the criteria for the confinement;

10 (5) A disciplinary sanction of restrictive housing imposed
11 on a committed person who is subsequently removed from
12 restrictive housing pursuant to this subsection shall
13 be deemed completed;

14 (6) During a facility-wide lockdown, a committed person
15 shall not be placed in restrictive housing for more
16 than thirty consecutive days, or for more than
17 forty-five days total during any sixty-day period;

18 (7) Cells or other holding or living space used for
19 restrictive housing shall be properly ventilated, lit,
20 temperature-controlled, clean, and equipped with
21 properly functioning sanitary fixtures;



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



1 restrictive housing to develop a plan of action to
2 reduce the committed person's violations, return the
3 committed person to the general population, and work
4 on the committed person's rehabilitation; and

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

13 (b) Beginning July 1, 2026, except as otherwise provided
14 in subsection (c), a committed person who is twenty-one years of
15 age or younger, or is pregnant, in the postpartum period, or
16 recently suffered a miscarriage or terminated pregnancy shall
17 not be placed in restrictive housing; provided that a committed
18 person who:

19 (1) Is twenty-one years of age or younger, has a
20 disability based on mental illness, or has a
21 developmental disability shall:



1 (A) Not be subject to discipline for refusing
2 treatment or medication, or for engaging in
3 self-harm or related conduct or threatening to do
4 so; and

5 (B) Be screened by a correctional facility clinician
6 or the appropriate screening service pursuant to
7 rules and, if found to meet the criteria for
8 civil commitment, shall be placed in a
9 specialized unit designated by the director or
10 deputy director of the department, or civilly
11 committed to the least restrictive appropriate
12 short-term care or psychiatric facility
13 designated by the department of health, but only
14 if the committed person would otherwise have been
15 placed in restrictive housing; or

16 (2) Is pregnant, is in the postpartum period, or recently
17 suffered a miscarriage or terminated a pregnancy,
18 shall alternatively be placed in an appropriate
19 medical or other unit designated by the director or
20 deputy director of the department, but only if the



1 committed person would otherwise have been placed in
2 restrictive housing.

3 (c) Beginning July 1, 2026, the use of restrictive housing
4 in correctional facilities shall be permitted only under the
5 following limited circumstances:

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



1 notice to the legislature of the reasons for the
2 lockdown;

3 (2) The warden or the warden's designee determines that a
4 committed person should be placed in emergency
5 confinement; provided that:

6 (A) A committed person shall not be held in emergency
7 confinement for more than forty-eight hours; and

8 (B) A committed person placed in emergency
9 confinement shall receive an initial medical and
10 mental health evaluation within twelve hours and
11 a personal and comprehensive medical and mental
12 health examination conducted by a clinician
13 within twenty-four hours. Reports of these
14 evaluations shall be immediately provided to the
15 warden or the warden's designee;

16 (3) A physician, based upon the physician's personal
17 examination of a committed person, determines that the
18 committed person should be placed or held in medical
19 isolation; provided that any decision to place or hold
20 a committed person in medical isolation due to a
21 mental health emergency shall be made by a clinician



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

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

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



1 shall bear the burden of establishing a basis for
2 denying the request;

3 (B) A committed person may be placed in involuntary
4 protective custody only when the correctional
5 facility is able to establish by clear and
6 convincing evidence that protective custody is
7 necessary to prevent reasonably foreseeable harm
8 and that a less restrictive intervention would be
9 insufficient to prevent the harm;

10 (C) A committed person placed in protective custody
11 shall be provided opportunities for activities,
12 movement, and social interaction, in a manner
13 consistent with ensuring the committed person's
14 safety and the safety of other persons, that are
15 comparable to the opportunities provided to
16 committed persons in the facility's general
17 population;

18 (D) A committed person subject to removal from
19 protective custody shall be provided with a
20 timely, fair, and meaningful opportunity to
21 contest the removal;



1 (E) A committed person who is currently or may be
2 placed in voluntary protective custody may opt
3 out of that status by providing voluntary,
4 informed, and written refusal of that status; and

5 (F) Before placing a committed person in protective
6 custody, the warden or the warden's designee
7 shall use a less restrictive intervention,
8 including transfer to the general population of
9 another facility or to a special-purpose housing
10 unit for committed persons who face similar
11 threats, unless the committed person poses an
12 extraordinary security risk so great that
13 transferring the committed person would be
14 insufficient to ensure the committed person's
15 safety; and

16 (5) The warden or the warden's designee determines that a
17 committed person should be placed in restrictive
18 housing pending investigation of an alleged
19 disciplinary offense; provided that:

20 (A) The committed person's placement in restrictive
21 housing is pursuant to approval granted by the



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

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

17 (C) A committed person's placement in restrictive
18 housing pending investigation of an alleged
19 disciplinary offense shall be reviewed within
20 twenty-four hours by a supervisory-level employee



1 who was not involved in the initial placement
2 decision; and

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

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

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



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

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

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

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



1 (3) Requiring documentation of all decisions, procedures,
2 and reviews of committed persons placed in restrictive
3 housing;

4 (4) Requiring monitoring of compliance with all rules
5 governing cells, units, and other spaces used for
6 restrictive housing;

7 (5) Requiring the posting of quarterly reports on the
8 department's official website that:

9 (A) Describe the nature and extent of each
10 correctional facility's use of restrictive
11 housing and include data on the age, sex, gender
12 identity, ethnicity, incidence of mental illness,
13 and type of confinement status for committed
14 persons placed in restrictive housing;

15 (B) Include the population of committed persons as of
16 the last day of each quarter and a
17 non-duplicative, cumulative count of the number
18 of committed persons placed in restrictive
19 housing during the fiscal year;

20 (C) Include the incidence of emergency confinement,
21 self-harm, suicide, and assault in any



1 restrictive housing unit, as well as explanations
2 for each instance of facility-wide lockdown; and

3 (D) Exclude personally identifiable information
4 regarding any committed person; and

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

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

20 The Hawaii correctional system oversight commission shall
21 actively monitor and review all housing placements involving



individuals subjected to twenty or more hours of cell confinement, irrespective of whether the placements are designated as restrictive housing by the department or state-contracted facilities, to ensure that the department and its contracted entities do not implement cell confinement exceeding twenty or more hours without proper adherence to the procedures set forth in this section.

(f) As used in this section:

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

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

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

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



- 1 (2) The confinement occurs in a cell or similarly
2 physically restrictive holding or living space,
3 whether alone or with one or more other committed
4 persons, for twenty hours or more per day; and
5 (3) The committed person's activities, movements, and
6 social interactions are severely restricted."

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

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

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

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

20 (C) Have a developmental disability, as defined in
21 section 333F-1, Hawaii Revised Statutes;



(D) Have a serious medical condition that cannot be effectively treated while the committed person is in restrictive housing;

(E) Have a significant auditory or visual impairment; or

(F) Is perceived to be lesbian, gay, bisexual, transgender, or intersex; and

(2) By January 8, 2027, make recommendations to the legislature regarding more comprehensive laws, policies, and procedures regarding restrictive housing for members of vulnerable populations.

(b) The restrictive housing legislative working group shall consist of the following members, or their designees:

(1) The chairperson of the house of representatives standing committee with primary jurisdiction over corrections and rehabilitation, who shall serve as co-chairperson;

(2) The chairperson of the senate standing committee with primary jurisdiction over corrections and rehabilitation, who shall serve as co-chairperson;

(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 January 8,
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, 2025.



Report Title:

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

Description:

Beginning 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 1/8/2027. 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. (CD1)

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