

JAN 21 2011

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.



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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