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# A BILL FOR AN ACT

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

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

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

**"§571-32 Detention; shelter; release; notice.** (a) If a  
child who is believed to come within section 571-11(1), ~~[or (2)]~~  
is not released as provided in section 571-31, and is not deemed  
suitable for diversion, then the child shall be taken without  
unnecessary delay to the court or to the place of detention or  
shelter designated by the court. If a child who is believed to  
come within section 571-11(2), is not released as provided in  
section 571-31, and is not deemed suitable for diversion, then  
the child shall be taken without unnecessary delay to the court  
or to the place of shelter designated by the court. If the  
court determines that the child requires care away from the  
child's own home but does not require secure physical  
restriction, the child shall be given temporary care in any



1 available nonsecure child caring institution, foster family  
2 home, or other shelter facility.

3 (b) The officer or other person who brings a child to a  
4 detention or shelter facility shall give notice to the court at  
5 once, stating the legal basis therefor and the reason why the  
6 child was not released to the child's parents. If the facility  
7 to which the child is taken is not an agency of the court, the  
8 person in charge of the facility in which the child is placed  
9 shall promptly give notice to the court that the child is in  
10 that person's custody. [~~Prior to~~] Before acceptance of the  
11 child for detention or shelter care, a prompt inquiry shall be  
12 made by a duly authorized staff member of the detention or  
13 shelter facility or officer of the court. Where it is deemed in  
14 the best interests of the child, the judge, officer, staff  
15 member, or [~~the~~] director of detention services may then order  
16 the child to be released, if possible, to the care of the  
17 child's parent, guardian, legal custodian, or other responsible  
18 adult, or the judge may order the child held in the facility  
19 subject to further order or placed in some other appropriate  
20 facility.



1 (c) As soon as a child is detained, the child's parents,  
2 guardian, or legal custodian shall be informed, by personal  
3 contact or by notice in writing on forms prescribed by the  
4 court, that they may have a prompt hearing held by a circuit  
5 judge or district family judge regarding release or detention.  
6 A child may be released on the order of the judge with or  
7 without a hearing. The director of detention services may order  
8 the release of the child if an order of detention has not been  
9 made.

10 (d) A child may be placed in room confinement in a  
11 juvenile detention or adult jail facility only under the  
12 following conditions:

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

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

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



1        (2) Because of the potential impact on a child's mental or  
2        physical health, room confinement may only be used for  
3        the minimum time necessary for the child to regain  
4        self-control, and only after less restrictive options  
5        or techniques, including de-escalation, conflict and  
6        behavioral management techniques, and intervention by  
7        a qualified mental health professional, have been  
8        attempted, exhausted, and failed;

9        (3) If a child is placed in room confinement, the reasons  
10       for the room confinement shall be explained to the  
11       child. The child shall also be informed that release  
12       from room confinement will occur immediately when the  
13       child exhibits self-control and is no longer deemed a  
14       threat to the child's safety or the safety of others;

15       (4) If a child is placed in room confinement, the  
16       following individuals shall be notified on the next  
17       business day and provided the reasons for the room  
18       confinement as well as the location and duration of  
19       the confinement:

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



1           (B) The presiding judge who ordered the child to be  
2           held at the facility;

3           (C) The deputy chief court administrator; and

4           (D) The social services manager of the juvenile  
5           client services branch for the circuit court of  
6           the first circuit.

7           (5) Room confinement shall not be used for purposes of  
8           punishment or disciplinary sanction, coercion,  
9           convenience, retaliation, or to address staffing  
10          shortages at the facility;

11          (6) A child may be held in room confinement for no more  
12          than three hours unless the child is a danger to  
13          themselves or another or the on-call judge grants an  
14          extension of no more than three additional hours of  
15          confinement. Thereafter, the child shall be returned  
16          to the general population; provided that if a child is  
17          held in room confinement for more than three hours, a  
18          hearing shall be held before the family court on the  
19          next business day, at which time the child shall be  
20          provided legal representation;



1        (7) If the child is not returned to the general population  
2        following a hearing pursuant to paragraph (6), the  
3        child shall be transferred to a location where  
4        services may be provided to the child without the need  
5        for room confinement; provided that if a qualified  
6        mental health professional determines that the level  
7        of crisis service needed is not presently available at  
8        the location, the superintendent or deputy  
9        superintendent of the facility shall initiate a  
10       referral to a facility that can meet the needs of the  
11       child;

12       (8) All rooms used for room confinement shall have  
13       adequate and operational lighting, ventilation for the  
14       comfort of the child, and shall be clean and resistant  
15       to suicide and self-harm;

16       (9) The child shall have access to drinking water, toilet  
17       facilities, hygiene supplies, and reading materials  
18       approved by a qualified mental health professional;

19       (10) The child shall have the same access as provided to  
20       children in the general population of the facility to  
21       meals, contact with parents or legal guardians, legal



1 assistance, educational programs, and medical and  
2 mental health services; and

3 (11) The child shall be continuously monitored by facility  
4 staff.

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

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



1 ~~[which]~~ that are outside a standard metropolitan statistical  
2 area, the detention may be up to twenty-four hours, excluding  
3 weekends and holidays, if no detention facility for juveniles is  
4 reasonably available. Any detention in a police station  
5 cellblock or community correctional center shall provide for the  
6 sight and sound separation of the child from adult offenders.

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





1 adjudicated for a violation of a valid court order, as provided  
2 under the federal Juvenile Justice and Delinquency Prevention  
3 Act of 1974, as amended.

4 ~~[(f)]~~ (g) No child shall be released from detention except  
5 in accordance with this chapter.

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

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

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



1       ~~[(j)]~~ (k) Any other provision of law to the contrary  
2 notwithstanding, any person otherwise subject to proceedings  
3 under chapter 832 and who is under the age of eighteen may be  
4 confined in a detention facility or correctional facility by  
5 order of a judge for the purposes set forth in section 832-12,  
6 832-15, or 832-17.

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



1       SECTION 2. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.  
3       SECTION 3. This Act shall take effect on July 1, 2060.



**Report Title:**

Judiciary Package; Juveniles; Room Confinement; Detention;  
Shelter Facility

**Description:**

Establishes conditions and time limits for placing a child in  
room confinement at a detention or shelter facility. Effective  
7/1/2060. (HD2)

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

