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# A BILL FOR AN ACT

RELATING TO CORRECTIONS.

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

1           SECTION 1. The legislature finds that experts have long  
2 documented the detrimental effects of restrictive housing on  
3 individuals. Spending time in restrictive housing has been  
4 found to increase the risk of premature death, even after  
5 release from incarceration. Restrictive housing is a severe  
6 form of punishment that is closely associated with long-lasting  
7 psychological harm and poor post-release outcomes. The official  
8 purposes of restrictive housing are typically divided into  
9 punishment and correctional facility management. When used as  
10 punishment by facility authorities, sometimes called  
11 "disciplinary custody" or "disciplinary segregation",  
12 restrictive housing serves as a response to misconduct charges  
13 such as fighting or drug use. When used for correctional  
14 facility management, often called "administrative custody" or  
15 "administrative segregation", restrictive housing serves to  
16 separate inmates deemed to pose a threat to staff or other  
17 inmates, or as protective custody for inmates who seem or are



1 determined to be unsafe in the general prison population.  
2 Although the purposes of restrictive housing vary, correctional  
3 facility conditions and restrictions are often similar whether  
4 an incarcerated person is in disciplinary or administrative  
5 custody.

6 The legislature also finds that an overwhelming body of  
7 evidence shows that restrictive housing, which deprives inmates  
8 of meaningful human contact, including phone privileges that  
9 allow them to speak with loved ones, creates permanent  
10 psychological, neurological, and physical damage. Studies show  
11 that the detrimental effects of restrictive housing far exceed  
12 the immediate psychological consequences identified by previous  
13 research, such as anxiety, depression, and hallucinations.  
14 Unfortunately, these detrimental effects do not disappear once  
15 an inmate is released from restrictive housing. Even after  
16 release back into a community setting, a former inmate faces an  
17 elevated risk of suicide, drug overdose, heart attack, and  
18 stroke.

19 The legislature recognizes that as of 2021, legislation to  
20 ban or limit the use of restrictive housing in prison has been  
21 introduced in thirty-two states and the United States Congress.



1 Further, twenty-four states have enacted statutes that limit or  
2 prohibit restrictive housing while other states have limited its  
3 use through administrative code, policy, or court rules. Many  
4 of these new laws, codes, policies, or court rules represent  
5 significant reforms to existing practices and thus have the  
6 potential to facilitate more humane and effective practices in  
7 prisons and jails.

8 Accordingly, the purpose of this Act is to:

- 9 (1) Beginning July 1, 2026, restrict the use of  
10 restrictive housing in state-operated and  
11 state-contracted correctional facilities, with certain  
12 specified exceptions;
- 13 (2) Establish a restrictive housing legislative working  
14 group by August 1, 2025, to develop and recommend more  
15 comprehensive laws, policies, and procedures regarding  
16 restrictive housing for members of vulnerable  
17 populations by January 8, 2027;
- 18 (3) Require the Hawaii correctional system oversight  
19 commission to review restrictive housing placements on  
20 an annual basis;



- 1 (4) Authorize the department of corrections and
- 2 rehabilitation, by December 1, 2027, to implement, if
- 3 practicable, policies and procedures recommended by
- 4 the restrictive housing working group related to
- 5 committed persons who are members of certain
- 6 vulnerable populations and placed in restrictive
- 7 housing and develop transition and service plans for
- 8 these committed persons in restrictive housing; and
- 9 (5) Require interim and final reports to the legislature
- 10 and Hawaii correctional system oversight commission.

11 SECTION 2. Chapter 353, Hawaii Revised Statutes, is  
 12 amended by adding a new section to be appropriately designated  
 13 and to read as follows:

14 **"§353- Restrictive housing; restrictions on use;**  
 15 **policies and procedures.** (a) Beginning July 1, 2026, except as  
 16 otherwise provided in subsection (d), the use of restrictive  
 17 housing in correctional facilities shall be restricted as  
 18 follows:

- 19 (1) A committed person shall not be placed in restrictive
- 20 housing unless there is reasonable cause to believe
- 21 that the committed person would create a substantial



1           risk of immediate serious harm to the committed  
2           person's self or another, as evidenced by recent  
3           threats or conduct, and that a less restrictive  
4           intervention would be insufficient to reduce this  
5           risk; provided that the correctional facility shall  
6           bear the burden of establishing the foregoing by clear  
7           and convincing evidence;

8           (2) A committed person shall only be held in restrictive  
9           housing pursuant to initial procedures and reviews  
10           that provide timely, fair, and meaningful  
11           opportunities for the committed person to contest the  
12           confinement. These procedures and reviews shall  
13           include the right to:

14           (A) An initial hearing held within twenty-four hours  
15           of placement in restrictive housing, in the  
16           absence of exceptional circumstances, unavoidable  
17           delays, or reasonable postponements;

18           (B) Appear at the hearing;

19           (C) Be represented at the hearing;

20           (D) An independent hearings officer; and



- 1           (E) Receive a written statement of reasons for the  
2           decision made at the hearing;
- 3           (3) The final decision to place a committed person in  
4           restrictive housing shall be made by the warden or the  
5           warden's designee;
- 6           (4) A committed person shall not be placed or held in  
7           restrictive housing if the warden or the warden's  
8           designee determines that the committed person no  
9           longer meets the criteria for the confinement;
- 10          (5) A disciplinary sanction of restrictive housing imposed  
11          on a committed person who is subsequently removed from  
12          restrictive housing pursuant to this subsection shall  
13          be deemed completed;
- 14          (6) During a facility-wide lockdown, a committed person  
15          shall not be placed in restrictive housing for more  
16          than thirty consecutive days, or for more than  
17          forty-five days total during any sixty-day period;
- 18          (7) Cells or other holding or living space used for  
19          restrictive housing shall be properly ventilated, lit,  
20          temperature-controlled, clean, and equipped with  
21          properly functioning sanitary fixtures;



- 1       (8) A correctional facility shall maximize the amount of  
2       time spent outside of the cell by a committed person  
3       held in restrictive housing by providing the committed  
4       person with access to recreation, education,  
5       clinically appropriate treatment therapies,  
6       skill-building activities, and social interaction with  
7       staff and other committed persons, as appropriate;
- 8       (9) A committed person held in restrictive housing shall  
9       not be denied access to:
- 10       (A) Food, water, or any other necessity;  
11       (B) Appropriate medical care, including emergency  
12       medical care; and  
13       (C) Legal counsel;
- 14       (10) Each committed person held in restrictive housing  
15       shall receive a written copy of the committed person's  
16       sanction and the criteria for a pathway back into the  
17       general population. The department shall ensure that  
18       the committed person understands the reason for the  
19       sanction and the criteria for the pathway back into  
20       the general population. The committed person's case  
21       manager shall work with the committed person in



1 restrictive housing to develop a plan of action to  
2 reduce the committed person's violations, return the  
3 committed person to the general population, and work  
4 on the committed person's rehabilitation; and

5 (11) A committed person shall not be released directly from  
6 restrictive housing to the community during the final  
7 one hundred eighty days of the committed person's term  
8 of incarceration, unless necessary for the safety of  
9 the committed person, staff, other committed persons,  
10 or the public. This paragraph shall not be  
11 interpreted to delay a committed person's scheduled  
12 release.

13 (b) Beginning July 1, 2026, except as otherwise provided  
14 in subsection (c), a committed person who is twenty-one years of  
15 age or younger, or is pregnant, in the postpartum period, or  
16 recently suffered a miscarriage or terminated pregnancy shall  
17 not be placed in restrictive housing; provided that a committed  
18 person who:

19 (1) Is twenty-one years of age or younger, has a  
20 disability based on mental illness, or has a  
21 developmental disability shall:



- 1           (A) Not be subject to discipline for refusing  
2           treatment or medication, or for engaging in  
3           self-harm or related conduct or threatening to do  
4           so; and
- 5           (B) Be screened by a correctional facility clinician  
6           or the appropriate screening service pursuant to  
7           rules and, if found to meet the criteria for  
8           civil commitment, shall be placed in a  
9           specialized unit designated by the director or  
10          deputy director of the department, or civilly  
11          committed to the least restrictive appropriate  
12          short-term care or psychiatric facility  
13          designated by the department of health, but only  
14          if the committed person would otherwise have been  
15          placed in restrictive housing; or
- 16          (2) Is pregnant, is in the postpartum period, or recently  
17          suffered a miscarriage or terminated a pregnancy,  
18          shall alternatively be placed in an appropriate  
19          medical or other unit designated by the director or  
20          deputy director of the department, but only if the



1           committed person would otherwise have been placed in  
2           restrictive housing.

3           (c) Beginning July 1, 2026, the use of restrictive housing  
4 in correctional facilities shall be permitted only under the  
5 following limited circumstances:

6           (1) The warden or the warden's designee determines that a  
7           facility-wide lockdown is necessary to ensure the  
8           safety of committed persons in the facility, until the  
9           warden or the warden's designee determines that the  
10           threat to a committed person's safety no longer  
11           exists. The warden or the warden's designee shall  
12           document the specific reasons that any facility-wide  
13           lockdown was necessary for more than twenty-four  
14           hours, and the specific reasons why less restrictive  
15           interventions were insufficient to accomplish the  
16           facility's safety goals. Within twelve hours of a  
17           decision to extend a facility-wide lockdown beyond  
18           twenty-four hours, the director or deputy director of  
19           the department shall publish the foregoing reasons on  
20           the department's website and shall provide meaningful



1           notice to the legislature of the reasons for the  
2           lockdown;

3           (2) The warden or the warden's designee determines that a  
4           committed person should be placed in emergency  
5           confinement; provided that:

6           (A) A committed person shall not be held in emergency  
7           confinement for more than forty-eight hours; and

8           (B) A committed person placed in emergency  
9           confinement shall receive an initial medical and  
10           mental health evaluation within twelve hours and  
11           a personal and comprehensive medical and mental  
12           health examination conducted by a clinician  
13           within twenty-four hours. Reports of these  
14           evaluations shall be immediately provided to the  
15           warden or the warden's designee;

16           (3) A physician, based upon the physician's personal  
17           examination of a committed person, determines that the  
18           committed person should be placed or held in medical  
19           isolation; provided that any decision to place or hold  
20           a committed person in medical isolation due to a  
21           mental health emergency shall be made by a clinician



1 and based upon the clinician's personal examination of  
2 the committed person. In any case of medical  
3 isolation occurring under this paragraph, a clinical  
4 review shall be conducted at least every twelve hours  
5 and as clinically indicated. A committed person in  
6 medical isolation due to a mental health emergency  
7 pursuant to this paragraph shall be placed in a mental  
8 health unit designated by the director or deputy  
9 director of the department;

10 (4) The warden or the warden's designee determines that a  
11 committed person should be placed in protective  
12 custody; provided that:

13 (A) A committed person may be placed in voluntary  
14 protective custody only when the committed person  
15 has provided voluntary, informed, and written  
16 consent and there is reasonable cause to believe  
17 that protective custody is necessary to prevent  
18 reasonably foreseeable harm. When a committed  
19 person makes a voluntary, informed, and written  
20 request to be placed in protective custody and  
21 the request is denied, the correctional facility



1           shall bear the burden of establishing a basis for  
2           denying the request;

3           (B) A committed person may be placed in involuntary  
4           protective custody only when the correctional  
5           facility is able to establish by clear and  
6           convincing evidence that protective custody is  
7           necessary to prevent reasonably foreseeable harm  
8           and that a less restrictive intervention would be  
9           insufficient to prevent the harm;

10          (C) A committed person placed in protective custody  
11          shall be provided opportunities for activities,  
12          movement, and social interaction, in a manner  
13          consistent with ensuring the committed person's  
14          safety and the safety of other persons, that are  
15          comparable to the opportunities provided to  
16          committed persons in the facility's general  
17          population;

18          (D) A committed person subject to removal from  
19          protective custody shall be provided with a  
20          timely, fair, and meaningful opportunity to  
21          contest the removal;



1           (E) A committed person who is currently or may be  
2           placed in voluntary protective custody may opt  
3           out of that status by providing voluntary,  
4           informed, and written refusal of that status; and

5           (F) Before placing a committed person in protective  
6           custody, the warden or the warden's designee  
7           shall use a less restrictive intervention,  
8           including transfer to the general population of  
9           another facility or to a special-purpose housing  
10           unit for committed persons who face similar  
11           threats, unless the committed person poses an  
12           extraordinary security risk so great that  
13           transferring the committed person would be  
14           insufficient to ensure the committed person's  
15           safety; and

16           (5) The warden or the warden's designee determines that a  
17           committed person should be placed in restrictive  
18           housing pending investigation of an alleged  
19           disciplinary offense; provided that:

20           (A) The committed person's placement in restrictive  
21           housing is pursuant to approval granted by the



1 warden or the warden's designee in an emergency  
2 situation, or is because the committed person's  
3 presence in the facility's general population  
4 while the investigation is ongoing poses a danger  
5 to the committed person, staff, other committed  
6 persons, or the public; provided further that the  
7 determination of danger shall be based upon a  
8 consideration of the seriousness of the committed  
9 person's alleged offense, including whether the  
10 offense involved violence or escape, or posed a  
11 threat to institutional safety by encouraging  
12 other persons to engage in misconduct;

13 (B) The committed person's placement in restrictive  
14 housing shall not revert to another form of  
15 segregation after the initial sanction has been  
16 served;

17 (C) A committed person's placement in restrictive  
18 housing pending investigation of an alleged  
19 disciplinary offense shall be reviewed within  
20 twenty-four hours by a supervisory-level employee



1           who was not involved in the initial placement  
2           decision; and  
3           (D) A committed person who has been placed in  
4           restrictive housing pending investigation of an  
5           alleged disciplinary offense shall be considered  
6           for release to the facility's general population  
7           if the committed person demonstrates good  
8           behavior while in restrictive housing. If the  
9           committed person is found guilty of the  
10           disciplinary offense, the committed person's good  
11           behavior shall be considered when determining the  
12           appropriate penalty for the offense.

13           (d) No later than July 1, 2026, the department shall  
14 develop written policies and implement procedures, as necessary  
15 and appropriate, to effectuate this section, including:

16           (1) Establishing less restrictive interventions as  
17           alternatives to restrictive housing, including  
18           separation from other committed persons, transfer to  
19           other correctional facilities, and any other sanction  
20           not involving restrictive housing that is authorized  
21           by the department's policies and procedures; provided



1           that any temporary restrictions on a committed  
2           person's privileges or access to resources, including  
3           religious services, mail and telephone privileges,  
4           visitation by contacts, and outdoor or recreation  
5           access, shall be imposed only when necessary to ensure  
6           the safety of the committed person or other persons,  
7           and shall not restrict the committed person's access  
8           to food, water, basic necessities, or legal  
9           assistance;

10        (2) Requiring periodic training of disciplinary staff and  
11        all other staff who interact with committed persons  
12        held in restrictive housing; provided that the  
13        training:

14        (A) Is developed and conducted with assistance from  
15        appropriately trained and qualified  
16        professionals; and

17        (B) Clearly communicates the applicable standards for  
18        restrictive housing, including the standards set  
19        forth in this section;



- 1        (3) Requiring documentation of all decisions, procedures,  
2        and reviews of committed persons placed in restrictive  
3        housing;
- 4        (4) Requiring monitoring of compliance with all rules  
5        governing cells, units, and other spaces used for  
6        restrictive housing;
- 7        (5) Requiring the posting of quarterly reports on the  
8        department's official website that:
- 9        (A) Describe the nature and extent of each  
10       correctional facility's use of restrictive  
11       housing and include data on the age, sex, gender  
12       identity, ethnicity, incidence of mental illness,  
13       and type of confinement status for committed  
14       persons placed in restrictive housing;
- 15       (B) Include the population of committed persons as of  
16       the last day of each quarter and a  
17       non-duplicative, cumulative count of the number  
18       of committed persons placed in restrictive  
19       housing during the fiscal year;
- 20       (C) Include the incidence of emergency confinement,  
21       self-harm, suicide, and assault in any



1 restrictive housing unit, as well as explanations  
2 for each instance of facility-wide lockdown; and

3 (D) Exclude personally identifiable information  
4 regarding any committed person; and

5 (6) Updating the department's corrections administration  
6 policy and procedures manual, as necessary and  
7 appropriate, to comply with this section, including  
8 the requirement to use appropriate alternatives to  
9 restrictive housing for committed persons.

10 (e) Following the initial hearing for the placement of an  
11 individual into restrictive housing, the department shall  
12 immediately notify and transmit all relevant documentation to  
13 the Hawaii correctional system oversight commission. The Hawaii  
14 correctional system oversight commission shall review the  
15 determinations regarding the imposition, ongoing use, and  
16 termination of restrictive housing for fairness, impartiality,  
17 alignment with best practices, and availability of resources and  
18 adequate staffing, and shall issue annual reports on the  
19 utilization thereof.

20 The Hawaii correctional system oversight commission shall  
21 actively monitor and review all housing placements involving



1 individuals subjected to twenty or more hours of cell  
2 confinement, irrespective of whether the placements are  
3 designated as restrictive housing by the department or  
4 state-contracted facilities, to ensure that the department and  
5 its contracted entities do not implement cell confinement  
6 exceeding twenty or more hours without proper adherence to the  
7 procedures set forth in this section.

8 (f) As used in this section:

9 "Correctional facility" means a state prison, other penal  
10 institution, or an institution or a facility designated by the  
11 department as a place of confinement under this chapter.  
12 "Correctional facility" includes community correctional centers,  
13 high-security correctional facilities, temporary correctional  
14 facilities, in-state correctional facilities, state-contracted  
15 correctional facilities operated by private entities, and jails  
16 maintained by county police departments.

17 "Restrictive housing" is defined as occurring when all of  
18 the following conditions are present:

19 (1) A committed person is confined in a correctional  
20 facility pursuant to disciplinary, administrative,  
21 protective, investigative, medical, or other purposes;



- 1        (2) The confinement occurs in a cell or similarly
- 2        physically restrictive holding or living space,
- 3        whether alone or with one or more other committed
- 4        persons, for twenty hours or more per day; and
- 5        (3) The committed person's activities, movements, and
- 6        social interactions are severely restricted."

7        SECTION 3. (a) A restrictive housing legislative working  
8 group shall be convened by August 1, 2025, to:

9        (1) Review, consider, and identify laws, policies, and  
10 procedures regarding restrictive housing for members  
11 of vulnerable populations including committed persons  
12 who:

13        (A) Are sixty years of age or older;

14        (B) Have a physical or mental disability, a history  
15 of psychiatric hospitalization, or recently  
16 exhibited conduct, including serious  
17 self-mutilation, that indicates the need for  
18 further observation or evaluation to determine  
19 the presence of mental illness;

20        (C) Have a developmental disability, as defined in  
21 section 333F-1, Hawaii Revised Statutes;



- 1 (D) Have a serious medical condition that cannot be  
2 effectively treated while the committed person is  
3 in restrictive housing;
- 4 (E) Have a significant auditory or visual impairment;  
5 or
- 6 (F) Is perceived to be lesbian, gay, bisexual,  
7 transgender, or intersex; and
- 8 (2) By January 8, 2027, make recommendations to the  
9 legislature regarding more comprehensive laws,  
10 policies, and procedures regarding restrictive housing  
11 for members of vulnerable populations.
- 12 (b) The restrictive housing legislative working group  
13 shall consist of the following members, or their designees:
- 14 (1) The chairperson of the house of representatives  
15 standing committee with primary jurisdiction over  
16 corrections and rehabilitation, who shall serve as  
17 co-chairperson;
- 18 (2) The chairperson of the senate standing committee with  
19 primary jurisdiction over corrections and  
20 rehabilitation, who shall serve as co-chairperson;
- 21 (3) The director of corrections and rehabilitation;



1 (4) The senior advisor for mental health and the justice  
2 system in the office of the governor; and

3 (5) A commissioner on the Hawaii correctional system  
4 oversight commission.

5 (c) The co-chairpersons of the working group shall invite  
6 the following individuals to serve as members of the working  
7 group:

8 (1) A representative of the office of Hawaiian affairs;

9 (2) A representative from the American Civil Liberties  
10 Union of Hawaii;

11 (3) A representative from the Community Alliance on  
12 Prisons; and

13 (4) Any other individuals identified by the chairpersons  
14 of the working group.

15 (d) The working group shall be dissolved on January 8,  
16 2027, or upon submission of its final report to the legislature,  
17 whichever is later.

18 (e) The department of corrections and rehabilitation may  
19 implement, if practicable by December 1, 2027, recommended  
20 policies and procedures of the restrictive housing legislative  
21 working group regarding the placement of committed persons who



1 are members of certain vulnerable populations into restrictive  
2 housing and develop transition and service plans for these  
3 committed persons in restrictive housing.

4 SECTION 4. (a) No later than forty days prior to the  
5 convening of the regular sessions of 2026 and 2027, the  
6 department of corrections and rehabilitation shall submit to the  
7 legislature and Hawaii correctional system oversight commission  
8 interim reports of the department's progress toward full  
9 compliance with this Act, along with draft copies of written  
10 policies and procedures implemented pursuant to this Act.

11 (b) No later than January 12, 2028, the department of  
12 corrections and rehabilitation shall submit to the legislature  
13 and Hawaii correctional system oversight commission a final  
14 report of the department's progress toward full compliance with  
15 this Act and implementing any recommendations in the final  
16 report of the restrictive housing legislative working group.

17 SECTION 5. New statutory material is underscored.

18 SECTION 6. This Act shall take effect on July 1, 2025.



**Report Title:**

DCR; Hawaii Correctional System Oversight Commission;  
Correctional Facilities; Committed Persons; Restrictive Housing;  
Restrictive Housing Legislative Working Group; Restrictions;  
Report

**Description:**

Beginning 7/1/2026, restricts the use of restrictive housing in state-operated and state-contracted correctional facilities, with certain specified exceptions. Establishes a restrictive housing legislative working group to develop and recommend more comprehensive laws, policies, and procedures regarding restrictive housing for members of vulnerable populations by 1/8/2027. Requires the Hawaii Correctional System Oversight Commission to review restrictive housing placements on an annual basis. Authorizes the Department of Corrections and Rehabilitation, by 12/1/2027, to implement policies and procedures recommended by the restrictive housing working group related to committed persons. Requires interim and final reports to the Legislature and Hawaii Correctional System Oversight Commission. (CD1)

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

