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# A BILL FOR AN ACT

RELATING TO THE DETENTION OF MINORS.

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

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

1. By amending subsections (d) and (e) to read:

"(d) No minor shall be held in a detention facility for juveniles or shelter longer than twenty-four hours, excluding weekends and holidays, unless a petition or motion for revocation of probation~~[,]~~ or motion for revocation of protective supervision has been filed, or unless the judge orders otherwise after a court hearing. No ex parte motions shall be considered. ~~[For the purposes of this section:~~

~~(1) Unless a court finds, after a hearing and in writing, that it is in the interest of justice as provided for in subsection (g) (2), a minor believed to come within section 571-11(1), or a minor awaiting trial or another legal process, who is treated as an adult for purposes of prosecution in criminal court and housed in a secure facility shall not:~~



~~(A) Have sight or sound contact with adult inmates,  
or~~

~~(B) Be held in any jail or lockup for adults,  
except as provided in subsection (g) (3); and~~

~~(2) Detention in a jail or lockup for adults may be  
permitted for:~~

~~(A) A minor accused of a non-status offense who is  
held for a period not to exceed six hours;  
provided that the minor is being held:~~

~~(i) For processing or release;~~

~~(ii) While awaiting transfer to a juvenile  
facility; or~~

~~(iii) For a court appearance that occurs within  
the period of detention; or~~

~~(B) A minor accused of a non-status offense who is  
awaiting an initial court appearance that will  
occur within forty-eight hours of the minor being  
taken into custody, excluding weekends and  
holidays, and where the jail or lockup for adults  
is in a location:~~



1           ~~(i) Outside a metropolitan statistical area, as~~  
2           ~~defined by the Office of Management and~~  
3           ~~Budget, and no acceptable alternative~~  
4           ~~placement is available;~~

5           ~~(ii) Where the distance to be traveled or the~~  
6           ~~lack of highway, road, or transportation~~  
7           ~~does not allow for court appearances within~~  
8           ~~forty eight hours, excluding weekends and~~  
9           ~~holidays, such that a brief delay of no more~~  
10           ~~than an additional forty eight hours is~~  
11           ~~excusable; or~~

12           ~~(iii) Where safety concerns exist, such as severe~~  
13           ~~and life threatening weather conditions that~~  
14           ~~do not allow for reasonably safe travel, in~~  
15           ~~which case the time for an appearance may be~~  
16           ~~delayed until twenty four hours after the~~  
17           ~~time that conditions allow for reasonably~~  
18           ~~safe travel;~~

19           ~~provided that the minor shall not have sight or sound~~  
20           ~~contact with adult inmates; provided further that the~~  
21           ~~State shall have a policy in effect that requires~~



~~individuals who work with both minor and adult inmates  
in collocated facilities to be trained and certified  
to work with juveniles.]~~

(e) No minor ~~[may]~~ shall be held after the filing of a petition or motion, as specified in subsection (d), unless an order for continued detention or shelter has been made by a judge after a court hearing. If there is probable cause to believe that the minor comes within section 571-11(1), the minor may be securely detained, following a court hearing, in a detention facility for juveniles or may be held in a shelter. If there is probable cause to believe that the minor comes within section 281-101.5 or 571-11(2), the minor may be held, following a court hearing, in a shelter but shall not be securely detained in a detention facility for juveniles for longer than twenty-four hours, excluding weekends and holidays, unless the minor is subject to the provisions of chapter 582, Interstate Compact on Juveniles, or chapter 582D, Interstate Compact for Juveniles, or is allegedly in or has already been adjudicated for a violation of a valid court order, as provided under the federal Juvenile Justice and Delinquency Prevention Act of 1974, as amended."



2. By amending subsections (g) through (i) to read:

"(g) When a minor is ordered to be held or detained by the court[+]

~~(1) Where a minor transferred for criminal proceedings pursuant to a waiver of family court jurisdiction is detained, the minor shall not:~~

~~(A) Have sight or sound contact with adult inmates,~~  
~~or~~

~~(B) Be held in any jail or lockup for adults,~~  
~~unless a court finds, after a hearing and in writing,~~  
~~that it is in the interest of justice,~~

~~(2) In determining whether it is in the interest of justice to permit a minor to be held in any jail or lockup for adults, or to have sight or sound contact with adult inmates, a court shall consider:~~

~~(A) The age of the minor,~~

~~(B) The physical and mental maturity of the minor,~~

~~(C) The present mental state of the minor, including whether the minor presents an imminent risk of self harm,~~



~~(D) The nature and circumstances of the alleged offense;~~

~~(E) The minor's history of prior delinquent acts;~~

~~(F) The relative ability of the available adult and juvenile detention facilities to meet the specific needs of the minor and protect the safety of the public as well as other detained minors; and~~

~~(G) Any other relevant factor; and~~

~~(3) If a court determines that it is in the interest of justice to permit a minor to be held in any jail or lockup for adults, or to have sight or sound contact with adult inmates:~~

~~(A) The court shall hold a hearing no less frequently than once every thirty days, or in the case of a rural jurisdiction, no less frequently than once every forty five days, to review whether it remains in the interest of justice to permit the minor to be held in a jail or lockup for adults or to have sight or sound contact with adult inmates; and~~



1           ~~(B) The minor shall not be held in any jail or lockup~~  
2           ~~for adults, or permitted to have sight or sound~~  
3           ~~contact with adult inmates, for more than one~~  
4           ~~hundred eighty days, unless the court, in~~  
5           ~~writing, determines there is good cause for an~~  
6           ~~extension, or the minor expressly waives this~~  
7           ~~limitation.]~~

8           , the minor shall not be held in any jail, lockup, or prison for  
9           adults.

10           (h) A minor 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 minor's behavior, and only if:

15           (A) The behavior poses an immediate and substantial  
16           risk of danger to the minor's self or another  
17           individual, or a serious and immediate threat to  
18           the safety and orderly operation of the facility;  
19           provided that any decision to hold a minor in  
20           room confinement due to a mental health emergency  
21           shall be made by a mental health professional and



1 based upon the mental health professional's  
2 examination of the minor; or

3 (B) The minor is an imminent escape risk;

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

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

18 (4) If a minor is placed in room confinement, the  
19 following individuals shall be notified on the next  
20 business day and provided the reasons for the room





1 confinement as well as the location and duration of  
2 the confinement:

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

4 (B) The presiding judge who ordered the minor to be  
5 held at the facility;

6 (C) The deputy chief court administrator; and

7 (D) The social services manager of the juvenile  
8 client services branch for the circuit court of  
9 the first circuit;

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

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



1 next business day, at which time the minor shall be  
2 provided legal representation;

3 (7) A minor shall not be returned to room confinement  
4 immediately after returning to the general population  
5 from room confinement for the purposes of evading the  
6 reporting requirements and room confinement  
7 restrictions pursuant to this section;

8 (8) If the minor is not returned to the general population  
9 following a hearing pursuant to paragraph (6), the  
10 minor shall be transferred to a location where  
11 services may be provided to the minor without the need  
12 for room confinement; provided that if a mental health  
13 professional determines that the level of crisis  
14 service needed is not presently available at the  
15 location, the superintendent or deputy superintendent  
16 of the facility shall initiate a referral to a  
17 facility that can meet the needs of the minor;

18 (9) All rooms used for room confinement shall have  
19 adequate and operational lighting, ventilation for the  
20 comfort of the minor, and shall be clean and resistant  
21 to suicide and self-harm;



1 (10) The minor shall have access to drinking water, toilet  
2 facilities, hygiene supplies, and reading materials  
3 approved by a mental health professional;

4 (11) The minor shall have the same access as provided to  
5 minors in the general population of the facility to  
6 meals, contact with parents or legal guardians, legal  
7 assistance, educational programs, and medical and  
8 mental health services;

9 (12) The minor shall be continuously monitored by facility  
10 staff; and

11 (13) The judiciary shall post quarterly on the judiciary's  
12 website a report of its detention center detailing  
13 their compliance with this section. Each report shall  
14 include:

15 (A) The number of incidents of room confinement every  
16 year;

17 (B) The number of minors impacted;

18 (C) The age, gender identity, and race of minors  
19 impacted;

20 (D) Any alternative strategies employed before the  
21 use of room confinement, the reasons those



1 alternative strategies failed, and why room

2 confinement was necessary; and

3 (E) The incidence of mental illness.

4 For the purposes of this subsection:

5 "Mental health professional" means a qualified mental  
6 health professional or mental health professional supervised by  
7 a qualified mental health professional.

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

15 (i) Provisions regarding bail shall not be applicable to  
16 minors detained in accordance with this chapter~~[except]~~;  
17 provided that bail may be allowed after a minor has been  
18 transferred for criminal prosecution pursuant to waiver of  
19 family court jurisdiction."

20 3. By amending subsections (k) and (l) to read:



1        "(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 juvenile detention facility [~~or correctional~~  
5 ~~facility~~] by order of a judge for the purposes set forth in  
6 section 832-12, 832-15, or 832-17.

7        (1) A minor may temporarily be held for processing or  
8 while in transit to court in an adult jail or lockup in a county  
9 that does not have a juvenile detention facility if the minor  
10 is:

11        (1) Separated by sight and sound from adult inmates; and

12        (2) Held no longer than is necessary to be transported to  
13 court or the nearest juvenile detention facility.

14        The department of human services through the office of  
15 youth services shall certify police station cellblocks and  
16 community correctional centers that provide sight and sound  
17 separation between minors and adults in temporary secure  
18 custody[~~-~~] pursuant to this subsection. Only cellblocks and  
19 centers certified under this subsection shall be authorized to  
20 [~~detain~~] temporarily hold juveniles pursuant to [~~section 571-~~  
21 ~~32(d)-~~] this subsection. The office of youth services may



1 develop sight and sound separation standards, issue  
2 certifications, monitor and inspect facilities for compliance,  
3 cite facilities for violations, withdraw certifications, and  
4 require certified facilities to submit data and information as  
5 requested. In addition, the office of youth services may  
6 monitor and inspect all cellblocks and centers for compliance  
\* 7 with [~~section 571-32(d).~~] this subsection."

8 SECTION 2. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

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



**Report Title:**

Minors; Detention; Adult Correctional Facilities; Prohibition

**Description:**

Prohibits minors from being held in jails, lockups, or prisons for adults, except temporarily under certain circumstances.  
(CD1)

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