

**ACT 174**

S.B. NO. 219

A Bill for an Act Relating to Corrections.

*Be It Enacted by the Legislature of the State of Hawaii:*

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

**“PART . PREGNANT OFFENDERS; RESTRAINTS**

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

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

"Postpartum recovery" means:

- (1) The entire period a female is in a hospital, birthing center, or clinic after giving birth; and
- (2) An additional time period, if any, a treating physician determines is necessary for healing after the female leaves the hospital, birthing center, or clinic.

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

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

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

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

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

except in extraordinary circumstances.

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

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

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

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

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

If a corrections officer determines that extraordinary circumstances exist and restraints are used, the corrections officer shall fully document in writing the facts upon which a finding of extraordinary circumstances was based. The corrections officer shall also include the kind of restraints used and the reasons those restraints were considered the most reasonable and least restrictive available under the circumstances.

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

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

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

(Approved July 1, 2011.)