

JAN 17 2025

A BILL FOR AN ACT

RELATING TO THE DETENTION OF MINORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 571-32, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (d) to read:

4 "(d) No minor shall be held in a detention facility for
5 juveniles or shelter longer than twenty-four hours, excluding
6 weekends and holidays, unless a petition or motion for
7 revocation of probation, or motion for revocation of protective
8 supervision has been filed, or unless the judge orders otherwise
9 after a court hearing. No ex parte motions shall be considered.

10 ~~[For the purposes of this section:~~

11 ~~(1) Unless a court finds, after a hearing and in writing,~~
12 ~~that it is in the interest of justice as provided for~~
13 ~~in subsection (g) (2), a minor believed to come within~~
14 ~~section 571-11(1), or a minor awaiting trial or~~
15 ~~another legal process, who is treated as an adult for~~
16 ~~purposes of prosecution in criminal court and housed~~
17 ~~in a secure facility shall not:~~



~~(A) Have sight or sound contact with adult inmates;~~

~~or~~

~~(B) Be held in any jail or lockup for adults,~~

~~except as provided in subsection (g) (3); and~~

~~(2) Detention in a jail or lockup for adults may be permitted for:~~

~~(A) A minor accused of a non-status offense who is held for a period not to exceed six hours; provided that the minor is being held:~~

~~(i) For processing or release;~~

~~(ii) While awaiting transfer to a juvenile facility; or~~

~~(iii) For a court appearance that occurs within the period of detention; or~~

~~(B) A minor accused of a non-status offense who is awaiting an initial court appearance that will occur within forty-eight hours of the minor being taken into custody, excluding weekends and holidays, and where the jail or lockup for adults is in a location:~~



1 ~~(i) Outside a metropolitan statistical area, as~~
2 ~~defined by the Office of Management and~~
3 ~~Budget, and no acceptable alternative~~
4 ~~placement is available;~~

5 ~~(ii) Where the distance to be traveled or the~~
6 ~~lack of highway, road, or transportation~~
7 ~~does not allow for court appearances within~~
8 ~~forty-eight hours, excluding weekends and~~
9 ~~holidays, such that a brief delay of no more~~
10 ~~than an additional forty-eight hours is~~
11 ~~excusable; or~~

12 ~~(iii) Where safety concerns exist, such as severe~~
13 ~~and life-threatening weather conditions that~~
14 ~~do not allow for reasonably safe travel, in~~
15 ~~which case the time for an appearance may be~~
16 ~~delayed until twenty-four hours after the~~
17 ~~time that conditions allow for reasonably~~
18 ~~safe travel;~~

19 ~~provided that the minor shall not have sight or sound~~
20 ~~contact with adult inmates; provided further that the~~
21 ~~State shall have a policy in effect that requires~~



~~individuals who work with both minor and adult inmates
in collocated facilities to be trained and certified
to work with juveniles.] "~~

2. By amending subsections (g) and (h) to read:

"(g) When a minor is ordered to be held or detained by the
court[+:

~~(1) Where a minor transferred for criminal proceedings
pursuant to a waiver of family court jurisdiction is
detained, the minor shall not:~~

~~(A) Have sight or sound contact with adult inmates,
or~~

~~(B) Be held in any jail or lockup for adults,
unless a court finds, after a hearing and in writing,
that it is in the interest of justice,~~

~~(2) In determining whether it is in the interest of
justice to permit a minor to be held in any jail or
lockup for adults, or to have sight or sound contact
with adult inmates, a court shall consider:~~

~~(A) The age of the minor,~~

~~(B) The physical and mental maturity of the minor,~~



1 ~~(C) The present mental state of the minor, including~~
2 ~~whether the minor presents an imminent risk of~~
3 ~~self-harm;~~

4 ~~(D) The nature and circumstances of the alleged~~
5 ~~offense;~~

6 ~~(E) The minor's history of prior delinquent acts;~~

7 ~~(F) The relative ability of the available adult and~~
8 ~~juvenile detention facilities to meet the~~
9 ~~specific needs of the minor and protect the~~
10 ~~safety of the public as well as other detained~~
11 ~~minors; and~~

12 ~~(G) Any other relevant factor; and~~

13 ~~(3) If a court determines that it is in the interest of~~
14 ~~justice to permit a minor to be held in any jail or~~
15 ~~lockup for adults, or to have sight or sound contact~~
16 ~~with adult inmates;~~

17 ~~(A) The court shall hold a hearing no less frequently~~
18 ~~than once every thirty days, or in the case of a~~
19 ~~rural jurisdiction, no less frequently than once~~
20 ~~every forty-five days, to review whether it~~
21 ~~remains in the interest of justice to permit the~~



1 ~~minor to be held in a jail or lockup for adults~~
2 ~~or to have sight or sound contact with adult~~
3 ~~inmates; and~~

4 ~~(B) The minor shall not be held in any jail or lockup~~
5 ~~for adults, or permitted to have sight or sound~~
6 ~~contact with adult inmates, for more than one~~
7 ~~hundred eighty days, unless the court, in~~
8 ~~writing, determines there is good cause for an~~
9 ~~extension, or the minor expressly waives this~~
10 ~~limitation.]~~

11 , the minor shall not be held in any jail, lockup, or prison for
12 adults.

13 (h) A minor may be placed in room confinement in a
14 juvenile detention [~~or adult jail~~] facility only under the
15 following conditions:

16 (1) Room confinement may only be used as a temporary
17 response to a minor's behavior, and only if:

18 (A) The behavior poses an immediate and substantial
19 risk of danger to the minor's self or another
20 individual, or a serious and immediate threat to
21 the safety and orderly operation of the facility;



1 provided that any decision to hold a minor in
2 room confinement due to a mental health emergency
3 shall be made by a mental health professional and
4 based upon the mental health professional's
5 examination of the minor; or

6 (B) The minor is an imminent escape risk;

7 (2) Because of the potential impact on a minor's mental or
8 physical health, room confinement may only be used for
9 the minimum time necessary for the minor to regain
10 self-control, and only after less restrictive options
11 or techniques, including de-escalation, conflict and
12 behavioral management techniques, and intervention by
13 a mental health professional, have been attempted,
14 exhausted, and failed;

15 (3) If a minor is placed in room confinement, the reasons
16 for the room confinement shall be explained to the
17 minor. The minor shall also be informed that release
18 from room confinement will occur immediately when the
19 minor exhibits self-control and is no longer deemed a
20 threat to the minor's safety or the safety of others;



1 (4) If a minor is placed in room confinement, the
2 following individuals shall be notified on the next
3 business day and provided the reasons for the room
4 confinement as well as the location and duration of
5 the confinement:

6 (A) The senior judge of the family court;

7 (B) The presiding judge who ordered the minor to be
8 held at the facility;

9 (C) The deputy chief court administrator; and

10 (D) The social services manager of the juvenile
11 client services branch for the circuit court of
12 the first circuit;

13 (5) Room confinement shall not be used for purposes of
14 punishment or disciplinary sanction, coercion,
15 convenience, or retaliation, or to address staffing
16 shortages at the facility;

17 (6) A minor may be held in room confinement for ~~no~~ not
18 more than three hours unless the minor is a danger to
19 themselves or another, or the on-call judge grants an
20 extension of ~~no~~ not more than three additional hours
21 of confinement. Thereafter, the minor shall be



1 returned to the general population; provided that if a
2 minor is held in room confinement for more than three
3 hours, a hearing shall be held before the family court
4 on the next business day, at which time the minor
5 shall be provided legal representation;

6 (7) A minor shall not be returned to room confinement
7 immediately after returning to the general population
8 from room confinement for the purposes of evading the
9 reporting requirements and room confinement
10 restrictions pursuant to this section;

11 (8) If the minor is not returned to the general population
12 following a hearing pursuant to paragraph (6), the
13 minor shall be transferred to a location where
14 services may be provided to the minor without the need
15 for room confinement; provided that if a mental health
16 professional determines that the level of crisis
17 service needed is not presently available at the
18 location, the superintendent or deputy superintendent
19 of the facility shall initiate a referral to a
20 facility that can meet the needs of the minor;



1 (9) All rooms used for room confinement shall have
2 adequate and operational lighting, ventilation for the
3 comfort of the minor, and shall be clean and resistant
4 to suicide and self-harm;

5 (10) The minor shall have access to drinking water, toilet
6 facilities, hygiene supplies, and reading materials
7 approved by a mental health professional;

8 (11) The minor shall have the same access as provided to
9 minors in the general population of the facility to
10 meals, contact with parents or legal guardians, legal
11 assistance, educational programs, and medical and
12 mental health services;

13 (12) The minor shall be continuously monitored by facility
14 staff; and

15 (13) The judiciary shall post quarterly on the judiciary's
16 website a report of its detention center detailing
17 their compliance with this section. Each report shall
18 include:

19 (A) The number of incidents of room confinement every
20 year;

21 (B) The number of minors impacted;



1 (C) The age, gender identity, and race of minors
2 impacted;

3 (D) Any alternative strategies employed before the
4 use of room confinement, the reasons those
5 alternative strategies failed, and why room
6 confinement was necessary; and

7 (E) The incidence of mental illness.

8 For the purposes of this subsection:

9 "Mental health professional" means a qualified mental
10 health professional or mental health professional supervised by
11 a qualified mental health professional.

12 "Room confinement" means the placement of a minor in a
13 room, cell, or area with minimal or no contact with persons
14 other than court staff and attorneys. "Room confinement" does
15 not include confinement of a minor in a single-person room or
16 cell for brief periods of locked room time as necessary for
17 required institutional operations and does not include
18 confinement during sleep hours."

19 SECTION 2. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21



1 SECTION 3. This Act shall take effect upon its approval.

2

INTRODUCED BY:

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S.B. NO. 694

Report Title:

Minors; Detention; Adult Correctional Facilities; Prohibition

Description:

Prohibits minors from being held in jails, lockups, or prisons for adults.

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