
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that Down syndrome and
2 other disabilities can be prenatally diagnosed through tests
3 such as maternal serum alpha-fetoprotein, human chorionic
4 gonadotrophin and unconjugated oestriol, amniocentesis,
5 chorionic villus sampling, and through noninvasive prenatal
6 screening methods. Further, the legislature finds that these
7 tests vary in their ability to accurately diagnose prenatal
8 disabilities.

9 Between 1987 and 1996, there were 306 reported Down
10 syndrome cases in Hawaii. During that time, forty-three per
11 cent were prenatally diagnosed. Of the prenatally diagnosed
12 cases, eighty-six per cent were electively terminated.

13 The elective termination of prenatally diagnosed cases has
14 resulted in targeted discrimination against not only Down
15 syndrome cases, but other disabilities discovered by various
16 prenatal tests ranging from spina bifida to cleft palate.

17 Selectively terminating preborn children based on mental or



1 physical capacity is a form of discrimination often resulting
2 from misinformation about quality of life concerns and long-term
3 care options.

4 Section 321-331, Hawaii Revised Statutes, authorizes the
5 department of health to adopt rules to ensure that all pregnant
6 women are offered appropriate information and services relating
7 to prenatal screening and diagnosis. However, in many cases
8 after prenatal screening and diagnosis has been administered,
9 pregnant women do not receive all applicable information on
10 available resources to care for their children prenatally
11 diagnosed with disabilities.

12 The purpose of this Act is to require medical professionals
13 to provide counseling to pregnant women who have been prenatally
14 diagnosed with a child that has a disability.

15 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
16 amended by adding a new section to part XXVI to be appropriately
17 designated and to read as follows:

18 "§321- Prenatal health care; post-testing requirements;
19 abortion. (a) The department of health shall require that
20 medical professionals provide each pregnant woman with
21 information on where to obtain support if a test reveals that



1 the pregnant woman's preborn child is diagnosed or likely to be
2 diagnosed with Down syndrome or any other disorder amenable to
3 prenatal diagnosis.

4 (b) No person shall purposely perform or induce or attempt
5 to perform or induce an abortion on a pregnant woman prenatally
6 diagnosed with a child facing Down syndrome or any other
7 disorder amenable to prenatal diagnosis until that person has
8 knowledge that the pregnant woman has received information about
9 prenatal, neonatal, and long-term care resources available in
10 the public and private domains; provided that this subsection
11 shall not apply in instances where an abortion is necessary to
12 protect the life or health of the pregnant woman.

13 (c) The department of health shall maintain an updated
14 list of national and state resources focused on care beneficial
15 to the life and well-being of a child that has been prenatally
16 diagnosed with a mental or physical disability and make this
17 list available to medical professionals. This list of resources
18 may be added to by those providing this information to pregnant
19 women.

20 (d) Medical professionals shall maintain a record of
21 counseling provided to pregnant women inclusive of the list of



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1 resources as provided by the department of health. This record
 2 of counseling shall be subject to inspection routinely or as
 3 preferred or required by the department of health.

4 (e) The department of health shall adopt rules pursuant to
 5 chapter 91 necessary to carry out the purposes of this section."

6 SECTION 3. This Act does not affect rights and duties that
 7 matured, penalties that were incurred, and proceedings that were
 8 begun before its effective date.

9 SECTION 4. New statutory material is underscored.

10 SECTION 5. This Act shall take effect upon its approval.
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Report Title:

Prenatal Health Care; Disclosure; Information; Abortion

Description:

Requires that, following a prenatal test revealing Down syndrome or other disorder, medical care professionals provide information to the pregnant mother. Requires that a pregnant woman receive information on available care resources before an abortion of a fetus facing Down syndrome or any other disorder amenable to prenatal diagnosis.

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