
A BILL FOR AN ACT

RELATING TO THE ROOM CONFINEMENT OF CHILDREN AT DETENTION AND
SHELTER FACILITIES.

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

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

3 "**§571-32 Detention; shelter; release; notice.** (a) If a
4 child who is believed to come within section 571-11(1) or (2) is
5 not released as provided in section 571-31 and is not deemed
6 suitable for diversion, the child shall be taken without
7 unnecessary delay to the court or to the place of detention or
8 shelter designated by the court. If the court determines that
9 the child requires care away from the child's own home but does
10 not require secure physical restriction, the child shall be
11 given temporary care in any available nonsecure child caring
12 institution, foster family home, or other shelter facility.

13 (b) The officer or other person who brings a child to a
14 detention or shelter facility shall give notice to the court at
15 once, stating the legal basis therefor and the reason why the
16 child was not released to the child's parents. If the facility



1 to which the child is taken is not an agency of the court, the
2 person in charge of the facility in which the child is placed
3 shall promptly give notice to the court that the child is in
4 that person's custody. Prior to acceptance of the child for
5 detention or shelter care, a prompt inquiry shall be made by a
6 duly authorized staff member of the detention or shelter
7 facility or officer of the court. Where it is deemed in the
8 best interests of the child, the judge, officer, staff member,
9 or the director of detention services may then order the child
10 to be released, if possible, to the care of the child's parent,
11 guardian, legal custodian, or other responsible adult, or the
12 judge may order the child held in the facility subject to
13 further order or placed in some other appropriate facility.

14 (c) As soon as a child is detained, the child's parents,
15 guardian, or legal custodian shall be informed, by personal
16 contact or by notice in writing on forms prescribed by the
17 court, that they may have a prompt hearing held by a circuit
18 judge or district family judge regarding release or detention.
19 A child may be released on the order of the judge with or
20 without a hearing. The director of detention services may order



1 the release of the child if an order of detention has not been
2 made.

3 (d) A child may only be placed in room confinement in a
4 detention or shelter facility under the following conditions:

5 (1) Room confinement may only be used as a temporary
6 response to a child's behavior, and only if:

7 (A) The behavior poses an immediate and substantial
8 risk of danger to the child or another
9 individual, or a serious and immediate threat to
10 the safety and orderly operation of the facility;

11 or

12 (B) The child is an imminent escape risk;

13 (2) Because of the potential impact on a child's mental or
14 physical health, room confinement may only be used
15 when less restrictive options have been attempted,
16 exhausted, and failed, and may only be used for the
17 least amount of time needed for the child to regain
18 self-control. Less restrictive options or techniques
19 may include de-escalation, conflict and behavioral
20 management techniques, and intervention by a qualified
21 mental health professional;



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- 1 (3) If a child is placed in room confinement, the reasons
2 for the room confinement shall be explained to the
3 child. The child shall also be informed that release
4 from room confinement will occur immediately when the
5 child exhibits self-control and is no longer deemed a
6 threat to the safety of the child's self or others;
- 7 (4) If a child is placed in room confinement, the senior
8 judge of the family court, the presiding judge who
9 ordered the child to be held at the facility, and the
10 deputy chief court administrator of the circuit court
11 of the first circuit shall be notified and provided
12 the reasons for the room confinement of the child, as
13 well as the location and time period of the
14 confinement on the next business day;
- 15 (5) Room confinement shall never be used for purposes of
16 punishment or disciplinary sanction; coercion;
17 convenience; or retaliation, or because of staffing
18 shortages at the facility;
- 19 (6) A child may be held for no more than four hours in
20 room confinement unless the on-call duty judge grants
21 additional extensions of confinement of no more than



1 four hours. Thereafter, the child shall be returned
2 to the general population. If a child is held in room
3 confinement for more than four hours, then a hearing
4 before the family court shall be held on the next
5 business day, at which the child shall be provided
6 legal representation;

7 (7) Following a hearing under paragraph (6), if the child
8 is not returned to the general population, one or more
9 of the following shall occur:

10 (A) Mental health or medical personnel shall be
11 consulted about the child's care;

12 (B) An individualized plan shall be developed that
13 includes the goals and objectives to be met in
14 order to reintegrate the child into the general
15 population; or

16 (C) The child shall be transferred to a location
17 where services may be provided to the child
18 without the need for room confinement; provided
19 that if a qualified mental health professional
20 determines that the level of crisis service
21 needed is not presently available at the



1 location, the superintendent or deputy
2 superintendent of the facility shall initiate a
3 referral to a facility that can meet the needs of
4 the child;

5 (8) All rooms used for room confinement shall have
6 adequate and operating lighting, and ventilation for
7 the comfort of the child. Rooms shall be clean and
8 resistant to suicide and self-harm;

9 (9) Children in room confinement shall have access to
10 drinking water, toilet facilities, hygiene supplies,
11 and reading materials approved by a licensed mental
12 health professional;

13 (10) Children in room confinement shall have the same
14 access as provided to children in the general
15 population of the facility to meals, contact with
16 parents or legal guardians, legal assistance,
17 educational programs, and medical and mental health
18 services; and

19 (11) Children in room confinement shall be continuously
20 monitored by facility staff.



1 For the purposes of this subsection, "room confinement"
2 means the placement of a child in a room, cell, or area with
3 minimal or no contact with persons other than court staff and
4 attorneys. Room confinement does not include confinement of a
5 child in a single-person room or cell for brief periods of
6 locked room time necessary for required institutional operations
7 and does not include confinement during sleep hours.

8 [~~d~~] (e) No child shall be held in a detention facility
9 for juveniles or shelter longer than twenty-four hours,
10 excluding weekends and holidays, unless a petition or motion for
11 revocation of probation, or motion for revocation of protective
12 supervision has been filed, or unless the judge orders otherwise
13 after a court hearing. No ex parte motions shall be considered.
14 If there is probable cause to believe that the child comes
15 within section 571-11(1), the child may be securely detained in
16 a certified police station cellblock or community correctional
17 center. The detention shall be limited to six hours. In areas
18 which are outside a standard metropolitan statistical area, the
19 detention may be up to twenty-four hours, excluding weekends and
20 holidays, if no detention facility for juveniles is reasonably
21 available. Any detention in a police station cellblock or



1 community correctional center shall provide for the sight and
2 sound separation of the child from adult offenders.

3 ~~(e)~~ (f) No child may be held after the filing of a
4 petition or motion, as specified in subsection ~~(d)~~ (e),
5 unless an order for continued detention or shelter has been made
6 by a judge after a court hearing. If there is probable cause to
7 believe that the child comes within section 571-11(1), the child
8 may be securely detained, following a court hearing, in a
9 detention facility for juveniles or may be held in a shelter.
10 If there is probable cause to believe that the child comes
11 within section 281-101.5 or 571-11(2), the child may be held,
12 following a court hearing, in a shelter but may not be securely
13 detained in a detention facility for juveniles for longer than
14 twenty-four hours, excluding weekends and holidays, unless the
15 child is subject to the provisions of chapter 582, Interstate
16 Compact on Juveniles, or chapter 582D, Interstate Compact for
17 Juveniles, or is allegedly in or has already been adjudicated
18 for a violation of a valid court order, as provided under the
19 federal Juvenile Justice and Delinquency Prevention Act of 1974,
20 as amended.



1 ~~(f)~~ (g) No child shall be released from detention except
2 in accordance with this chapter.

3 ~~(g)~~ (h) Where a child transferred for criminal
4 proceedings pursuant to waiver of family court jurisdiction is
5 detained, the child shall be held in the detention facility used
6 for persons charged with crime. When a child is ordered
7 committed to an agency or institution, the child shall be
8 transported promptly to the place of commitment.

9 ~~(h)~~ (i) Provisions regarding bail shall not be
10 applicable to children detained in accordance with this chapter,
11 except that bail may be allowed after a child has been
12 transferred for criminal prosecution pursuant to waiver of
13 family court jurisdiction.

14 ~~(i)~~ (j) The official in charge of a facility for the
15 detention of adult offenders or persons charged with crime shall
16 inform the court immediately when a child who is or appears to
17 be under eighteen years of age is received at the facility.

18 ~~(j)~~ (k) Any other provision of law to the contrary
19 notwithstanding, any person otherwise subject to proceedings
20 under chapter 832 and who is under the age of eighteen may be
21 confined in a detention facility or correctional facility by



1 order of a judge for the purposes set forth in section 832-12,
2 832-15, or 832-17.

3 ~~[(k)]~~ (l) The department of human services through the
4 office of youth services shall certify police station cellblocks
5 and community correctional centers that provide sight and sound
6 separation between children and adults in secure custody. Only
7 cellblocks and centers certified under this subsection shall be
8 authorized to detain juveniles pursuant to ~~[section 571-32(d).]~~
9 subsection (e). The office of youth services may develop sight
10 and sound separation standards, issue certifications, monitor
11 and inspect facilities for compliance, cite facilities for
12 violations, withdraw certifications, and require certified
13 facilities to submit such data and information as requested. In
14 addition, the office of youth services may monitor and inspect
15 all cellblocks and centers for compliance with ~~[section 571-~~
16 ~~32(d).]~~ subsection (e)."

17 SECTION 2. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.



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

2

INTRODUCED BY:



By Request

JAN 16 2020



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Report Title:

Judiciary Package; Juveniles; Detention; Shelter

Description:

Limits the circumstances under which children and minors at shelters may be subject to room confinement, and specifies the conditions and time limits for which room confinement may be imposed.

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