

# **SB 219**

RELATING TO CORRECTIONS.

Prohibits physically restraining pregnant inmates, unless extraordinary circumstances exist.

**NEIL ABERCROMBIE**  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**JODIE F. MAESAKA-HIRATA**  
INTERIM DIRECTOR

Deputy Director  
Administration

Deputy Director  
Corrections

**KEITH KAMITA**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

**TESTIMONY ON SENATE BILL 219  
RELATING TO CORRECTIONS**

by

**Jodie F. Maesaka-Hirata, Interim Director  
Department of Public Safety**

**Senate Committee on Public Safety, Government Operations, and Military Affairs  
Senator Will Espero, Chair  
Senator Michelle Kidani, Vice Chair**

**Senate Committee on Health  
Senator Josh Green, M.D., Chair  
Senator Clarence K. Nishihara, Vice Chair**

**Tuesday, February 8, 2011; 2:45 PM  
State Capitol, Conference Room 224**

**Chairs Espero and Green, Vice Chairs Kidani and Nishihara, and Members of the  
Committee:**

The Department of Public Safety (PSD) supports the intent of Senate Bill 219, but PSD believes that correctional procedures should be defined in policy and not in statute. The measure limits the use of restraints except under extraordinary circumstances while transporting any incarcerated person during the third trimester of pregnancy or during the postpartum recovery.

The use of restraint has been found to be potentially harmful to the expectant mother and fetus, especially during the third trimester through the labor and delivery processes. Pregnancy is a medically fragile time where

neither the expectant mother nor the fetus should be exposed to unnecessary risks of falls or injury, particularly when security restraints are applied.

The National Commission on Correctional Health Care, a nationally recognized independent correctional health care accreditation organization has adopted a Position Statement against the practice.

In September 2008, the Federal Bureau of Prison (BOP) ended the shackling of pregnant inmates as a matter of course in all federal correctional facilities. California, Colorado, Illinois, New Mexico, New York, Pennsylvania, Texas, Vermont, Washington and West Virginia all have enacted laws prohibiting the shackling of pregnant women.

PSD supports the intent of the measure and will make the appropriate changes in its Policies and Procedures to accomplish this. PSD does oppose enacting legislation as a means of defining operational procedures like those described in this measure. If enacted, the State, PSD and its employees would be at risk with regards to the performance of daily security duties that are defined by law.

Thank you for the opportunity to provide testimony on this matter.

**COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY AFFAIRS**

Senator Will Espero, Chair  
Senator Michelle Kidani, Vice Chair

**COMMITTEE ON HEALTH**

Senator Josh Green, M.D., Chair  
Senator Clarence K. Nishihara, Vice Chair

DATE: Tuesday, February 8, 2011  
TIME: 2:45 p.m.  
PLACE: Conference Room 224

Aloha Chair Espero, Chair Green and Committee Members,

**Strong Support for SB 219** that prohibits shackling of pregnant women who are incarcerated.

The Hawai'i Women's Coalition abhors this policy as unnecessary, dangerous to health and degrading to the women, most of whom are non-violent offenders.

In October of last year the Star Bulletin reported that "Hawai'i received an F grade for prenatal care and a **D grade for its shackling policies**, according to a nationwide study on prison policies for mothers, released by the National Women's Law Center and the Rebecca Project for Human Rights." Then Deputy Director of Public Safety Tommy Johnson confirmed that this was the existing policy.

The American College of Obstetricians and Gynecologists (ACOG) released a statement in June 2007, supporting an end to the practice of shackling mothers in labor and delivery as "physical restraints have interfered the ability of physicians to safely practice medicine by reducing their ability to assess and evaluate the physical condition of the mother and fetus, and have similarly made the labor and delivery process more difficult than it needs to be; thus, overall, putting the health and lives of the women and unborn children at risk."

We think that this policy should be banned for women in labor and in medical exams. The department should instead continue and expand such efforts as the current family-based treatment as an alternative to incarceration.

Ann S. Freed  
Co-Chair Hawai'i Women's Coalition  
Mililani, Hawai'i  
808-623-5676