A bill to be entitled
An act relating to the restraint of incarcerated pregnant
women; providing a short title; defining terms;
prohibiting use of restraints on a prisoner known to be
pregnant during labor, delivery, and postpartum recovery
unless a corrections official makes an individualized
determination that the prisoner presents an extraordinary
circumstance requiring restraints; providing that a
doctor, nurse, or other health care professional treating
the prisoner may request that restraints not be used, in
which case the corrections officer or other official
accompanying the prisoner shall remove all restraints;
requiring that any restraint applied must be done in the
least restrictive manner necessary; requiring the
corrections official to make written findings within 10
days as to the extraordinary circumstance that dictated
the use of restraints; restricting the use of waist,
wrist, or leg and ankle restraints during the third
trimester of pregnancy or when requested by a doctor,
nurse, or other health care professional treating the
prisoner; providing that the use of restraints at any time
after it is known that a prisoner is pregnant must be by
the least restrictive manner necessary in order to
mitigate the possibility of adverse clinical consequences;
requiring that the findings be kept on file by the
correctional institution or detention facility for at
least 5 years and be made available for public inspection
under certain circumstances; authorizing any woman who is
restrained in violation of the act to file a grievance within a specified period; providing that these remedies do not prevent a woman harmed from filing a complaint under any other relevant provision of federal or state law; directing the Department of Corrections and the Department of Juvenile Justice to adopt rules; requiring correctional institutions and detention facilities to inform female prisoners of the rules upon admission, include the policies and practices in the prisoner handbook, and post the policies and practices in the correctional institution or detention facility; requiring the Secretary of Corrections, the Secretary of Juvenile Justice, and county and municipal corrections officials to annually file written reports with the Executive Office of the Governor detailing each incident of restraint in violation of law or as an authorized exception; providing an effective date.

WHEREAS, restraining a pregnant prisoner can pose undue health risks and increase the potential for physical harm to the woman and her pregnancy, and

WHEREAS, the vast majority of female prisoners in this state are nonviolent offenders, and

WHEREAS, the impact of such harm to a pregnant woman can negatively affect her pregnancy, and

WHEREAS, freedom from physical restraints is especially critical during labor, delivery, and postpartum recovery after delivery as women often need to move around during labor and
recovery, including moving their legs as part of the birthing process, and

WHEREAS, restraints on a pregnant woman can interfere with the medical staff's ability to appropriately assist in childbirth or to conduct sudden emergency procedures, and

WHEREAS, the Federal Bureau of Prisons, the United States Marshals Service, the American Correctional Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association all oppose restraining women during labor, delivery, and postpartum recovery because it is unnecessary and dangerous to a woman's health and well-being,

NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Shackling of incarcerated pregnant women.—
(1) SHORT TITLE.—This section may be cited as the "Healthy Pregnancies for Incarcerated Women Act."

(2) DEFINITIONS.—As used in this section, the term:
(a) "Correctional institution" means any facility under the authority of the department or the Department of Juvenile Justice, a county or municipal detention facility, or a detention facility operated by a private entity.
(b) "Corrections official" means the official who is responsible for oversight of a correctional institution, or his or her designee.
(c) "Department" means the Department of Corrections.
(d) "Extraordinary circumstance" means a substantial
flight risk or some other extraordinary medical or security circumstance that dictates restraints be used to ensure the safety and security of the prisoner, the staff of the correctional institution or medical facility, other prisoners, or the public.

(e) "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.

(f) "Postpartum recovery" means, as determined by her physician, the period immediately following delivery, including the recovery period when a woman is in the hospital or infirmary following birth.

(g) "Prisoner" means any person incarcerated or detained in any correctional institution who is accused of, convicted of, sentenced for, or adjudicated delinquent for a violation of criminal law or the terms and conditions of parole, probation, community control, pretrial release, or a diversionary program. For purposes of this section, the term includes any woman detained under the immigration laws of the United States at any correctional institution.

(h) "Restraints" means any physical restraint or mechanical device used to control the movement of a prisoner's body or limbs, including, but not limited to, flex cuffs, soft restraints, hard metal handcuffs, a black box, chubb cuffs, leg irons, belly chains, a security or tether chain, or a convex shield.

(3) RESTRAINT OF PRISONERS.—
(a) Restraints may not be used on a prisoner who is known
to be pregnant during labor, delivery, and postpartum recovery,
unless the corrections official makes an individualized
determination that the prisoner presents an extraordinary
circumstance, except that:

1. If the doctor, nurse, or other health care professional
treating the prisoner requests that restraints not be used, the
corrections officer, correctional institution employee, or other
officer accompanying the pregnant prisoner shall remove all
restraints; and

2. Under no circumstances shall leg, ankle, or waist
restraints be used on any pregnant prisoner who is in labor or
delivery.

(b) If restraints are used on a pregnant prisoner pursuant
to paragraph (a):

1. The type of restraint applied and the application of
the restraint must be done in the least restrictive manner
necessary; and

2. The corrections official shall make written findings
within 10 days after the use of restraints as to the
extraordinary circumstance that dictated the use of the
restraints. These findings shall be kept on file by the
correctional institution for at least 5 years and be made
available for public inspection, except that the identifying
information of a prisoner may not be made public without the
prisoner's prior written consent.

(c) During the third trimester of pregnancy, or when
requested by the doctor, nurse, or other health care

CODING: Words stricken are deletions; words underlined are additions.
professional treating the pregnant prisoner:

1. Waist restraints that directly constrict the area of pregnancy may not be used;

2. If wrist restraints are used, they must be applied in such a way that the pregnant prisoner is able to protect herself in the event of a forward fall; and

3. Leg and ankle restraints that restrain the legs close together may not be used when the prisoner is required to walk or stand.

4. Use of leg, ankle, or waist restraints is subject to the provisions of subparagraph (a)2.

(d) In addition to the specific requirements of paragraphs (a)-(c), any restraint of a prisoner who is known to be pregnant must be done in the least restrictive manner necessary in order to mitigate the possibility of adverse clinical consequences.

(4) ENFORCEMENT.—

(a) Notwithstanding any relief or claims afforded by federal or state law, any prisoner who is restrained in violation of this section may file a grievance with the correctional institution within 1 year after the incident.

(b) This section does not prevent a woman harmed under this section from filing a complaint under any other relevant provision of federal or state law.

(5) NOTICE TO PRISONERS.—

(a) By September 1, 2011, the department and the Department of Juvenile Justice shall adopt rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to administer this section.
(b) Each correctional institution shall inform female prisoners of the rules developed pursuant to paragraph (a) upon admission to the correctional institution, including the policies and practices in the prisoner handbook, and post the policies and practices in locations in the correctional institution where such notices are commonly posted and will be seen by female prisoners, including common housing areas and medical care facilities.

(6) ANNUAL REPORT.—By June 30 of each year, the Secretary of Corrections, the Secretary of Juvenile Justice, and the corrections official of each municipal and county detention facility where a pregnant prisoner has been restrained pursuant to paragraph (3)(a), or in violation of subsection (3), during the previous year shall submit a written report to the Executive Office of the Governor which includes an account of every such instance. The written reports may not contain identifying information of any prisoner. Such reports shall be made available for public inspection.

Section 2. This act shall take effect July 1, 2011.