

---

---

# 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  
5 constitutional protections for abortion rights. With federal  
6 protections for abortion care in question, Hawaii cannot afford  
7 to have statutory gaps in state laws that put access to abortion  
8 at 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 nursing and physician 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 included~~  
16 ~~in this section.~~

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

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

7           (e) "Abortion" shall mean termination of the pregnancy of  
8 a nonviable fetus."

9           SECTION 3. Section 457-8.7, Hawaii Revised Statutes, is  
10 amended as follows:

11           "~~[+] §457-8.7 [+] Advanced practice registered nurses;~~  
12 ~~abortions by medication or aspiration; penalties; refusal to~~  
13 ~~perform.~~ (a) Notwithstanding section 453-16 or any other law  
14 to the contrary, an advanced practice registered nurse may  
15 provide medication or aspiration abortion care [~~in the first~~  
16 ~~trimester of pregnancy~~], so long as the advanced practice  
17 registered nurse:

- 18           (1) Has prescriptive authority;
- 19           (2) Practices within the advanced practice registered  
20           nurse's practice specialty;



1 (3) Has a valid, unencumbered license obtained in  
2 accordance with this chapter; and

3 (4) The aspiration abortion is performed in a hospital  
4 licensed by the department of health or operated by  
5 the federal government or an agency thereof, or in a  
6 clinic or advance practice registered nurse's office.

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

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

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

17 (e) Nothing in this section shall require any hospital or  
18 any person to participate in an abortion, nor shall any hospital  
19 or any person be liable for a refusal."



1 SECTION 4. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

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

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



**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. (SD1)

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

