

State of Hawai‘i  
The Office of the Public Defender

H.B. No. 1812: RELATING TO CORRECTIONS

Chair Mark Hashem  
Vice Chair Cory M. Chun  
Honorable Committee Members

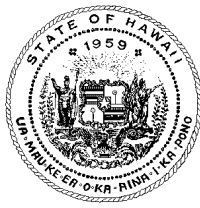
The Office of the Public Defender **supports** this bill.

While we have progressed from the days of gory executions in the public square, courts must measure punishments against the “evolving standards of decency” no matter how terrible the crime may be to fulfil the constitutional prohibition of “cruel and unusual punishment.”

Solitary confinement is a torturous and destructive form of imprisonment that has proven time and time again to be detrimental to the mental health and well-being of the prisoner. People locked up in jails and prisons are still people. Before officers at jails and prisons expose them very real risks of losing their sanity and an early death with solitary confinement, there must be standards in place. This bill does just that.

The Office of the Public Defender urges Hawai‘i to join the other states and governments that have adopted and adapted standards from the United Nations in honor of the late South African President Nelson Mandela. Solitary confinement should be a thing of the past. This bill is a step forward.

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII  
**DEPARTMENT OF CORRECTIONS  
AND REHABILITATION**  
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No. \_\_\_\_\_

**TESTIMONY ON HOUSE BILL 1812  
RELATING TO CORRECTIONS**  
by  
Tommy Johnson

House Committee on Corrections, Military, & Veterans  
Representative Mark J. Hashem, Chair  
Representative Cory M. Chun, Vice Chair

Wednesday, January 31, 2024; 9:00 a.m.  
State Capitol, Conference Room 430 & via Videoconference

Chair Hashem, Vice Chair Chun, and Members of the Committee:

The Department of Corrections and Rehabilitation (DCR) opposes House Bill (HB) 1812, which seeks to restrict the use of solitary confinement in state-operated and state-contracted correctional facilities, with certain specific exceptions. This measure also requires DCR to use appropriate alternatives to "solitary confinement" for vulnerable inmates as defined in HB 1812 and requires a progress report on full compliance with the Act to the 2023 Legislature.

DCR opposes this measure for the following reasons. HB 1812 has many similarities with DCR's established policies and procedures, which are periodically reviewed and updated. The Department's policies and procedures align with the guidelines of the National Institute of Corrections (NIC) and the American Correctional Association (ACA). DCR's Correctional Policy (COR.11.01) Administrative Segregation and Disciplinary Segregation is not confidential and is posted on DCR's website for anyone to access and review.

The DCR notes, that the term "solitary confinement" is no longer used; instead, there are now several levels of confinement used nationwide that are more specifically described both to ensure the safety and well-being of inmates and to

address unacceptable, disruptive, and violent behaviors displayed by some inmates. As written, HB 1812 would restrict DCR's ability to ensure the health and safety of inmates; placing unneeded barriers that would prevent DCR from acting promptly to address volatile situations that routinely occur.

Recently, there have been unprovoked attacks by inmates on correctional staff resulting in serious injuries. One officer suffered serious facial structural injuries, another was hospitalized from being pushed down a flight of stairs as he rushed to intervene and assist an inmate being assaulted, and yet another officer sustained a concussion. A nurse was attacked for no apparent reason, requiring her to go to the hospital, while she attempted to provide treatment services. If enacted, the requirements of HB 1812 would have hindered or delayed DCR staff intervention, which would increase the levels of danger and disruption to staff, other inmates, and the facilities.

The Department notes, that age, developmental disability, and mental illness have very little to do with the State's requirement for the protection of others from harm, assault, and even loss of life. DCR has the responsibility to assure the safety and well-being of all offenders. Separating and monitoring offenders exhibiting inappropriate behaviors are necessary for the greater good and the protection of those offenders. In attempting to cover most scenarios, the measure's requirements tend toward generalities, which run counter to the updated national standards which are moving towards more specificity for administrative and disciplinary segregation. DCR's current policies and procedures regarding inmate classification, housing, and internal disciplinary processes, including the inmate's ability to avail themselves of the complaint and grievance processes, all help to ensure inmates are not mistreated and housed in locations consistent with their level of custody and security requirements. This fosters participation in the appropriate programs of need and the overall safety of an institution.

Thank you for the opportunity to provide testimony in opposition to HB 1812.

**HB-1812**

Submitted on: 1/29/2024 12:14:15 PM

Testimony for CMV on 1/31/2024 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Louis Erteschik	Hawaii Disability Rights Center	Support	Written Testimony Only

Comments:

We have always felt that solitary confinement should either never be utilized or at most rarely, and only under exigent circumstances. It is particularly damaging to individuals who already have a mental illness. We understand that there may currently be protocols in place regarding the use of solitary confinement. However, we believe that codifying these restrictions would be much better.



National Alliance on Mental Illness Hawaii  
A State Organization of NAMI

TO: The Honorable Mark J. Hashem  
Chair, House Committee on Corrections, Military, and Veterans  
The Honorable Cory M. Chun  
Vice Chair, House Committee on Corrections, Military, and Veterans

FROM: Trisha Chaung  
Advocacy Manager, NAMI Hawaii

RE: HB 1812 – RELATING TO CORRECTIONS

HEARING: January 31, 2024 at 9:00 PM

POSITION: **NAMI Hawaii supports HB 1812**

NAMI Hawaii supports HB 1812 as a step toward the abolition of the use of solitary confinement. Although we believe that no one should be subject to practices that can cause or worsen mental health symptoms, and thus oppose the use of solitary confinement and equivalent forms of administrative segregation for people with mental health conditions, we write in support of HB 1812 in hopes that it will serve as an example of reform legislation.

Solitary confinement and other forms of administrative segregation are often used to control and manage inmates with serious mental illness. This needs to stop, and we support the wording in Section Two, 14.1.a, which states that a “committed person [who] is twenty-one years of age or younger, has a disability based on mental illness, or has a developmental disability shall not be subject to discipline for refusing treatment or medication, or for engaging in self-harm or related conduct or threatening to do so.” We also support all clauses in HB 1812 that mitigate the amount of time spent in solitary confinement, that ensure access to care, programming, and services while in solitary confinement, and that require documentation, right to appeal, and demonstrated effort to seek the least restrictive environment.

The long-term effect of solitary confinement is devastating. It can leave individuals with mental illness unable to function in correctional facilities and unprepared to successfully reenter communities after their release. Limiting the use of solitary confinement and eliminating its use for vulnerable populations, including people with mental illness, people with intellectual/developmental disabilities, and juveniles, would result in:

- Fewer psychiatric symptoms
- Lower rates of violence
- Improved re-entry and transitions back into the community
- Increased cost savings to correctional systems

That being said, rather than using isolation strategies that can cause long-term damage, NAMI Hawaii urges correctional authorities to provide mental health care alternatives to solitary confinement. NAMI Hawaii, like most who provide care and education within the community, wants a world where people with mental illness receive help in the earliest parts of the Sequential Intercept Model and thus never enter jails/prisons, but that wish does not absolve us of our responsibility to help those *currently* in jails/prisons. We’ve previously submitted testimony in support of SB 2005 (construction of a mental health facility to provide medically appropriate care to currently incarcerated individuals) and **encourage that HB 1812 be seen as a step forward, not a final destination, as we improve mental health infrastructure within our jails and prisons.**

Thank you for the opportunity to provide testimony on HB 1812.

# Opportunity Youth Action Hawai'i

House Committee on Corrections, Military & Veterans

Hearing Time: 9:00 a.m., January 31, 2024

Location: Hawai'i State Capitol, Room 430 & Videoconference

Re: HB1812, Relating to Corrections

Aloha e Chair Hashem, Vice Chair Chun and members of the Committee:

We are writing in **SUPPORT** of HB1812, Relating to Corrections

This bill will restrict the use of solitary confinement in state-operated and state-contracted correctional facilities, with certain specified exceptions; prohibit the use of solitary confinement and requires the use of appropriate alternatives for committed persons who are members of a vulnerable population; require the Department of Corrections and Rehabilitation to develop written policies and procedures regarding solitary confinement by 7/1/2025; and require the Department to develop policies and procedures to review committed persons placed in solitary confinement and develop a plan for committed persons currently in solitary confinement by 4/1/2025.

Our collective, the Opportunity Youth Action Hawai'i (OYAH), works to support young people under age 25 who are disconnected from school and work, referred to as "opportunity youth." This developmental time period is extremely consequential to the individual growth and overall life chances of our children. We commend the legislature for previously reducing the use of solitary confinement for incarcerated youth and strongly supported those efforts. We now support this bill which expands existing restrictions.

The Opportunity Youth Action Hawai'i hui is a collaboration of organizations and individuals committed to reducing the harmful effects of a punitive incarceration system for youth; promoting equity in the justice system; and improving and increasing resources to address adolescent and young adult mental health needs. We seek to improve the continuity of programs and services for youth and young adults transitioning from minor to adult status; eliminate youth homelessness and housing market discrimination against young adults; and promote and fund more holistic and culturally-informed approaches among public/private agencies serving youth.

**Please SUPPORT HB1812.**

# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON CORRECTIONS, MILITARY, AND VETERANS

Representative Mark J. Hashem, Chair

Representative Cory M. Chun, Vice Chair

Wednesday, January 31, 2024

Room 430 & VIDEOCONFERENCE

9:00 AM

## **STRONG SUPPORT FOR HB 1812 - REGARDING SOLITARY CONFINEMENT**

Aloha Chair Hashem, Vice Chair Chun and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai`i for more than two decades. This testimony is respectfully offered on behalf of the 3,868 Hawai`i individuals living behind bars<sup>1</sup> and under the “care and custody” of the Department of Public Safety/Corrections and Rehabilitation on any given day. We are always mindful that 874 - 25% of the male imprisoned population - of Hawai`i’s imprisoned people are serving their sentences abroad - thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

Community Alliance on Prisons is grateful for the opportunity to share our concerns, research, and alternatives on HB 1812 that restricts the use of solitary confinement in state-operated and state-contracted correctional facilities, with certain specified exceptions. This bill prohibits the use of solitary confinement and requires the use of appropriate alternatives for committed persons who are members of a vulnerable population and requires DCR to develop UPDATED written policies and procedures by 7.1.25, review committed persons placed in solitary by 4.1.25 and report to the legislature.

When the Hawai`i Delegation went to Norway in 2015, led by Justice Michael Wilson, they toured Norwegian prisons with a Delegation from North Dakota, which included the Director and Deputy Director for Corrections. After they arrived home, the Director of the North Dakota Prisons asked for all the files of those in solitary. There were approximately 100 files of people in solitary. The Director went through each one and released most people from solitary because the trip to Norway made her realize the harms the state was inflicting on its people by the use of solitary.

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<sup>1</sup> DPS/DCR Weekly Population Report, Jan. 22, 2024

<https://dcr.hawaii.gov/wp-content/uploads/2024/01/Pop-Reports-Weekly-2024-01-22.pdf>

While Community Alliance on Prisons is aware of the department's policies and procedures Policy No. COR. 11.01 that supersedes COR. 11.01, dated 12.12.09, this bill UPDATES COR. 11.01 dated 11.28.14. This bill is the work of CAP and Ted Sakai, who authored the current COR. 11.01 and felt that there needed to be a pathway out of solitary/segregation. Ted and I worked on this bill incorporating his decades of correctional experience and best practices and because Community Alliance on Prisons receives many letters from people while they are in difference forms of segregation. We have never been convinced that isolating a human being from other humans is an appropriate sanction. Humans need contact, and many people decompensate while in solitary/segregation, which aggravates their vulnerable condition. We have witnessed people who were mentally stable going in to segregation and who emerge from solitary/segregation in poor shape. This is concerning as these folks can become prey for predators, putting the facility in turmoil and potentially causing a lockdown.

In Saguaro, putting someone in segregation appears to be arbitrary. We have received a recent letter from one of our men in Saguaro who has refused the 'voluntary' SHIP (Special Housing Incentive Program), which is lockdown for 23 hours a day, then 22 hours a day. THIS IS NOT A PROGRAM. IT IS LOCKDOWN, where Bronson Nunuha was murdered. Why doesn't a person have the right to refuse a 'voluntary' program? SHIP is a sanction, not a program. People in solitary/segregation need to keep their brains active. There must be some classes, mental health and substance treatment, education, where they can keep their brains active. What can people learn in a place of isolation and potential violence?

Other letters talk about solitary/segregation in Saguaro being the ability of the facility to seize their property, which sometimes 'gets lost' when they are released from segregation, or before hearings their documents appealing the sanction are "lost". The unfairness is striking and doesn't bode well for people who will be returning to our community. We don't need more bitter, angry people who exit incarceration with few skills to support themselves or their families. This helps no one.

Halawa's Special Holding Unit (SHU) also has problems as the letters and phone calls we receive indicate. Gang activity appears to be alive and well there. We are concerned because people have said that they fear for their lives and many families have asked for our help. People should not fear for their lives when they are in the 'care and custody' of the state.

There is a plethora of research on the harms that solitary/segregation cause - and it is not just while the person is incarcerated - these effects can last a lifetime. In other words, the state harms people in their care and custody and then returns them to the community where some people have committed suicide.



## THE RESEARCH

### CALCULATING TORTURE<sup>2</sup>

The most recent research is entitled, **CALCULATING TORTURE** (2023)<sup>2</sup>, the first ever comprehensive accounting of the number of people in solitary in both prisons and jails, using data from the federal Bureau of Justice Statistics, two state prison systems that did not report to BJS, and Vera Institute of Justice’s survey of local jails. Finds there are approximately 122,000 people locked in solitary for 22+ hours on any given day in the United States, far more than previously estimated.

This report documents that the incidence of solitary confinement in this country is far greater than anyone has previously reported. It is now more urgent than ever that local, state, and federal jurisdictions across the United States end this massive system of government torture that causes devastating harm; leads to death; increases the risks of violence in places of detention and outside communities; and is disproportionately inflicted on Black people, Latino/a/x people, Native people, and other people of color. Ending solitary confinement would stop torture, save lives, and improve safety – not only for 122,000 people, but for everyone.

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### REPETITIVE SELF- HARM IN SOLITARY CONFINEMENT<sup>3</sup>

Terry A. Kupers, M.D., M.S.P.

A big part of the psychological harm of solitary confinement in prison and jail is the extraordinarily high risk of suicide and self-harm. Averaging the various states for which we have figures for prison suicide rates, 50% of prison suicides – actions leading to death, as distinct from attempts – occur among the 3% to 6% or 8% of the prison population consigned to some form of solitary confinement. It is important to examine the link between solitary confinement on the one hand, and prison suicide and self-harm on the other. A large amount of research provides evidence that solitary confinement for longer than 15 days causes emotional distress, damage and disability.

According to the United Nations’ Standard Minimum Rules for the Treatment of Prisoners, the “Mandela Rules”: “For the purpose of these rules, solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact.”

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<sup>2</sup> **CALCULATING TORTURE** - Analysis of Federal, State, and Local Data Showing More Than 122,000 People in Solitary Confinement in U.S. Prisons and Jails, A Report by Solitary Watch and the Unlock the Box Campaign, May 2023. <https://solitarywatch.org/wp-content/uploads/2023/05/Calculating-Torture-Report-May-2023-R2.pdf>

<sup>3</sup> **Repetitive Self- Harm in Solitary Confinement**, Terry A. Kupers, M.D., M.S.P., Correctional Health Reporter, Volume 24, No. 3 Summer 2023 ISSN 1526-9450 Pages 53–76. <https://solitarywatch.org/wp-content/uploads/2023/07/CHC-2403-01-Kupers-Self-Harm.pdf>

**But it is not social isolation alone that causes lasting damage; there is also the lack of meaningful activity.**

*(UNs' Standard Minimum Rules for the Treatment of Prisoners, the "Mandela Rules," U.N. Office on Drugs and Crime, December, 2015.)*

...The strongest root "cause" of prison suicide is solitary confinement itself. In that light, self-harm in solitary is iatrogenic. The self-harm and the suicide are iatrogenic in the sense the prisoner known to be at very high risk of suicide or self-harm is sent to the place we know is correlated very strongly with self-harming and suicidal behavior. And typically, mental health staff perform a pre-segregation evaluation and approve the individual's return to solitary confinement. ...

The alternative to returning the self-harming prisoner to solitary confinement is transfer to a mental health setting, perhaps a "stepdown" residential mental health treatment unit within the prisons. A basic principle of the Hippocratic Oath sworn by physicians is "first, do no harm."

**IN THE NEWS**

**Nowhere else to go - Solitary Confinement as Mental Health Care <sup>4</sup>**

Solitary confinement, or the isolation of incarcerated people in housing that severely restricts out-of-cell time and other activities, is a controversial practice in jails and prisons. Placement into solitary confinement is associated with adverse health outcomes, including psychiatric distress, self-harm, and deterioration of physical well-being.<sup>1,2</sup> Like incarceration broadly, solitary confinement disproportionately affects people from racial and ethnic minority populations, particularly Black people.<sup>3</sup> For both its harms and racial inequities, long-term solitary **confinement** has attracted increasing scrutiny, yet even short periods of such confinement can be harmful. A troubling pattern has emerged across the US of using short-term solitary confinement to manage acute psychiatric distress; these practices reflect the ongoing crisis of inadequate community-based mental health services and the results of leaving such care to jails and prisons.

**The Mayor Calls Solitary a Safety Measure. They Call It Torture.**

More than a half-century after he was locked in solitary confinement on Rikers Island, Victor Pate still avoids elevators.

"The enclosure, that small space when the doors close: It's so reminiscent of going into that cell and the door closing on me," Mr. Pate, 71, said at a City Hall rally this week supporting a bill [banning solitary confinement](#) in most cases in New York. "I've not gotten beyond that."

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<sup>4</sup> **Nowhere Else to Go—Solitary Confinement as Mental Health Care**

Nathaniel P. Morris, MD; Jacob M. Izenberg, MD, June 16, 2023.

<https://jamanetwork.com/journals/jama/article-abstract/2806498>

## ALTERNATIVES TO SOLITARY <sup>5</sup>

“Alternatives to Solitary Enhance Prison Safety Instead of addressing the root causes of violence in prisons, solitary confinement is used as a catch-all for responding to disobedience and managing populations. This has created a cycle within carceral facilities where both violent and nonviolent behaviors are punished with more violence. The following approaches have been shown to reduce violence against both correctional staff and incarcerated people.

**Decarceration:** When examining rates of prison violence in comparison with population levels, a 2007 study found that individuals with histories of violent behavior were more likely to commit violent acts when housed in an overcrowded facility. By decreasing overcrowding, facilities decrease the likelihood that a volatile individual will be placed in a situation that instigates violent acts. In addition, fewer people in prison means more resources for programming and other options shown to reduce violence.

**Increased Visitation:** A 2012 study found that individuals who were visited while incarcerated were less likely to commit both high and low-level misconduct. The same study found that those who had visitation were less likely to reoffend upon release. Through increasing opportunities to connect with loved ones, correctional departments can disrupt violence by fostering meaningful human connections and systems of support.

**Racial Diversity Among Staff:** Evidence gathered from a 1995 study found a correlation between prisons’ ratios of white to Black correctional staff and rates of both inmate and staff assaults. This lack of diversity, combined with specific acts of racist discrimination and abuse, is a barrier to trust between staff and incarcerated individuals.

**Positive Incentives:** Reward systems in prison (RSPs), or remunerative controls, are used throughout the world as an alternative to punitive or coercive control methods of prison management. A review of current research on RSPs showed that they are “effective in advancing mental health among mentally ill participants, decreasing violent behavior among high-risk participants, increasing academic achievement, and reducing problem behavior among adolescents and young adults.”

**Increased Autonomy:** As opposed to the “control model” that dominates U.S. prisons, some European prisons rely more on a “responsibility model” or “consensus model” that gives

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<sup>5</sup> NEW FACT SHEET EXPLODES THE MYTH THAT SOLITARY CONFINEMENT REDUCES VIOLENCE IN PRISONS, by [Jean Casella](#) | February 28, 2023. <https://solitarywatch.org/2023/02/28/new-fact-sheet-explodes-the-myth-that-solitary-confinement-reduces-violence-in-prison/>

incarcerated people greater freedom and responsibility, while prison staff enact the minimum amount of control required to keep order. The principle of “normalization” is central to Norwegian prisons’ approach. When building Halden Prison, Norway set out to “design life inside correctional facilities to resemble life outside prison as much as possible.” Although “nearly half [of incarcerated people at Halden are imprisoned for violent crimes like murder, assault or rape,” incidents of violent behavior or threats are extremely rare.

**Enhanced Programming:** Data collected and analyzed by the U.S. Bureau of Justice Statistics found that participation in substance abuse, sex offender, family and life skills, vocational, and educational programming was associated with significant reductions in prisoner-on-prisoner violence. Additionally, a 2003 study of 4,000 incarcerated people across 185 facilities showed that individuals “employed both inside and outside of the facility were significantly less likely to assault staff.”

**Staff Training and Approaches:** The Norwegian Department of Correctional Services (NDCS) base their operations on principles of “dynamic security,” emphasizing communications and relationship-building between staff and incarcerated people. In 2015, following participation in an exchange program with the NDCS, North Dakota began instituting reforms targeted at reducing the use of solitary confinement. Included in these reforms were the development of a transition unit for those exiting solitary, changes to disciplinary policies, changes to correctional officer training, and “articulat[ing] individualized plans that incorporate positive reinforcement strategies to address negative behaviors.”

Between January 2016 and December 2019, the number of people in solitary confinement in North Dakota decreased by more than 74% and the average length of solitary sentences decreased by 59%.”

Community Alliance on Prisons urges the committee to look at the harms caused by the state and the big impact that has on the families and communities to which they return. We CAN stop the harm and give people a chance at success. Letting people sit idle with no programming or visitation is cruel and serves no one, including the correctional system.

Mahalo nui,

Kat Brady



Committee: Corrections, Military & Veterans  
Hearing Date/Time: Wednesday, January 31, 2024 at 9:00am  
Place: Conference Room 430 & via Videoconference  
Re: Testimony of the ACLU of Hawai'i in support of HB1812 Relating to Corrections

Dear Chair Hashem, Vice Chair Chun and Committee Members:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes in **support of HB1812**. This bill restricts the use of solitary confinement in state operated and state contracted correctional facilities, with certain specified exceptions. The bill also requires the Department to use appropriate alternatives to solitary confinement for incarcerated persons who are members of a vulnerable population.

The ACLU of Hawai'i is committed to transforming Hawai'i's criminal legal system and building anew vision of safety and justice. First and foremost, we **advocate for diversion and decarceration strategies to reduce the number of people in our jails and prisons**, the majority of whom are Native Hawaiians, Pacific Islanders and people of color. Simultaneously, we advocate for evidence based community supervision practices, humane conditions of confinement, meaningful rehabilitation opportunities, and comprehensive re-entry support services that starts from the first day of incarceration.

Over the past few decades, Hawai'i, similar to the continental United States, has increasingly used solitary confinement to hold incarcerated people in isolation. Although the Department of Public Safety uses the label "restrictive housing," "administrative segregation," or "disciplinary segregation" rather than solitary confinement, this is merely a difference in terminology that amounts to the same practice.

Solitary confinement that lasts more than 15 consecutive days is recognized by the United Nations and various human rights organizations as torture. This practice places incarcerated persons alone in cells for 22-24 hours per day with little or no human interaction or outside stimulus, often causing negative psychological reactions in all persons subjected to it. Solitary confinement is known to be especially devastating for people with mental illness who are disproportionately represented in solitary confinement.<sup>1</sup> It can also bring on mental illness where it did not exist before. Some people are confined in solitary for months, years, and even decades.

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<sup>1</sup> Roy King, The Rise and Rise of Supermax: An American Solution in Search of a Problem? 1 PUNISHMENT & SOC. 163, 177 (1999). See also, <https://news.un.org/en/story/2011/10/392012>

Solitary confinement is extremely costly, and studies show that it neither deters violent behavior in jails and prisons nor prevents recidivism.<sup>2</sup> Research also shows that incarcerated people deprived of normal human contact cannot properly reintegrate into society, resulting in higher recidivism rates.<sup>3</sup>

As long as jails and prisons exist, we must limit the use of solitary confinement. At minimum, Hawai'i's practices must meet the **American Bar Association Standards for Criminal Justice, Treatment of Prisoners**.<sup>4</sup> This requires appropriate procedures prior to placing a person in solitary; decreasing extreme isolation, close mental health monitoring for people in solitary and ending the solitary confinement of persons with mental illness.

In addition, better alternatives exist to placing people in solitary confinement. Here are a few examples of successful federal and state measures:

- Colorado Department of Corrections had an external review conducted of its administrative segregation policies and practices. As a result of reforms implemented, Colorado reduced its administrative segregation by 36.9%.
- Michigan reformed its administrative segregation practices through incentive programs. As a result, the number of violent incidents and misconduct dropped.
- Maine reduced its special management population by over 50% and expanded access to programming and social stimulation.
- Mississippi changed its use of solitary confinement and reduced the segregated population of one institution from 1000 to 150 and eventually closed the entire unit.

### **PSD Has Failed to Provide Solitary Confinement Data for Consideration by Lawmakers**

In the past, the Department of Public Safety (now renamed the Department of Corrections and Rehabilitation) has opposed similar bills, in part, because it “has many similarities with PSD’s established policies and procedures which are periodically reviewed and updated as appropriate.”

Rather than citing system-wide data to support their opposition in the past, PSD/DCR cited anecdotal data. **While anecdotal data should be considered in shaping public policy, it is not a substitute for system-wide data.** PSD, like all governmental agencies, have a responsibility to provide agency wide data to assist Hawai'i lawmakers while deliberating on proposed bills that may become public policies.

To assist with meaningful discussion on this measure, the following questions are offered for consideration by lawmakers:

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<sup>2</sup> DANIEL P. MEARS, URBAN INST., EVALUATING THE EFFECTIVENESS OF SUPERMAX PRISONS 4 (2006).

<sup>3</sup> See, e.g., KERAMET REITER, PAROLE, SNITCH, OR DIE: CALIFORNIA’S SUPERMAX PRISONS AND PRISONERS 50 (2006).

<sup>4</sup> ABA Standards for Criminal Justice, Treatment of Prisoners, 23-1, et. Seq (2010).

1. Is it a goal or objective of DCR to reduce the number of people placed under administrative and disciplinary segregation?<sup>5</sup>
2. What is the **current total number and percentage** of people in **administrative segregation** compared to the general population in Hawai‘i’s jails and prisons and out-of-state private for profit prisons? How does the current total number and percentage of people placed in administrative segregation compare to 5 years ago?
3. What is the **current total number and percentage of people in disciplinary segregation** compared to the general population in Hawai‘i’s jails and prisons and out-of-state private for profit prisons? How does the current total number and percentage of people placed in disciplinary segregation compare to 5 and 10 years ago?
4. What **reforms** have DCR implemented in the past five years to reduce the number of people placed under administrative and disciplinary segregation?
5. How are DCR’s current policies and practices relating to administrative and disciplinary segregation **similar** to the proposed bill?
6. How are DCR’s current policies and practices relating to administrative and disciplinary segregation **different** from the proposed bill?
7. How **many people** are placed under **administrative segregation** in Hawai‘i’s jails and prisons, as well as Saguaro prison in Arizona?
8. How **many people** are placed under **disciplinary segregation** in Hawai‘i’s jails and prisons, as well as Saguaro prison in Arizona?
9. What is the **duration** under **administrative segregation (shortest to longest length)**?
10. What is the **duration** under **disciplinary segregation (shortest to longest length)**?
11. How many people in our jails and prisons in Hawai‘i and out of state private for profit prisons have **committed suicide** while under administrative segregation or disciplinary segregation, or upon release from administrative segregation or disciplinary segregation in the past five years?
12. Has the Department of Public Safety **consulted with experts to conduct a third party external review of its administrative and administrative segregation policies and practices** similar to Colorado that reduced its administrative segregation population by 30%?

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<sup>5</sup> <https://www.civilbeat.org/2016/12/do-hawaii-prisons-overuse-solitary-confinement/>

Since the vast majority of people in solitary confinement are eventually released back into the community, it is essential that we invest our limited public dollars in proven alternatives that lead to greater rehabilitation and pave the way for successful re-entry and reintegration.

In closing, we respectfully request that you pass HB1812.

Sincerely,

**Carrie Ann Shirota**

Carrie Ann Shirota

Policy Director

ACLU of Hawai'i

[cshirota@acluhawaii.org](mailto:cshirota@acluhawaii.org)

*The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.*

American Civil Liberties Union of Hawai'i  
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**HB-1812**

Submitted on: 1/28/2024 9:18:42 AM

Testimony for CMV on 1/31/2024 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Michael EKM Olderr	Individual	Comments	Written Testimony Only

Comments:

I appreciate the intent of this bill, but I don't think it goes far enough. I believe the practice of solitary confinement should be entirely banned in our state prisons. This bill already highlights the danger that solitary confinement does to an individual, so why keep the practice in use? Many states and Countries have started to ban the practice because it does more damage to prisoners rather than helping them readjust to society, which should be our goal all along.

**HB-1812**

Submitted on: 1/29/2024 10:26:30 AM

Testimony for CMV on 1/31/2024 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Nicholas Chagnon	Individual	Support	Written Testimony Only

Comments:

Dear Members of the Committee,

I am writing to express my strong support of this bill. The solitary confinement in US prisons is scandalous due to its wide, unjustified, and harmful use. Solitary confinement should be used only rarely if at all, to separate the few inmates who pose a truly imminent risk to other inmates and/or staff. It's too often used for base administrative purposes, such as punishment for offenses like possession of contraband. This must end and the state has an obligation to reign in the use of solitary.

Thank you for your consideration,

Nicholas J. Chagnon, Ph.D

**HB-1812**

Submitted on: 1/29/2024 1:19:52 PM

Testimony for CMV on 1/31/2024 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Isis Usborne	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Hashem and Committee Members,

I am in strong support of this bill. The inhumane and torturous practice of solitary confinement disproportionately impacts those incarcerated individuals who are already subject to institutional oppression, such as trans and gender nonconforming people as those struggling with mental illness. Additionally, the use of solitary confinement is shown to have high levels of detriment to individuals mental and overall well being, and low levels of effectiveness when it comes to preventing recidivism and incentivizing safer behaviors.

Mahalo for the opportunity to submit testimony.

- Isis Usborne

EPT 1.5L at the William S. Richardson School of Law

**HB-1812**

Submitted on: 1/29/2024 4:36:07 PM

Testimony for CMV on 1/31/2024 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Wendy Gibson-Viviani	Individual	Support	Written Testimony Only

Comments:

TO: COMMITTEE ON CORRECTIONS, MILITARY, AND VETERANS

RE: HB 1812 (In SUPPORT) RELATING TO CORRECTIONS.

Hearing: Wednesday, January 31, 2024 at 9:00 AM. Room 430 and Videoconference

Dear Chair Hashem, Vice-Chair Chun, and Members of the Committee,

My name is Wendy Gibson-Viviani. I'm a nurse, writing in SUPPORT Of HB1812. I believe that solitary confinement is torture and especially damaging to juveniles and people with mental health issues.

*“ Numerous studies have documented the harmful psychological effects of long-term solitary confinement, which can produce debilitating symptoms, such as:*

- *Visual and auditory hallucinations*
- *Hypersensitivity to noise and touch*
- *Insomnia and paranoia*
- *Uncontrollable feelings of rage and fear*
- *Distortions of time and perception*
- *Increased risk of suicide*
- *Post-traumatic stress disorder (PTSD)*

*These effects are **magnified** for two particularly vulnerable populations: juveniles, whose brains are still developing, and **people with mental health issues**, who are estimated to make up one-third of all prisoners in isolation.”*

We need to do a better job of addressing mental health issues and provide alternatives to isolation. HB1812 would prohibit indefinite solitary, require the use of **appropriate alternatives** for **vulnerable populations** and ensure that policies and procedures are clearly outlined.

Please support this valuable bill. Thank you for the opportunity to share my views.

Wendy Gibson-Viviani RN/BSN

Kailua

**HB-1812**

Submitted on: 1/30/2024 8:57:04 AM

Testimony for CMV on 1/31/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Barbara Polk	Individual	Comments	Written Testimony Only

Comments:

HB1812 purports to limit solitary confinement (by whatever name) but fails to do so, except possibly for vulnerable individuals. While those changes are welcome, the bill permits, and at points seems to assume, holding people in solitary confinement for more than 15 days. It requires a *review* after 15 days, but this assumes that confinement can continue after that.

Solitary confinement for more than 15 days is considered to be torture internationally, and the US has claimed that as well, when done by other countries. We **MUST** ban solitary confinement for more than 15 days for **ALL** persons who are incarcerated (with the single exception of a person who asks or agrees, for their own safety, to be separated from the regular population).

The legislature has changed the name and purpose of DPS to focus on rehabilitation, encouraging a full change in the ways that people committed to jail or prison are treated. By passing this bill, as written, it seriously undermines that goal by allowing torture.

**Please amend this bill to restrict solitary confinement to 15 days.**

**HB-1812**

Submitted on: 1/30/2024 9:13:47 AM

Testimony for CMV on 1/31/2024 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Carolyn Eaton	Individual	Support	Written Testimony Only

Comments:

Aloha, Chair Hashem, Vice Chair Chun and members of the Committee,

My name is Carolyn Eaton and I strongly support this bill. Terrible harm has come with the Department's use of solitary confinement, please advance this measure which provides important restrictions on its use. The wisdom of the best minds on this issue, including that of our own Ted Sakai, should lead our actions.

Mahalo for your consideration of my position in support.

**LATE**

**HB-1812**

Submitted on: 1/30/2024 9:23:05 PM

Testimony for CMV on 1/31/2024 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Olivia Chang	Individual	Support	Written Testimony Only

Comments:

The World Medical Association calls solitary confinement a form of torture. The UN has prohibited solitary confinement of more than 15 consecutive days and denounces the use of solitary for women and children. Solitary confinement is cruel and unusual punishment, and the US is unique among most countries on how much our prison systems use this form of torture.

Solitary is so severe as to be inherently degrading, threatening an individual's personal integrity and membership in a community. Solitary causes a host of terrible effects on people, including psychological and physical harm. Formerly incarcerated people who had spent time in solitary had higher overall mortality 5 years after release than did those who had not spent time in solitary confinement.

Solitary makes prisons more dangerous. After Washington, Colorado, and Mississippi enacted reforms to reduce the number of people sent to solitary and limit the length of time people were allowed to spend in solitary, assaults on staff decreased by 40 to 50 percent. After North Dakota implemented changes that resulted in a 75% reduction in the use of solitary confinement, infractions involving violence decreased at one prison overall and it decreased within the units at both prisons that were previously used for solitary confinement. Both incarcerated persons and staff members reported improvements in their health and well-being, enhanced interactions with one another, and less exposure to violence following the reforms.

And after release, solitary confinement increases the chance that incarcerated individuals are convicted of a new crime. One study found that Danish inmates placed in disciplinary segregation as a punishment were less likely to be employed post-release, compared to inmates who received difference disciplinary sanctions for an infraction, and more likely to be convicted of a new crime. Placing incarcerated people in solitary significantly compromise[s] their chance of successfully reintegrating into society after release.

States like New York, New Jersey, and Colorado have already implemented these reforms, because they know banning solitary confinement is not only the right thing to do, but saves money. Solitary New York State's HALT Solitary Confinement Act, passed in 2021, is in on the path to saving the state \$1.3 billion over ten years.

Solitary confinement is deeply immoral. What does it say about us that we continue to allow this practice? It's long past time for us to ban this cruel and unusual punishment.





**LATE**

**HB-1812**

Submitted on: 1/31/2024 6:32:21 AM

Testimony for CMV on 1/31/2024 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Angela Melody Young	CARES	Support	In Person

Comments:

CARES testifies in strong support.