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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- 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.



**Report Title:**

Pregnant Inmates; Prohibit Shackling

**Description:**

Prohibits physically restraining inmates who are pregnant or in postpartum recovery, unless extraordinary circumstances exist.  
(SB219 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

