
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 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-B Limitation on use of restraints.** (a) Except in

9 extraordinary circumstances, no restraints of any kind may be

10 used while transporting any committed person during the third

11 trimester of a person's pregnancy, or during postpartum

12 recovery.

13 (b) While the pregnant female is in labor or in childbirth

14 no restraints of any kind shall be used. Nothing in this

15 section affects the use of hospital restraints requested for the

16 medical safety of the patient by a treating physician.

17 (c) Any restraints used on a pregnant female shall be the

18 least restrictive available and the most reasonable under the

19 circumstances, but in no case shall leg irons or waist chains be

20 used on any pregnant female.

21 (d) No correctional personnel shall be present in the room

22 during the pregnant female's labor or childbirth, unless



1 specifically requested by medical personnel. If the
2 correctional personnel's presence is requested by medical
3 personnel, the correctional personnel shall be female, if
4 practicable.

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

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

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



1 **§353-C Enforcement.** (a) The director shall provide
2 information relating to the requirements of this part to all
3 medical and nonmedical staff and correctional personnel who are
4 involved in the transportation or supervision of female
5 offenders who are pregnant or in postpartum recovery and other
6 staff as the director deems appropriate.

7 (b) The director shall provide notice of the requirements
8 of this part to any female offender who is pregnant or in
9 postpartum recovery at the time that the department assumes
10 custody of the female offender. Additional notice shall be
11 posted in conspicuous locations in any appropriate correctional
12 facilities, including the locations in which medical care is
13 provided within the facilities."

14 SECTION 2. In codifying the new sections added by section
15 1 of this Act, the revisor of statutes shall substitute
16 appropriate section numbers for the letters used in designating
17 the new sections in this Act.

18 SECTION 3. This Act shall take effect upon its approval.
19



Report Title:

Pregnant Inmates; Prohibit Shackling

Description:

Prohibits physically restraining inmates who are pregnant or in postpartum recovery, unless extraordinary circumstances exist.
(SD1)

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