



GOV. MSG. NO. **1278**

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 1, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 1, 2011, the following bill was signed into law:

SB219 SD1 HD1

RELATING TO CORRECTIONS.
Act 174 (11)

Aloha
Sincerely,
Neil Abercrombie

NEIL ABERCROMBIE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO CORRECTIONS.

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

1 SECTION 1. Chapter 353, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . PREGNANT OFFENDERS; RESTRAINTS**

5 **§353- Definitions.** As used in this part:

6 "Labor" means the period of time before a birth during
7 which contractions are of sufficient frequency, intensity, and
8 duration to bring about effacement and progressive dilation of
9 the cervix.

10 "Postpartum recovery" means:

11 (1) The entire period a female is in a hospital, birthing
12 center, or clinic after giving birth; and

13 (2) An additional time period, if any, a treating
14 physician determines is necessary for healing after
15 the female leaves the hospital, birthing center, or
16 clinic.

17 "Restraints" means anything used to control the movement of
18 a person's body or limbs and includes:



- 1 (1) Physical restraint; or
- 2 (2) A mechanical device, including metal handcuffs,
- 3 plastic ties, ankle restraints, leather cuffs, other
- 4 hospital-type restraints, tasers, or batons.

5 "Transport" means the conveyance, by any means, of a
6 committed person from the correctional facility to another
7 location, including travel to and from a transport vehicle.

8 **§353- Limitation on use of restraints.** (a) While
9 transporting, no restraints of any kind may be used on any
10 committed female:

- 11 (1) During the third trimester of her pregnancy;
- 12 (2) During postpartum recovery; or
- 13 (3) During any portion of her pregnancy, if her physician
- 14 so orders;

15 except in extraordinary circumstances.

16 (b) While the pregnant female is in labor or in childbirth
17 no restraints of any kind shall be used. Nothing in this
18 section affects the use of hospital restraints requested for the
19 medical safety of the patient by a treating physician.

20 (c) Any restraints used on a pregnant female shall be the
21 least restrictive available and the most reasonable under the



1 circumstances, but in no case shall leg irons or waist chains be
2 used on any pregnant female.

3 (d) No correctional personnel shall be present in the room
4 during the pregnant female's labor or childbirth, unless
5 specifically requested by medical personnel. If the
6 correctional personnel's presence is requested by medical
7 personnel, the correctional personnel shall be female, if
8 practicable.

9 (e) If the doctor, nurse, or other health professional
10 treating the pregnant female requests that restraints not be
11 used, the corrections officer accompanying the pregnant female
12 shall immediately remove all restraints.

13 (f) For the purpose of this section, "extraordinary
14 circumstances" exist where a corrections officer makes an
15 individualized determination that restraints are necessary to
16 prevent an incarcerated pregnant female from escaping or
17 injuring herself, medical or correctional personnel, or others.

18 If a corrections officer determines that extraordinary
19 circumstances exist and restraints are used, the corrections
20 officer shall fully document in writing the facts upon which a
21 finding of extraordinary circumstances was based. The
22 corrections officer shall also include the kind of restraints



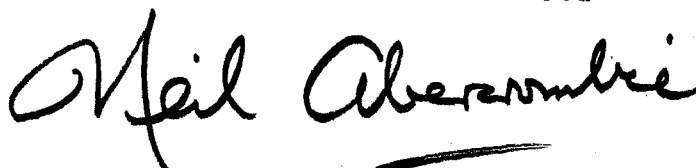
1 used and the reasons those restraints were considered the most
2 reasonable and least restrictive available under the
3 circumstances.

4 **§353- Enforcement.** (a) The director shall provide
5 information relating to the requirements of this part to all
6 medical and nonmedical staff and correctional personnel who are
7 involved in the transportation or supervision of female
8 offenders who are pregnant or in postpartum recovery and other
9 staff as the director deems appropriate.

10 (b) The director shall provide notice of the requirements
11 of this part to any female offender who is pregnant or in
12 postpartum recovery at the time that the department assumes
13 custody of the female offender. Additional notice shall be
14 posted in conspicuous locations in any appropriate correctional
15 facility, including the locations in which medical care is
16 provided within the facility. Any treating physician, midwife,
17 or nurse of a female offender who is pregnant or in postpartum
18 recovery shall be informed of the requirements of this part."

19 SECTION 2. This Act shall take effect upon its approval.

APPROVED this 1 day of JUL, 2011



GOVERNOR OF THE STATE OF HAWAII