

JAN 17 2020

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# 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;



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.

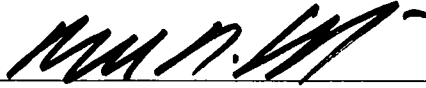


# S.B. NO. 2119

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

2

INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'M. N. M.', written over a horizontal line.

By Request



# S.B. NO. 2119

**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.

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

