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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. 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-A 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 but not limited to
- 3 metal handcuffs, plastic ties, ankle restraints,
- 4 leather cuffs, other hospital-type restraints, tasers,
- 5 or batons.

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

9 §353-B Limitation on use of restraints. (a) Except in  
10 extraordinary circumstances, no restraints of any kind may be  
11 used while transporting any committed person during the third  
12 trimester of a person's pregnancy, or during postpartum  
13 recovery.

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

18 (c) Any restraints used on a pregnant female shall be the  
19 least restrictive available and the most reasonable under the  
20 circumstances, but in no case shall leg irons or waist chains be  
21 used on any pregnant female.



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

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

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

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



1 reasonable and least restrictive available under the  
2 circumstances.

3       §353-C Enforcement. (a) The director shall provide  
4 information relating to the requirements of this part to all  
5 medical and nonmedical staff who are involved in the  
6 transportation of female offenders who are pregnant, all  
7 correctional personnel involved in the supervision of pregnant  
8 female offenders, as well as other staff as the director deems  
9 appropriate.

10       (b) The director shall provide notice of the requirements  
11 of this part to any female offender who is pregnant at the time  
12 that the department assumes custody of the female offender.  
13 Additional notice shall be posted in conspicuous locations in  
14 any appropriate correctional facilities, including but not  
15 limited to the locations in which medical care is provided  
16 within the facilities."

17       SECTION 2. In codifying the new sections added by section  
18 1 of this Act, the revisor of statutes shall substitute  
19 appropriate section numbers for the letters used in designating  
20 the new sections in this Act.



# H.B. NO. 131

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

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**Report Title:**

Pregnant Inmates; Prohibit Shackling

**Description:**

Prohibits physically restraining pregnant inmates, unless extraordinary circumstances exist.

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