

JAN 21 2026

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, self, or
17 other inmates, or as protective custody for inmates who seem or



1 are 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 The legislature further finds that in response to the
9 foregoing, Act 292, Session Laws of Hawaii 2025, (Act 292) was
10 enacted to:

- 11 (1) Beginning July 1, 2026, restrict the use of
12 restrictive housing in state-operated and
13 state-contracted correctional facilities, with certain
14 specified exceptions, which is codified as section
15 353-41, Hawaii Revised Statutes;
- 16 (2) Establish a restrictive housing legislative working
17 group by August 1, 2025, to develop and recommend to
18 the legislature more comprehensive laws, policies, and
19 procedures regarding restrictive housing for members
20 of vulnerable populations by January 8, 2027;



- 1 (3) Require the Hawaii correctional system oversight
2 commission to review restrictive housing placements on
3 an annual basis;
- 4 (4) Authorize the department of corrections and
5 rehabilitation, by December 1, 2027, to implement, if
6 practicable, policies and procedures recommended by
7 the restrictive housing working group related to
8 committed persons who are members of certain
9 vulnerable populations and placed in restrictive
10 housing and develop transition and service plans for
11 these committed persons in restrictive housing; and
- 12 (5) Require interim and final reports to the legislature
13 and Hawaii correctional system oversight commission.

14 The legislature further finds that the deadlines and
15 restrictions contained in Act 292 have proven difficult to
16 comply with, and therefore amendments to Act 292 are necessary.

17 Accordingly, the purpose of this Act is to:

18 (1) Extend the start date of the restriction on the use of
19 restrictive housing in contracted correctional
20 facilities under Act 292, Session Laws of 2025, to
21 July 1, 2027;



- 1 (2) Extend the deadline for establishment of the
- 2 restrictive housing legislative working group to
- 3 August 1, 2026;
- 4 (3) Extend the date by which the department of corrections
- 5 and rehabilitation may implement recommendations of
- 6 the restrictive housing working group to December 1,
- 7 2028;
- 8 (4) Amend certain procedures for restrictive housing,
- 9 including repealing certain procedures for restrictive
- 10 housing, restrictions on circumstances under which
- 11 restrictive housing is permitted, and reporting
- 12 requirements; and
- 13 (5) Repeal the requirement that the restrictive housing
- 14 working group make recommendations to the legislature
- 15 by January 8, 2027.

16 SECTION 2. Section 353-41, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[{]§353-41[}] **Restrictive housing; restrictions on use;**
19 **policies and procedures.** (a) Beginning July 1, [2026], 2027,
20 except as otherwise provided in subsection (d), the use of



1 restrictive housing in correctional facilities shall be
2 restricted as follows:

3 (1) A committed person shall not be placed in restrictive
4 housing unless there is reasonable cause to believe
5 that the committed person would create a substantial
6 risk of immediate serious harm to the committed
7 person's self or another, as evidenced by recent
8 threats or conduct, and that a less restrictive
9 intervention would be insufficient to reduce this
10 risk; ~~[provided that the correctional facility shall~~
11 ~~bear the burden of establishing the foregoing by clear~~
12 ~~and convincing evidence;]~~

13 (2) A committed person shall only be held in restrictive
14 housing pursuant to initial procedures and reviews
15 that provide timely, fair, and meaningful
16 opportunities for the committed person to contest the
17 ~~[confinement.]~~ restrictive housing. These procedures
18 and reviews shall include ~~[the right to]~~:

19 (A) An initial ~~[hearing]~~ review held within
20 twenty-four hours of placement in restrictive
21 housing, in the absence of exceptional



3 [(B) ~~Appear at the hearing;~~

4 (C) ~~Be represented at the hearing;~~

5 (D)] (B) An independent hearings officer; and

6 [+(E)] (C) Receive a A written statement of reasons
7 for the decision made at the hearing;

11 (4) A committed person shall not be placed or held in
12 restrictive housing if the warden or the warden's
13 designee determines that the committed person no
14 longer meets the criteria for the confinement [‡]

15 unless medically determined by a clinician;

16 [+] A disciplinary sanction of restrictive housing imposed
17 on a committed person who is subsequently removed from
18 restrictive housing pursuant to this subsection shall
19 be deemed completed;

20 (6) During a facility wide lockdown, a committed person
21 shall not be placed in restrictive housing for more



1 than thirty consecutive days, or for more than forty-

2 five days total during any sixty-day period;

3 (7) Cells or other holding or living space used for
4 restrictive housing shall be properly ventilated, lit,
5 temperature-controlled, clean, and equipped with
6 properly functioning sanitary fixtures;

7 (8) A correctional facility shall strive to maximize
8 the amount of time spent outside of the cell by a
9 committed person held in restrictive housing by
10 providing the committed person with access to
11 recreation, education, clinically appropriate
12 treatment therapies, skill-building activities, and
13 social interaction with staff and other committed
14 persons, as appropriate;

15 (9) A committed person held in restrictive housing
16 shall not be denied access to:

17 (A) Food, water, or any other necessity;

18 (B) Appropriate medical care, including emergency
19 medical care; and

20 (C) Legal counsel;



1 [~~(10)~~] (8) Each committed person held in restrictive housing
2 shall receive a written copy of the committed person's
3 sanction and the criteria for a pathway back into the
4 general population. The department shall ensure that
5 the committed person understands the reason for the
6 sanction and the criteria for the pathway back into
7 the general population. The committed person's case
8 manager shall work with the committed person in
9 restrictive housing to develop a plan of action to
10 [~~reduce the committed person's violations,~~] return the
11 committed person to the general population[~~–~~] and work
12 on the committed person's rehabilitation; and

13 [~~(11)~~] (9) [A] Facilities shall attempt to ensure that a
14 committed person shall not be released directly from
15 restrictive housing to the community [~~during the final~~
16 ~~one hundred eighty days of the committed person's term~~
17 ~~of incarceration,~~] unless necessary for the safety of
18 the committed person, staff, other committed persons,
19 or the public. This paragraph shall not be
20 interpreted to delay a committed person's scheduled
21 release.



7 (1) Is twenty-one years of age or younger, has a
8 disability based on mental illness, or has a
9 developmental disability shall:

10 (A) Not be subject to discipline for refusing
11 treatment or medication, or for engaging in
12 self-harm [~~or related conduct~~] or threatening to
13 do so [~~; and~~] unless medically determined; and

14 (B) Be screened by a correctional facility clinician
15 or the appropriate screening service pursuant to
16 rules and, if found to meet the criteria for
17 civil commitment, shall be placed in a
18 specialized unit designated by the ~~director or~~
19 ~~deputy director~~ facility warden as ordered by
20 the clinician of the department, or civilly
21 committed by the courts to the least restrictive



13 (c) Beginning July 1, [2026,] 2027, the use of restrictive
14 housing in correctional facilities shall be permitted only under
15 the following limited circumstances:

16 [(-1) The warden or the warden's designee determines that a
17 facility-wide lockdown is necessary to ensure the
18 safety of committed persons in the facility, until the
19 warden or the warden's designee determines that the
20 threat to a committed person's safety no longer
21 exists. The warden or the warden's designee shall



1 document the specific reasons that any facility wide
2 lockdown was necessary for more than twenty-four
3 hours, and the specific reasons why less restrictive
4 interventions were insufficient to accomplish the
5 facility's safety goals. Within twelve hours of a
6 decision to extend a facility wide lockdown beyond
7 twenty-four hours, the director or deputy director of
8 the department shall publish the foregoing reasons on
9 the department's website and shall provide meaningful
10 notice to the legislature of the reasons for the
11 lockdown;

12 (2) (1) The warden [or], the warden's designee, or the
13 clinician determines that a committed person should be
14 placed in [emergency confinement] restrictive
15 housing; provided that [÷
16 (A) A committed person shall not be held in emergency
17 confinement for more than forty-eight hours; and
18 (B) A committed person placed in [emergency
19 confinement] restrictive housing shall receive an
20 initial medical and mental health [evaluation]
21 screen within twelve hours and a personal and



1 comprehensive medical and mental health
2 examination conducted by a clinician within
3 [twenty-four] seventy-two hours[. Reports of
4 these evaluations shall be immediately provided
5 to the warden or the warden's designee];
6 [~~(3)~~] (2) A [physician,] clinician, based upon the
7 [physician's] clinician's personal examination of a
8 committed person, determines that the committed person
9 should be placed or held in medical isolation[
10 provided that any decision to place or hold a
11 committed person in medical isolation due to a mental
12 health emergency shall be made by a clinician and
13 based upon the clinician's personal examination of the
14 committed person]. In any case of medical isolation
15 occurring under this paragraph, a clinical review
16 shall be conducted [~~at least every twelve hours and~~]
17 as clinically indicated. A committed person in
18 medical isolation due to a mental health emergency
19 pursuant to this paragraph shall be placed in a mental
20 health unit [~~designated~~] by the [~~director or deputy~~
21 ~~director~~] mental health clinician of the



1 department [+] . If a unit is not available at the
2 facility, a committed person may be transferred to a
3 facility with higher level of care;

4 [+] (3) The warden or the warden's designee determines
5 that a committed person should be placed in protective
6 custody; provided that:

7 (A) A committed person may be placed in voluntary
8 protective custody only when the committed person
9 has provided voluntary [, ~~informed, and written~~
10 consent] information and there is reasonable
11 cause to believe that protective custody is
12 necessary to prevent reasonably foreseeable harm.

13 When a committed person [makes a] provides
14 voluntary [, ~~informed, and~~] information and a
15 written request to be placed in protective
16 custody and the request is denied, the
17 correctional facility shall bear the burden of
18 establishing a basis for denying the request;

19 (B) A committed person may be placed in involuntary
20 protective custody only when the correctional
21 facility is able to establish by clear and



1 convincing [evidencee] information that protective
2 custody is necessary to prevent reasonably
3 foreseeable harm and that a less restrictive
4 intervention would be insufficient to prevent the
5 harm;

6 (C) [A] The department shall strive to provide a
7 committed person placed in protective custody
8 ~~[shall be provided]~~ opportunities for activities,
9 movement, and social interaction, in a manner
10 consistent with ensuring the committed person's
11 safety and the safety of other persons, that are
12 comparable to the opportunities provided to
13 committed persons in the facility's general
14 population;

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

19 (E) A committed person who is currently or may be
20 placed in voluntary protective custody may
21 request to opt out of that status by providing



1 voluntary[~~, informed, and written refusal of that~~
2 ~~status;~~] information stipulating the person's
3 request for refusal; and

4 (F) Before placing a committed person in protective
5 custody, the warden or the warden's designee
6 shall fully review the information surrounding
7 the reasons and use of protective custody and, if
8 possible, implement a less restrictive
9 intervention[~~, including~~]; provided further that
10 less restrictive interventions may include
11 transfer to the general population of another
12 facility or to a special-purpose housing unit for
13 committed persons who face similar threats,
14 unless the committed person poses an
15 extraordinary security risk so great that
16 transferring the committed person would be
17 insufficient to ensure the committed person's
18 safety; and

19 [+5+] (4) The warden or the warden's designee determines
20 that a committed person should be placed in



1 restrictive housing pending investigation of an
2 alleged disciplinary offense; provided that:
3 (A) [The] A committed person's placement in
4 restrictive housing is pursuant to approval
5 granted by the warden or the warden's designee
6 [in an emergency situation, or is] because the
7 committed person's presence in the facility's
8 general population while the investigation is
9 ongoing poses a danger to the committed person,
10 staff, other committed persons, or the public;
11 provided further that the determination of danger
12 shall be based upon a consideration of the
13 seriousness of the committed person's alleged
14 offense, including whether the offense involved
15 violence or escape, or posed a threat to
16 institutional safety by encouraging other persons
17 to engage in misconduct;
18 [+B] ~~The committed person's placement in restrictive~~
19 ~~housing shall not revert to another form of~~
20 ~~segregation after the initial sanction has been~~
21 ~~served;~~



1 [+C+] (B) A committed person's placement in
2 restrictive housing pending investigation of an
3 alleged disciplinary offense shall be reviewed
4 within twenty-four hours by a supervisory-level
5 employee who was not involved in the initial
6 placement decision; and

7 [+D+] (C) A committed person who has been placed in
8 restrictive housing pending investigation of an
9 alleged disciplinary offense shall be considered
10 for release to the facility's general population
11 if upon review of the initial incident, the
12 threat to the safety of the inmate, staff, other
13 inmates, and the general facility would not be
14 jeopardized, the committed person demonstrates
15 good behavior while in restrictive housing[+],
16 and the threat has been mitigated. If the
17 committed person is found guilty of the
18 disciplinary offense, the committed person's good
19 behavior shall be considered when determining the
20 appropriate penalty for the offense.



1 (d) No later than July 1, [2026,] 2027, the department
2 shall develop written policies and implement procedures, as
3 necessary and appropriate, to effectuate this section,
4 including:

5 (1) Establishing less restrictive interventions as
6 alternatives to restrictive housing, including
7 separation from other committed persons, transfer to
8 other correctional facilities, and any other sanction
9 not involving restrictive housing that is authorized
10 by the department's policies and procedures; provided
11 that any temporary restrictions on a committed
12 person's privileges or access to resources, including
13 religious services, mail and telephone privileges,
14 visitation by contacts, and outdoor or recreation
15 access, ~~[shall be imposed only when necessary to~~
16 ~~ensure the safety of the committed person or other~~
17 ~~persons, and]~~ shall not restrict the committed
18 person's access to food, water, basic necessities, or
19 legal assistance;

20 (2) Requiring periodic training of disciplinary staff and
21 all other staff who interact with committed persons



held in restrictive housing; provided that the training:

- (A) Is developed and conducted with assistance from appropriately trained and qualified professionals; and
- (B) Clearly communicates the applicable standards for restrictive housing, including the standards set forth in this section;

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

(4) Requiring monitoring of compliance with all rules governing cells, units, and other spaces used for restrictive housing[+]

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

(A) ~~Describe the nature and extent of each correctional facility's use of restrictive housing and include data on the age, sex, gender identity, ethnicity, incidence of mental illness,~~



and type of confinement status for committed persons placed in restrictive housing;

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

(C) Include the incidence of emergency confinement, self-harm, suicide, and assault in any restrictive housing unit, as well as explanations for each instance of facility-wide lockdown; and

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

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

(e) Following the initial hearing for the placement of an individual into restrictive housing, the department shall immediately notify and transmit all relevant documentation to



1 the Hawaii correctional system oversight commission. The Hawaii
2 correctional system oversight commission shall review the
3 determinations regarding the imposition, ongoing use, and
4 termination of restrictive housing for fairness, impartiality,
5 alignment with best practices, and availability of resources and
6 adequate staffing, and shall issue annual reports on the
7 utilization thereof.

8 The Hawaii correctional system oversight commission shall
9 actively monitor and review all housing placements involving
10 individuals subjected to twenty or more hours of cell
11 confinement, irrespective of whether the placements are
12 designated as restrictive housing by the department or state-
13 contracted facilities, to ensure that the department and its
14 contracted entities do not implement cell confinement exceeding
15 twenty or more hours without proper adherence to the procedures
16 set forth in this section].

17 [+(f)] (e) As used in this section[
18 "Correctional facility" means a state prison, other penal
19 institution, or an institution or a facility designated by the
20 department as a place of confinement under this chapter.
21 "Correctional facility" includes community correctional centers,



1 ~~high-security correctional facilities, temporary correctional~~
2 ~~facilities, in-state correctional facilities, state-contracted~~
3 ~~correctional facilities operated by private entities, and jails~~
4 ~~maintained by county police departments.~~

5 "Restrictive], "restrictive housing" is defined as
6 occurring when all of the following conditions are present:

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

10 (2) The confinement occurs in a cell or similarly
11 physically restrictive holding or living space,
12 whether alone or with one or more other committed
13 persons, for ~~[twenty]~~ twenty-two hours or more per
14 day; and

15 (3) The committed person's activities, movements, and
16 social interactions are severely restricted."

17 SECTION 3. Act 292, Session Laws of Hawaii 2025, is
18 amended by amending section 3 to read as follows:

19 "SECTION 3. (a) A restrictive housing legislative working
20 group shall be convened by August 1, ~~[2025, to:~~



1 (1) Review,] 2026, to review, consider, and identify laws,
2 policies, and procedures regarding restrictive housing
3 for members of vulnerable populations including
4 committed persons who:
5 [(A)] (1) Are sixty years of age or older;
6 [(B)] (2) Have a physical or mental disability, a
7 history of psychiatric hospitalization, or recently
8 exhibited conduct, including serious self-mutilation,
9 that indicates the need for further observation or
10 evaluation to determine the presence of mental
11 illness;
12 [(C)] (3) Have a developmental disability, as defined
13 in section 333F-1, Hawaii Revised Statutes;
14 [(D)] (4) Have a serious medical condition that
15 cannot be effectively treated while the committed
16 person is in restrictive housing; or
17 [(E)] (5) Have a significant auditory or visual
18 impairment [~~; or~~
19 (F) ~~Is perceived to be lesbian, gay, bisexual,~~
20 ~~transgender, or intersex;~~ and



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

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

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

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

14 (3) The director of corrections and rehabilitation;

15 (4) The senior advisor for mental health and the justice
16 system in the office of the governor; and

17 (5) A commissioner on the Hawaii correctional system
18 oversight commission.

19 (c) The co-chairpersons of the working group shall invite
20 the following individuals to serve as members of the working
21 group:



1 (1) A representative of the office of Hawaiian affairs;

2 (2) A representative from the American Civil Liberties

3 Union of Hawaii; and

4 (3) A representative from the Community Alliance on

5 Prisons [~~;~~ and]

6 (4) ~~Any other individuals identified by the chairpersons~~

7 ~~of the working group].~~

8 (d) The working group shall be dissolved on January 8,

9 [2027,] 2028, or upon submission of its final report to the

10 legislature, whichever is later.

11 (e) The department of corrections and rehabilitation may

12 implement, if practicable by December 1, [2027,] 2028,

13 recommended policies and procedures of the restrictive housing

14 legislative working group regarding the placement of committed

15 persons who are members of certain vulnerable populations into

16 restrictive housing and develop transition and service plans for

17 these committed persons in restrictive housing."

18 SECTION 4. Statutory material to be repealed is bracketed

19 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect upon its approval.

2

INTRODUCED BY: Carol Johnson



S.B. NO. 2381

Report Title:

Corrections; Restrictive Housing Requirements; Working Group

Description:

Extends the effective date of restrictions on the use of restrictive housing in correctional facilities to 7/1/2027. Extends the establishment of the Restrictive Housing Legislative Working Group to 8/1/2026. Extends the date that the Department of Corrections and Rehabilitation may implement recommendations of the working group to 12/1/2028. Amends procedures for restrictive housing. Amends circumstances under which restrictive housing may be used. Repeals requirements for the Department of Corrections and Rehabilitation to post quarterly reports on the Department's website, update its policy and procedures manual in compliance with the restrictive housing restrictions, and report to the Hawaii Correctional System Oversight Commission. Repeals requirements for the Hawaii Correctional System Oversight Commission to review and monitor housing placements. Repeals the requirement that the Restrictive Housing Working Group make recommendations to the Legislature by 1/1/2027.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

