

JAN 21 2022

A BILL FOR AN ACT

RELATING TO ABORTION CARE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that all people deserve
2 access to abortion care and the freedom to decide whether and
3 when to become parents. Last year, Texas and Mississippi
4 challenged in the United States Supreme Court the constitutional
5 protections for abortion rights. With federal protections for
6 abortion care in question, Hawaii cannot afford to have
7 statutory gaps in state laws that put access to abortion at
8 risk.

9 The legislature further finds that all pregnant persons in
10 the State have the right to abortion care, including transgender
11 and gender nonbinary people. The legislature recognizes that
12 many transgender and gender nonbinary people in Hawaii already
13 face tremendous obstacles to accessing basic health care,
14 including sexual and reproductive health services. Using
15 gender-neutral language in Hawaii's abortion statutes will help
16 safeguard access to abortion care for all pregnant persons in
17 the State who need it.



1 The legislature also finds that, while Hawaii offers some
2 of the country's broadest protections for abortion rights, state
3 laws still contain archaic provisions that threaten criminal
4 punishment for some health providers who are engaging in safe
5 and basic care. The legislature intends to provide clarity by
6 ensuring statutory consistency across state abortion codes. In
7 2021, Hawaii passed legislation to allow advanced practice
8 registered nurses and physicians to provide medication and
9 procedural abortion care. Statutory consistency between the
10 physician and nursing chapters of the Hawaii Revised Statutes
11 will leave no doubt that the intent of this legislature is to
12 ensure that advanced practice registered nurses may legally
13 provide abortion care.

14 Accordingly, the purpose of this Act is to strengthen and
15 protect inclusive access to abortion and the full range of
16 sexual and reproductive health care by clarifying and amending
17 existing state law.

18 SECTION 2. Section 453-16, Hawaii Revised Statutes, is
19 amended to read as follows:



1 "§453-16 Intentional termination of pregnancy; penalties;
2 refusal to perform. [~~(a) No abortion shall be performed in~~
3 ~~this State unless:~~

4 ~~(1) The abortion is performed by a] A licensed physician~~
5 ~~[or],~~ surgeon, or ~~[by a] licensed osteopathic~~
6 ~~physician and surgeon[; and~~

7 ~~(2) The] may provide abortion care, provided that any~~
8 ~~procedural abortion [is] shall be performed in a~~
9 ~~hospital licensed by the department of health or~~
10 ~~operated by the federal government or an agency~~
11 ~~thereof, or in a clinic or physician's or osteopathic~~
12 ~~physician's office.~~

13 (b) Abortion shall mean [~~an operation to intentionally~~
14 ~~terminate] termination of the pregnancy of a nonviable fetus.~~

15 [~~The termination of a pregnancy of a viable fetus is not~~
16 ~~included in this section.]~~

17 (c) The State shall not deny or interfere with a
18 [~~female's] pregnant person's right to choose or obtain an
19 abortion of a nonviable fetus or an abortion that is necessary
20 to protect the life or health of the [~~female.] pregnant person.~~~~



1 (d) Any person who knowingly violates subsection (a) shall
2 be fined not more than \$1,000 [~~or imprisoned not more than five~~
3 ~~years, or both~~].

4 (e) Nothing in this section shall require any hospital or
5 any person to participate in an abortion nor shall any hospital
6 or any person be liable for a refusal."

7 SECTION 3. Section 457-8.7, Hawaii Revised Statutes, is
8 amended by amending subsections (a), (b), (c), and (d) to read
9 as follows:

10 "(a) Notwithstanding section 453-16 or any other law to
11 the contrary, an advanced practice registered nurse may provide
12 medication or aspiration abortion care [~~in the first trimester~~
13 ~~of pregnancy~~], so long as the advanced practice registered
14 nurse:

- 15 (1) Has prescriptive authority;
- 16 (2) Practices within the advanced practice registered
17 nurse's practice specialty;
- 18 (3) Has a valid, unencumbered license obtained in
19 accordance with this chapter; and
- 20 (4) The aspiration abortion is performed in a hospital
21 licensed by the department of health or operated by



S.B. NO. 2202

1 the federal government or an agency thereof, or in a
2 clinic or advance practice registered nurse's office.

3 (b) Abortion shall mean an intentional termination of the
4 pregnancy of a nonviable fetus. [~~The termination of a pregnancy~~
5 ~~of a viable fetus is not included in this section.~~]

6 (c) The State shall not deny or interfere with a
7 [~~female's~~] pregnant person's right to choose or obtain an
8 abortion of a nonviable fetus or an abortion that is necessary
9 to protect the life or health of the [~~female-~~] pregnant person.

10 (d) Any person who knowingly violates subsection (a) shall
11 be fined no more than \$1,000 [~~or imprisoned no more than five~~
12 ~~years, or both~~]."

13 SECTION 4. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 5. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect upon its approval.

19

INTRODUCED BY: Rosemary H Baker
By Request



S.B. NO. 2282

Report Title:

Abortion Care; Advanced Practice Registered Nurses; Transgender;
Gender Non-Binary

Description:

Clarifies that access to abortion care is inclusive of all pregnant people in the State. Repeals a criminal penalty for violations of certain abortion provisions. Clarifies that advanced practice registered nurses may provide abortion care.

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

