
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



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

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

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