



STATE OF HAWAII
DEPARTMENT OF HEALTH
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WRITTEN
TESTIMONY
ONLY

**Testimony COMMENTING on SB1167
PROPOSING AN AMENDMENT TO THE HAWAII STATE CONSTITUTION TO
PROTECT INDIVIDUAL REPRODUCTIVE RIGHTS.**

SENATOR KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY

Hearing Date: February 3, 2023

Room Number: 016

- 1 **Fiscal Implications:** N/A.
- 2 **Department Testimony:** The Department of Health (DOH) strongly supports access to and
- 3 protections for safe reproductive health care services for women.
- 4 Thank you for the opportunity to testify.
- 5 **Offered Amendments:** N/A.
- 6



HAWAI‘I CIVIL RIGHTS COMMISSION

KOMIKINA PONO KIWILO O HAWAI‘I

830 PUNCHBOWL STREET, ROOM 411, HONOLULU, HI 96813 · PHONE: (808) 586-8636 · FAX: (808) 586-8655 · TDD: (808) 586-8692

Friday, February 3, 2023
Conference Room 016 & Videoconference

To: The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice Chair
Members of the Senate Committee on Health and Human Services

From: Liann Ebesugawa, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: S.B. No. 1167

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services (on the basis of disability). The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

S.B. No. 1167 proposes a constitutional amendment to protect an individual's reproductive freedom in their most intimate decisions, including the right to abortion and contraceptives.

HCRC supports S.B. No. 1167.

HCRC support for this bill is rooted in the context of a frontal assault on constitutional and civil rights at the federal level. A U.S. Supreme Court conservative super-majority appears poised to eviscerate constitutional rights jurisprudence that we have taken for granted for a generation. In a parade of horrors, the Court has turned the clock back on abortion and reproductive rights and establishment of religion, while limiting state regulation of guns and open carry laws with expansive reading of 2nd amendment rights, giving notice that other hard-won rights are in its crosshairs. Federal constitutional protections that are in jeopardy include unenumerated privacy protections (right to contraception, striking down state law criminalization of same-sex relationships, and marriage equality). In this context, it is prudent for Hawai‘i to

renew its state commitment to hard-won rights that we have exercised for generations. Adoption of an express state constitutional protection for reproductive freedom in the most private and intimate decisions, including the right to abortion and contraceptives, serves as a “backstop” against the onslaught on fundamental rights that has been unleashed, and a strong reaffirmation of the express right to privacy already guaranteed in our state constitution.

For nearly fifty years, the U.S. Supreme Court’s decision in *Roe v. Wade* established a fundamental right for an individual to access abortion based on a constitutional right to privacy. However, in 2022, the Supreme Court overturned *Roe* in *Dobbs v. Jackson Woman’s Health Organization*, paving the way for individual states to restrict and even eliminate individuals’ right to these medical decisions for themselves and/or based on the advice of individuals’ medical advisors.

Historically, the State of Hawai‘i has had a strong commitment to the protection of civil rights, found in Art. I § 5 of the State Constitution which states that “[n]o person . . . shall be denied the enjoyment of the person’s civil rights or be discriminated against in the exercise thereof because of race, religion, sex, or ancestry.” This provision grants our citizens the fundamental right to be free from race, religion, sex or ancestry discrimination, and was first adopted by the Constitutional Convention of 1950 (ratified as Article I, §4), prior to Hawai‘i becoming a state. Const. Conv. of 1950, v. 1. There is no counterpart civil rights clause in the United States Constitution.

Hawai‘i has a proud civil rights history. We were the first state to ratify the Equal Rights Amendment, and we have an ERA in our State Constitution Bill of Rights. Article I, §3. And, we have an express right to privacy in our State Constitution as well. Article I, §6. We were the first state to recognize women’s right to choose and, to our credit, the first to address the issue of same-sex marriage seriously. Each generation has a responsibility to protect and defend these state constitutional and civil rights.

An individual’s right to make reproductive health decisions is a civil right. In 2019 the Legislature recognized this right and codified its protection, amending HRS § 378-2 to expressly add reproductive health decisions as a protected basis upon which employment discrimination is prohibited. HRS § 378-2(a)(1), 378-2(a)(9) [am L 2019, c 178 §2] (“Reproductive health decisions” include the use or attempted use of any legal drug, device, or medical service intended to prevent or terminate a pregnancy, or the use or attempted use of any assisted reproductive

technology. HRS § 378-1). Reproductive health decisions are deeply personal choices, and individuals in our state should have confidence that the right to make these private decisions continues to be protected under our state constitution.

The HCRC supports S.B. No. 1167.



AMERICANS FOR DEMOCRATIC ACTION

OFFICERS	DIRECTORS		MAILING ADDRESS	
John Bickel, President	Melodie Aduja	Jan Lubin	Bill South	P.O. Box 23404
Alan Burdick, Vice President	Keola Akana	Shannon Matson	Michael Vernon	Honolulu
Doug Pyle, Secretary	Juliet Begley	Jenny Nomura		Hawaii 96823
	Stephanie Fitzpatrick	Stephen O'Harrow		

January 30, 2023

TO: Chair Rhoads and Members of the Judiciary Committee

RE: SB 1167 PROPOSING AN AMENDMENT TO THE HAWAII STATE CONSTITUTION TO PROTECT INDIVIDUAL REPRODUCTIVE RIGHTS.

Support for a hearing on Feb. 3

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support SB 1 as it would propose a constitutional amendment to protect an individual's reproductive freedom in their most intimate decisions, including the right to abortion and contraceptives. The right to privacy is a cornerstone of our liberal democracy. This would protect that cornerstone.

Thank you for your consideration.

Sincerely,

John Bickel, President



*American College of Obstetricians and Gynecologists
Hawai'i, Guam & American Samoa Section*

TO: Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

DATE: Wednesday, February 3, 2023 at 9:30am

FROM: Hawai'i Section, ACOG
Reni Soon, MD, MPH, FACOG, Legislative Chair and Immediate Past Chair
Angel Willey, MD, FACOG, Chair

Re: SB 1167 Proposing an amendment to the Hawai'i state constitution to protect individual reproductive rights
Position: SUPPORT

The Hawai'i Section of the American College of Obstetricians and Gynecologists (HI ACOG) **supports SB 1167** which would propose a constitutional amendment to protect an individual's reproductive freedom, including the right to abortion and contraceptives.

Hawai'i has a long history of recognizing the importance of access to abortion care, and protecting this access is widely supported. Hawai'i has a proud history of leading the country in protecting reproductive rights, being one of the first states to legalize abortion in 1970. In 1978, the Hawai'i state constitution was amended to explicitly codify the right to privacy in article 1, section 6. Access to abortion has always been widely supported in Hawai'i,¹ and our health care organizations also recognize and support access to abortion because health care organizations and professionals know that access to abortion is critical to public health and to reducing pregnancy related morbidity and mortality.

While Hawai'i has been a long-time leader in reproductive health care rights, the landscape in the rest of the country is rapidly changing. Since the *Dobbs v. Jackson Women's Health* decision by the United States Supreme Court in June 2022 that overturned almost fifty years of a national constitutional right to abortion, several states have passed laws banning or highly restricting access to abortion.² It is critical that we act to protect our rights.

Amending our constitution is our strongest and most lasting way to ensure individual reproductive rights in Hawai'i. Constitutional amendments assure that state laws will not be enacted that contradict these constitutional rights and can help protect from loss of freedoms based on changes in the courts or legislature.

For these reasons, Hawai'i ACOG urges the legislature to be proactive and protect abortion access in Hawai'i for generations to come. **Please pass SB 1167.**

¹ <https://www.pewresearch.org/religion/religious-landscape-study/state/hawaii/views-about-abortion/>

² <https://www.guttmacher.org/2023/01/six-months-post-roe-24-us-states-have-banned-abortion-or-are-likely-to-do-so-roundup>

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Friday, February 3, 2023

Room 016

9:30 AM

STRONG SUPPORT FOR SB 1167 - CON AM ON REPRODUCTIVE RIGHTS

Aloha Chair Rhoads, Vice Chair Gabbard and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of the 4,074 Hawai'i individuals living behind bars¹ and under the "care and custody" of the Department of Public Safety/Corrections and Rehabilitation on any given day. We are always mindful that 964 of Hawai'i's imprisoned people are serving their sentences abroad -- thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

Community Alliance on Prisons appreciates this opportunity to testify in strong support of a constitutional amendment to protect reproductive rights.

Proper healthcare is vital to a thriving community. The recent actions of the U.S. Supreme Court are appalling and necessitated an amendment to our Constitution, which we fully support. When the government starts regulating the types of healthcare that can be accessed by the community, it is a sad day for the privacy rights of citizens regarding their healthcare choices.

Community Alliance on Prisons urges the committee to support this important measure. We don't want the US to be known as "the land of gun care and health control."

¹ Department of Public Safety, Weekly Population Report, January 30, 2023.

https://dps.hawaii.gov/wp-content/uploads/2023/01/Pop-Reports-Weekly-2023-01-23_George-King.pdf



Democratic Party of Hawai'i Supports SB No. 1167

The Democratic Party of Hawai'i supports SB No. 1167, which provides for a ballot initiative to place before the voters of the State of Hawai'i a question whether to amend the Constitution of the State of Hawai'i, to prohibit any law which denies or interferes with an individual's reproductive freedom in their most intimate decisions, which include their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives.

We encourage all elected officials of the State of Hawai'i who subscribe to Democratic values to vote for and/or to support SB No. 1167.

Mahalo.

Dennis W. Jung
State Party Chair
Democratic Party of Hawai'i



TESTIMONY IN SUPPORT OF SENATE BILL 1167 WITH SUGGESTED AMENDMENTS

Friday, February 3, 2023, at 9:30 A.M.
Conference Room 016 & Videoconference

To: The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice Chair
Members of the Senate Committee on the Judiciary

From: The Hawai'i Friends of Civil Rights
Co-Chairs Amy Agbayani and Pat McManaman

The Hawai'i Friends of Civil Rights **Strongly Supports S.B. 1167 With Suggested Amendments** to assure it has its intended effect.

On June 24, 2022, the United States Supreme Court unleashed legal chaos when it overturned 50 years of precedent that expressly protected the right to abortion. Trigger laws in 13 states resulted in the immediate closing of abortion clinics and over 30 abortion-related lawsuits are pending in state courts with additional challenges on medication abortion, shield laws, and the rights of minors forthcoming.

Amending our constitution is the strongest and most lasting way to ensure individual reproductive rights in Hawai'i. Yet, as drafted, S.B. 1167 opens the door for the executive branch to sidestep the constitutional mandate through administrative regulations, which by definition are not laws duly enacted by the state. Only the legislature is granted the authority to enact laws. Hawai'i Constitution, Article 3, Section 14.

The California Supreme Court faced this very issue in a case involving Medicaid abortion benefits. Committee to Defend Reproductive Rights v. Myers, 29 Cal. 3d 252, 625 P.2d 779 (Cal. 1981). In that matter, the California Attorney General conceded that under the California

Constitution, the executive branch had no authority to prohibit rich or poor women from exercising their right of “procreative choice.” Instead, the executive branch argued that they simply exercised their regulatory powers to deny the use of public funds to pay for “procreation” services “ which the executive branch did not approve and did not wish to subsidize.

Abortion is and will remain a contentious issue in Hawai‘i and across our nation. To preserve the intent of the proposed Constitutional amendment and to preclude executive overreach in future years, we offer a **Suggested Amendment** as follows:

~~No law shall be enacted that denies or interferes~~ **The state shall not deny or interfere with an individual’s reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives.**

Thank you for your consideration and the opportunity to contribute to the discussion of this historical proposal.



Submitted Online: February 2, 2023

HEARING February 3, 2023

TO: Senate Committee on the Judiciary
Sen. Karl Rhoads, Chair
Sen. Mike Gabbard, Vice-Chair

FROM: Eva Andrade, President

RE: Opposition to SB1167 Proposing an Amendment to the Hawaii State Constitution to Protect Individual Reproductive Rights

Hawaii Family Forum is a non-profit, pro-family education organization committed to preserving and strengthening families in Hawaii. We oppose this bill because the proposed amendment makes “reproductive freedom” a constitutional right, but unfortunately fails to define this key term. Confronted with this lack of clarity, our understanding is that courts interpreting this broad term could conclude that “reproductive freedom” means far more than just unfettered, unregulated access to abortion, contraceptives, and sterilization.

By enshrining undefined “reproductive freedom” into the Hawaii Constitution, the proposed amendment could very well endanger the safety of women by prohibiting common-sense limits and regulations on abortion, and undermine the state’s ability to protect other fundamental rights.

Please understand, we do not believe regulations are an end goal – killing the unborn should be stopped – but regulations are necessary to protect the health and life of women who do choose to have an abortion and, to whatever extent possible, reduce the number of women who make such a choice.

Abortion, the killing of the unborn, is a medical procedure no matter what supporters might say, and as any other medical procedure it must be regulated to ensure the mother’s safety.

Mahalo for the opportunity to submit testimony in opposition.

SB-1167

Submitted on: 2/1/2023 10:38:23 AM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Pride at Work - Hawaii	Testifying for Pride @ Work - Hawaii	Support	Written Testimony Only

Comments:

Aloha Senators,

Pride at Work – Hawai‘i is an official chapter of Pride At Work which is a national nonprofit organization that represents LGBTQIA+ union members and their allies. P@W-HI fully supports SB 1167.

We ask that you support this needed piece of legislation.

Mahalo,

Pride at Work – Hawai‘i

SB-1167

Submitted on: 2/1/2023 2:56:07 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Doris Segal Matsunaga	Testifying for Save Medicaid Hawaii	Support	Written Testimony Only

Comments:

Save Medicaid Hawaii strongly supports SB 1167

SB-1167

Submitted on: 2/1/2023 10:37:27 AM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael Golojuch Jr	Testifying for Stonewall Caucus of the Democratic Party of Hawaii	Support	Remotely Via Zoom

Comments:

Aloha Senators,

The Stonewall Caucus of the Democratic Party of Hawai‘I; Hawai‘i’s oldest and largest policy and political LGBTQIA+ focused organization fully supports SB 1167.

We hope you all will support this important piece of legislation.

Mahalo nui loa,

Michael Golojuch, Jr.
Chair and SCC Representative
Stonewall Caucus for the DPH



LATE

February 3, 2023

Senator Karl Roads, Chair
Members of the Senate Committee on Judiciary
Thirty Second Legislature, 2023
State of Hawaii

Re: Testimony of Catherine Glenn Foster, M.A., J.D., President & CEO, Americans United for Life, Against SB 1167, Regarding Enshrining Expansive Abortion Measures into Law

Dear Chairman Roads and Honorable Members:

I serve as President & CEO of Americans United for Life (AUL), America's original and most active pro-life legal advocacy organization. Founded in 1971, two years before the Supreme Court's decision in *Roe v. Wade*, AUL has dedicated over 50 years to advocating for comprehensive legal protections for human life from fertilization to natural death. AUL attorneys are highly regarded experts on the Constitution and legal issues touching on abortion and are often consulted on various bills, amendments, and ongoing litigation across the country.¹ For five decades, AUL's staff, supporters, and partners have worked tirelessly to advance the human right to life in culture, law, and policy. I appreciate the opportunity to submit legal testimony concerning SB 1167, regarding enshrining expansive abortion measures in Hawaiian law.

SB 1167 expands abortion allowances well beyond even what was established in the now overturned *Roe v. Wade* and its progeny, eliminating the state's legitimate interest in protecting life and prohibiting commonsense protections for women's health.

SB 1167 Abdicates Hawaii's Duty and Responsibility to Protect Women and Children

For many years, abortion has been marketed as healthcare, even touted as essential medical treatment. Yet that could not be farther from the truth. Abortion exploits women and kills innocent preborn life. From conception, the preborn human being has a unique and complete genetic composition derived from both the mother and the father. As early as five (5) weeks' gestation, the preborn human being's heart begins beating. The preborn human being begins to move about in the womb at approximately eight (8) weeks' gestation.

¹ See, e.g., *Revoking Your Rights: The Ongoing Crisis in Abortion Care Access Before the H. Comm. on the Judiciary*, 117th Cong. (2022) (testimony of Catherine Glenn Foster, President & CEO, Americans United for Life); *What's Next: The Threat to Individual Freedoms in a Post-Roe World Before the H. Comm. on the Judiciary*, 117th Cong. (2022) (testimony of Catherine Glenn Foster, President & CEO, Americans United for Life).

Not only does abortion destroy a preborn child, it is also a devastating practice for women. Women become more isolated through abortion. Elective abortion does not improve the mother's physical or mental health, nor heal her in any capacity. As scholarship recognizes, "both sides agree that (a) abortion is consistently associated with elevated rates of mental illness compared to women without a history of abortion; (b) the abortion experience directly contributes to mental health problems for at least some women."²

Due to its destructive effects on families, mothers, and children, abortion has distorted the medical profession's societal role as healers. The Hippocratic Oath is known as one of the most important steps in becoming a doctor, promising *primum non nocere* or "to do no harm." In 2020, harm abounded through over 930,000 reported abortions in the United States.³

Simultaneously, fetal medicine in the modern age has drastically developed since the Supreme Court handed down *Roe v. Wade* in 1973. Ultrasonography visibly shows the development and humanity of the unborn child. Fetal medicine has become a technologically advanced specialty, empowering doctors to perform surgery on the unborn child in utero. For example, prenatal surgery is available for pulmonary hypoplasia. This condition is a life-threatening disorder that occurs when an infant's underdeveloped lungs cannot breathe on their own.⁴ Surgical techniques allow for early intervention, promoting lung development so that the preborn child is born with full breathing capabilities. Women and preborn children have more options than ever before for a healthy delivery.

When the Supreme Court handed down *Dobbs v. Jackson Women's Health Organization*, there was renewed hope that abortion violence could be eradicated. As the Court recognized, "[t]he Constitution makes no reference to abortion, and no such right is implicitly protected by any constitutional provision."⁵ Accordingly, the Supreme Court held, "[i]t is time to heed the Constitution and return the issue of abortion to the people's elected representatives."⁶ The Court further recognized States may abolish abortion to further legitimate governmental interests, which "include respect for and preservation of prenatal life at all stages of development . . . the protection of maternal health and safety; the elimination of particularly gruesome or barbaric medical procedures; [and] the preservation of the integrity of the medical profession"⁷

The Act Expands Abortion Allowance Beyond Even Roe and its Progeny

SB 1167 places no limits on the abortions it allows. This goes well beyond even the allowance in the recently overturned *Roe* decision. In *Roe*, the Supreme Court at least recognized that "a State may properly assert important interests in safeguarding health, in

² David C. Reardon, *The Abortion and Mental Health Controversy: A Comprehensive Literature Review of Common Ground Agreements, Disagreements, Actionable Recommendations, and Research Opportunities*, 6 SAGE Open Med. 1, 1 (Oct. 2018).

³ Carla K. Johnson, *U.S. Abortions Rose in 2020, With About 1 in 5 Pregnancies Terminated*, PBS NewsHour (June 15, 2022), <https://www.pbs.org/newshour/nation/u-s-abortions-rose-in-2020-with-about-1-in-5-pregnancies-terminated>.

⁴ *Fetal Surgery: Doctors & Departments*, Mayo Clinic (Mar. 24, 2022), <https://www.mayoclinic.org/tests-procedures/fetal-surgery/doctors-departments/pdc-20384572>.

⁵ *Dobbs v. Jackson Women's Health Organization*, 142 S. Ct. 2228, 2242 (2022).

⁶ *Id.* at 2243.

⁷ *Id.* at 2284.

maintaining medical standards, and in protecting potential life.”⁸ The language of SB 1167 explicitly removes this important role of the State, prohibiting life-affirming measures by preventing any law that “denies or interferes with . . . their fundamental right to choose to have an abortion.” In so doing, the Bill effectively creates abortion on-demand at any point in the pregnancy up until birth.

Time and again, the pre-*Dobbs* Supreme Court recognized the need to protect life and provisions to ensure the informed consent and health of the woman on whose child the abortion will be performed.⁹ The Supreme Court reiterated that the “State has a legitimate interest in seeing to it that abortion, like any medical procedure, is performed under circumstances that insure maximum safety for the patient.”¹⁰ This Act would remove the ability of Hawaii to act upon its legitimate interest in protecting life and ensuring the mother’s health.

If this Committee were to pass this Bill, it would be denying:

1. A complete, genetically unique (except for monozygotic twins) individual member of the species *homo sapiens* exists at the moment a sperm fertilizes an egg;
2. Between five (5) and six (6) weeks’ gestation, the preborn human being’s heart begins beating;
3. The preborn human being begins to move about in the womb at approximately eight (8) weeks’ gestation;
4. At about nine (9) weeks’ gestation, all basic physiological functions are present. Teeth and eyes are present, as well as external genitalia;
5. A human being’s vital organs begin to function at approximately ten (10) weeks’ gestation. Hair, fingernails, and toenails begin to form;
6. At eleven (11) weeks’ gestation, the preborn human’s diaphragm is developing, and he or she may even hiccup. He or she is beginning to move about freely in the womb;
7. At twelve (12) weeks’ gestation, the preborn human being can open and close his or her fingers. He or she starts to make sucking motions, and senses stimulation from the world outside the womb. *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228, 2243–2244 (2022). He or she has taken on “the human form” in all relevant aspects. *Gonzales v. Carhart*, 550 U.S. 124, 160 (2007); and
8. That no human beings are endowed by the Law with lesser fundamental rights than others, and that all persons enjoy the equal protection of the Law.

The Act Prohibits Actions to Protect Health, Putting Women and Children at Risk

⁸ *Roe v. Wade*, 410 U.S. 113 at 154 (1973).

⁹ See *Planned Parenthood of Southeast Pa. v. Casey*, 505 U.S. 833 (1992).

¹⁰ *Whole Women’s Health v. Hellerstedt*, 790 F.3d 563 (2016) (quoting *Roe*, 410 U.S. at 150).

By preventing any restrictions on abortion, the Bill would also remove the ability for Hawaii to protect women and children's health where they are affected by abortion. Such prohibited protections could include informing the woman what an abortion involves, what procedure will be done, the gestational age of the baby, and the risks of an abortion. It could prevent ensuring that she has time to consider the impact and consequences of an abortion.

It could block giving notice to the woman that adoption services are available and that there are options for prenatal and perinatal care regardless of income. It could preclude protections against coerced abortion, sex selective abortion, and abortion based on genetic anomalies such as Down syndrome. It could prohibit Hawaii from working against intimate partner abuse and human trafficking. Even more troubling, it could leave teenage girls without the protection and support of their families and community.

Additionally, it would clearly prohibit protections for unborn children who feel pain and would allow such procedures as partial-birth abortion (a gruesome procedure detailed in *Gonzales v. Carhart*¹¹). By failing to allow any guardrails or restrictions, the Bill allows for abortion up to the moment of delivery of the child.

Ultimately, the Act would reject what the Supreme Court acknowledged, that “the medical, emotional, and psychological consequences of an abortion are serious and can be lasting”¹² Only by rejecting SB 1167 can this committee further Hawaii's important state interests in preserving human life, as well as protecting women's health.

The Bill Subverts Federal Conscience Protections

The Bill also raises serious conscience rights issues. The language used, “no law” suggests the inability of the Hawaii Legislature to protect the conscience rights of physicians and others who sincerely object to the taking of unborn life. While HI Rev. Stat. § 453-16 declares that “nothing in this section shall require any hospital or any person to participate in an abortion nor shall any hospital or any person be liable for a refusal,” the Bill is silent as to whether medical professionals may conscientiously object to the unfettered “fundamental right to choose to have an abortion” under it. This would include objections to abortion referrals, counseling, funding, and insurance coverage.

The United States has a rich legal tradition of protecting conscience rights against abortion. Federal statutory protections include:

- The Church Amendment, which protects healthcare facilities and individuals' conscientious objections to performing or assisting an abortion.²⁰
- The Coat-Snowe Amendment, which establishes anti-discrimination protections for healthcare entities that conscientiously object to training for or performing an abortion, as well as providing referrals for abortion training or abortion services.²¹
- The Weldon Amendment, which establishes anti-discrimination protections for medical professionals and facilities that conscientiously object

¹¹ 550 U.S. 124 (2007).

¹² *H.L. v. Matheson*, 450 U.S. 398, 411 (1981).

to “provid[ing], pay[ing] for, provid[ing] coverage of, or refer[ring] for abortions.”²²

The Bill infringes on these federal conscience protections by creating an unfettered right to abortion on demand. Under the Supremacy Clause, federal conscience laws preempt state laws when the two are in conflict.

Conclusion

SB 1167 seeks to remove from Hawaii the State’s ability to guard and protect the life and health of women and children. Additionally, it fails to uphold conscience protections for providers. I urge you to oppose SB 1167.

Sincerely,

A handwritten signature in black ink, appearing to read "Catherine", with a large, stylized initial "C" that loops around the start of the name.

Catherine Glenn Foster
President and CEO
Americans United for Life

TESTIMONY OF ELLEN GODBEY CARSON

I write in strong support of SB 1167, with a recommended amendment to assure the constitutional amendment has its intended effect.

While I write as an individual, I have served as President of Hawaii Women Lawyers and the Hawaii State Bar Association. The major part of my legal career was spent in civil rights and health law, including numerous legal proceedings to protect access to abortion here in Hawaii.

As written, the proposed amendment protects from any “state law,” but not necessarily from state executive and administrative actions that do not entail “enactment of a law.” **I therefore recommend amending SB 1167** so the operative text in sections 1 & 2 will read:

No law shall be enacted, **nor any state action be taken**, that denies or interferes with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives."

Alternatively, the language could be amended as follows:

The state shall not deny or interfere with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives.

Either phrasing of the proposed amendment will expand it to clearly reach state laws and state executive and administrative actions that are hostile to these reproductive rights. Without this enhancement, S.B. 1167 opens the door for the executive and administrative actions to potentially sidestep the constitutional mandate through state actions which are not “enactment of laws.”

Amending our constitution to create explicit reproductive rights is our strongest and most lasting way to ensure individual reproductive rights in Hawaii. This is the only way we can help assure that all individuals in Hawaii, regardless of age or marital status, have a fundamental constitutional right to safe and legal access to abortion and contraception, for generations to come.

While Hawaii's constitutional "Right to Privacy" (Section 6) was intended to include reproductive rights, that clause never explicitly mentions abortion, contraception or indeed any reproductive right. Section 6 instead relied on a general right of privacy that in legislative history reveals was embodied in *Roe v. Wade* and federal caselaw. That caselaw was entirely gutted in 2022 when *Roe v. Wade* was overturned as a result of political changes in the US Supreme Court.

We do not want our state constitutional right of privacy to suffer the same loss due to its lack of specificity, should any similar changes ever occur to our Hawaii Supreme Court. Accordingly, I urge you to amend our state constitution now, to expressly protect individual reproductive freedoms we hold dear.

We know abortion will be always be an issue on which good people can disagree. That should not be a reason to forego a constitutional amendment. When then-governor John A. Burns, a devout catholic, was presented with new legislation to legalize abortion, rather than veto it (consistent with his religious beliefs), he made the personally difficult decision to let the bill to pass without his signature. His believed that our law should allow people to make this important decision for themselves. We hope our legislature and community will be as enlightened and courageous as he was, and support this historic amendment.

Mahalo for protecting our reproductive freedoms here in Hawaii.

Ellen Godbey Carson, Honolulu, Hawaii

HAWAII STATE
DEPARTMENT OF JUDICIARY
HONOLULU, HI
January 31, 2023

To: The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice Chair
And All Members of the Judiciary Committee

The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair
And All Members of the Ways and Means Committee

From: Yvonne Morin, MSW Student

Subject: **S.B. No. 1167: Proposing an Amendment to the Hawai'i State Constitution to
Protect Individual Reproductive Rights**

RELATING TO PROTECTING INDIVIDUAL REPRODUCTIVE RIGHTS

Hearing: Conference Room 016 and Videoconference on
Friday, February 03, 2023

POSITION: Yvonne Morin, MSW Student

PURPOSE: The bill's purpose is to support individuals by protecting the freedom of individual reproductive rights in their most personal decisions, including the right to abortion and contraceptives.

Dear Chair Karl Rhoads, Vice Chair Mike Gabbard, Chair Donovan M. Dela Cruz, Vice Chair Gilbert S.C. Keith-Agaran, and all Members of the Judiciary and Ways and Means Committee:

My name is Yvonne Morin, and I am an MSW and practicum student specializing in health social work. I submit testimony in support of protecting the freedom of individual reproductive rights.

Evidence shows that "restrictive laws do not reduce the need for abortion care but increase the risk of women accessing unsafe and illegal abortion, which is associated with serious maternal morbidity and mortality. In the 21st century, over 47,000 women and girls globally die each year from unsafe abortion-related complications. Unsafe abortion remains one of the five main causes of maternal mortality worldwide, accounting for 13% of maternal deaths" (Louwen et al., 2022, p.2)

Suppose individuals are protected in having the freedom to have reproductive rights. In that case, women will not be limited to the practice of freedom of control for their bodies and not be limited to the following:

- Having the ability to exercise choice and control of their individual, sexual, and reproductive rights in Hawai'i, the U.S., and from a global perspective
- Access to healthcare to exercise human rights if provided reproductive care services to comprehensive reproductive care and help avoid challenges faced when seeking education and resources regarding:
 - safe abortions and childbirth
 - access to contraceptives
 - preventive and treatment for sexually transmitted infections

Thank you for the opportunity to testify on this bill, as I am a woman who believes in pro-choice and wants to help advocate for other women, girls, and future generations for freedom of choice in public health.

Sincerely,

Yvonne Morin

MSW Student

JAMES HOCHBERG

ATTORNEY AT LAW, LLLC

February 2, 2023

TESTIMONY STRONGLY OPPOSING SB 1167

Senate Committee On Judiciary
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Senator Joy A. San Buenaventura
Senator Brenton Awa

Hearing: SB1: Friday, February 3, 2023 at 9:30 a.m. Conf. Rm. 016

Dear Chair, Vice Chair and Committee Members,

My name is Jim Hochberg and I am a civil rights attorney seeking to protect the Constitutional Rights of the people of Hawaii in the federal and state courts in Hawaii. I have practiced law in Hawaii since 1984 (39 years). I submit this testimony in opposition to SB1167 as written which unwisely seeks to amend our Hawaii Constitution with ambiguous language related to reproductive rights that will create a subsequent quagmire.

The proposed ballot question is:

"Shall the Constitution be amended to state that no law shall be enacted that denies or interferes with an individual's reproductive freedom in their most intimate decisions, including the fundamental right to abortion and contraceptives?"

Without answering the following questions about the proposed language, the amendment will result in language put into the constitution that is so ambiguous the meaning is unknowable. Can you ask the proponents to define these terms so the meaning of the measure is more clear:

1. How can "individuals" reproduce? How do "individuals" need reproductive freedom? Should not the language be "females" or even "people with female reproductive organs"? This is creating a huge problem pretending that any "individual" can actually reproduce and therefore every "individual" needs to be included within the scope of the new rights

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**JAMES HOCHBERG
ATTORNEY AT LAW, LLLC**

Senate Committee On Judiciary
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Senator Joy A. San Buenaventura
Senator Brenton Awa
February 2, 2023
Page 2

the bill seeks to enshrine in the Hawaii Constitution. Or is the intent to give the sperm provider reproductive rights over the egg provider in a pregnancy?

2. Can we establish the age when these rights arise so parents still participate in these decisions with their children or is the intent to further drive a wedge between parents and children?
3. What does “reproductive freedom” mean? Is this a minefield waiting to be stepped in? When the bill says “reproductive freedom including” then what else does it include that is not stated? “Abortion” needs to be defined too since right now it is defined statutorily as prior to viability, but statutorily that could change also changing the definition in the constitution.
4. Why does the language include “contraceptives”? Is there any issue there at all? If not, why don’t we add freedom from “blood-letting”, “leeching”, “trephination” (as opposed to craniotomy), and other out of date medical issues?

Finally, the bill does not state the purpose, which may be revealed by the answers to these questions. If you have any questions please feel free to call me.

Sincerely,

/s/ JAMES HOCHBERG

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SB-1167

Submitted on: 1/30/2023 12:05:17 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
cheryl B.	Individual	Support	Written Testimony Only

Comments:

I SUPPORT this bill which proposes a constitutional amendment to protect an individual's reproductive freedom in their most intimate decisions, including the right to abortion and contraceptives. One of the most important rights we have as individuals is that in decisions about our health, we are able to choose and make those decisions. It is not the govt. or any religious body's decision, it is ours to be protected and guaranteed that we have the paths to take care of ourselves safely.

SB-1167

Submitted on: 1/30/2023 12:42:56 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Nikos Leverenz	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Rhoads, Vice Chair Gabbard, and Committee Members:

I write in ***strong support*** of SB 1167, which would add the individual right to access abortion care and contraceptives to Article I of the state constitution.

Please consider an amendment to the proposed language that would broaden protection to all services related to reproductive health choices, including the use of in-vitro fertilization and surrogacy services.

This measure could also be strengthened by including an express right to receive science-based information related to reproductive health, including human physiology, conception, prenatal care and development, childbirth, and postnatal care.

An express constitutional prohibition against forced sterilization could also strengthen an individual's right to be free from far reaching punitive state action. Unfortunately, [this practice is has yet to be consigned to the dustbin of history in this nation.](#)

Thank you for the opportunity to provide testimony.

SB-1167

Submitted on: 1/30/2023 1:32:18 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Coralie Matayoshi	Individual	Support	Written Testimony Only

Comments:

I strongly support SB 1167, a proposal to amend the Hawaii State Constitution to protect the right to an abortion and contraceptives. Hawaii was the first state in the nation to legalize abortion, 3 years before Roe v. Wade, and our state constitution also affords strong privacy protections. But given the U.S. Supreme Court's decision overturning Roe v. Wade and the rush of other states to ban abortions, we must make every effort to ensure that abortion and contraception remain a right of all women in Hawaii.

SB-1167

Submitted on: 1/30/2023 3:41:05 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Christine A Villaflor	Individual	Support	Written Testimony Only

Comments:

I absolutely agree with this bill! An individuals Reproductive Rights need to be protected.

SB-1167

Submitted on: 1/30/2023 6:41:50 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Kayla Doherty	Individual	Support	Written Testimony Only

Comments:

I support SB1167 as it pertains to our constitutional rights, including the right to privacy. In light of the inappropriate repeal of Roe v. Wade in 2022, Hawai'i has a duty to safeguard our individual rights to privacy, especially pertaining to one's own body. Opposing SB1167 shows little regard or care for oneself and others which can lead to even more pervasive infringements on individual rights.

SB-1167

Submitted on: 1/30/2023 8:47:41 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
John Fitzpatrick	Individual	Support	Written Testimony Only

Comments:

Aloha Honorable Senators,

I support protecting a womans right to choose to be voted on and protected in the Hawai'i state constitution. The far right supreme court that overturned the protections of Roe vs. Wade have attacked the freedom of women and we need to protect the choice a woman and her family. Let voters decide that we want to protect these very hard decisions that are between a woman and her doctor.

Mahalo,
Fitz

John Fitzpatrick

Chair Karl Rhoads
Vice Chair Mike Gabbard

Senate Committee on Judiciary

Friday, February 3, 2023
9:30AM

**TESTIMONY IN SUPPORT OF SB1167 PROPOSING AN AMENDMENT TO THE
HAWAII STATE CONSTITUTION TO PROTECT INDIVIDUAL REPRODUCTIVE
RIGHTS.**

Aloha Chair Rhoads, Vice Chair Gabbard, Members of the Senate Committee on Judiciary,

My name is Jun Shin. I am a graduate of the University of Hawai‘i at Mānoa and a member of the Hawai‘i State Youth Commission, testifying as an individual in **SUPPORT** of **SB1167**, Proposing an Amendment to the Hawaii State Constitution to Protect Individual Reproductive Rights.

At a time when abortion rights are under attack and the federal government is unable/unwilling to act depending on how you look at it, it is fitting and unfortunate that Hawai‘i has to take on this fight again. We are a state where an ILWU-supported legislature decriminalized abortion in 1970, 3 years before the Roe decision.

We must not rest on our achievements and just fight for what we have/had. Despite our more liberalized laws towards reproductive rights, it is still much harder for working class women, and for those living in rural, neighbor island communities to still get full reproductive care, including abortions. This constitutional amendment must come with enforceable, material changes that will actually fix those issues and more.

Please **PASS SB1167** out of your committee.

Mahalo for the opportunity to testify,

Jun Shin,
State House District 23 | State Senate District 12
Cell: 808-255-6663
Email: junshinbusiness729@gmail.com

SB-1167

Submitted on: 1/31/2023 12:32:50 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Marya Grambs	Individual	Support	Written Testimony Only

Comments:

Amending our constitution is our strongest and most lasting way to ensure individual reproductive rights in Hawaii. While Hawaii has a constitutional “Right to Privacy” that was intended in part to protect reproductive rights, that constitutional text never mentions “abortion”, “contraception” or any “reproductive” rights. It instead relied on a general right of privacy embodied in Roe v. Wade and related caselaw that was entirely gutted in 2022 as a result of political changes in the composition of the US Supreme Court. We should amend our state constitution now, to expressly protect individual reproductive freedoms we hold dear.

This can help assure that all individuals in Hawaii have a fundamental constitutional right to safe and legal access to abortion and contraception, for generations to come.

Thank you for your consideration.

SB-1167

Submitted on: 1/31/2023 12:08:59 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Esther Geil	Individual	Support	Written Testimony Only

Comments:

Women have a right to be the ones making the decisions about their personal bodies. They are in the best position, consulting with their physicians, to know what all the factors of many kinds are that are relevant to their personal values and needs in making such decisions.

Please support SB1167 to help ensure this critical right to every woman in our state.

Thank you!

SB-1167

Submitted on: 2/1/2023 8:32:05 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Thaddeus Pham	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Rhoads, Vice Chair Gabbard, and Committee members,

As a deeply concerned citizen and public health professional, I write in strong support of SB 1167, which would ensure the constitutional right to reproductive freedom, including abortion and contraceptives.

Limiting reproductive rights, including abortion access, is not beneficial to public health leading to both economic and social harm. For more information on the public health importance of abortion access, please refer to: <https://publichealth.jhu.edu/2021/public-health-in-the-field-the-public-health-case-for-abortion-rights>.

With thanks,

Thaddeus Pham (he/him)

SB-1167

Submitted on: 1/31/2023 1:28:38 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Maria Y Song	Individual	Support	Written Testimony Only

Comments:

- Amending our constitution is our strongest and most lasting way to ensure individual reproductive rights in Hawaii.
- Constitutional amendments assure state laws will not be enacted that are contrary to these constitutional rights.
- Constitutional amendments can help protect from loss of freedoms based on changes in the courts or legislature.
- While Hawaii has a constitutional “Right to Privacy” that was intended in part to protect reproductive rights, that constitutional text never mentions “abortion”, “contraception” or any “reproductive” rights. It instead relied on a general right of privacy embodied in Roe v. Wade and related caselaw that was entirely gutted in 2022 as a result of political changes in the composition of the US Supreme Court.
- We do not want our state constitutional right of privacy to suffer should any similar changes ever occur to our Hawaii Supreme Court.
- We should amend our state constitution now, to expressly protect individual reproductive freedoms we hold dear.
- This can help assure that all individuals in Hawaii, regardless of age or marital status, have a fundamental constitutional right to safe and legal access to abortion and contraception, for generations to come.

SB-1167

Submitted on: 1/31/2023 2:30:52 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Judith White	Individual	Support	Written Testimony Only

Comments:

Reproductive rights are health care rights.

SB-1167

Submitted on: 1/31/2023 4:25:14 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Susan Jaworowski	Individual	Support	Written Testimony Only

Comments:

For almost 40 years, women across the United States have had full control over their reproductive freedom, the right to continue or terminate a pregnancy, and the right to obtain birth control. The right to an abortion was made a national right under the United States Supreme Court's 1973 decision in *Roe v. Wade*. However, after the 2022 United States Supreme Court decision in the *Dobbs* case, that right is then in jeopardy in every state. It is imperative that Hawaii moves to protect the rights of its women to reproductive freedom, the same right that they have enjoyed for almost 40 years. Hawaii has always been a progressive state, rejecting discrimination in any form, including gender discrimination. Hawaii adopted the equal rights amendment in its state constitution whereas it is still not in place at the federal level. Hawaii again needs to act progressively to ensure that tomorrow's woman enjoys the same rights that her mother had.

This important issue should go to the people to decide and should not be blocked at the legislative level. Please vote to pass this bill so that it will be placed on the ballot at the next general election.

SB-1167

Submitted on: 1/31/2023 7:48:09 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Lorraine Robinson	Individual	Support	Written Testimony Only

Comments:

- Amending our constitution is our strongest and most lasting way to ensure individual reproductive rights in Hawaii.
- Constitutional amendments assure state laws will not be enacted that are contrary to these constitutional rights.
- Constitutional amendments can help protect from loss of freedoms based on changes in the courts or legislature.
- While Hawaii has a constitutional “Right to Privacy” that was intended in part to protect reproductive rights, that constitutional text never mentions “abortion”, “contraception” or any “reproductive” rights. It instead relied on a general right of privacy embodied in Roe v. Wade and related caselaw that was entirely gutted in 2022 as a result of political changes in the composition of the US Supreme Court.
- We do not want our state constitutional right of privacy to suffer should any similar changes ever occur to our Hawaii Supreme Court.
- We should amend our state constitution now, to expressly protect individual reproductive freedoms we hold dear.
- This can help assure that all individuals in Hawaii, regardless of age or marital status, have a fundamental constitutional right to safe and legal access to abortion and contraception, for generations to come.

SB-1167

Submitted on: 1/31/2023 3:07:24 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jenny Silbiger	Individual	Support	Written Testimony Only

Comments:

RE: SB1167 - in Support

To Whome It May Concern:

- Amending our constitution is our strongest and most lasting way to ensure individual reproductive rights in Hawaii.
- Constitutional amendments assure state laws will not be enacted that are contrary to these constitutional rights.
- Constitutional amendments can help protect from loss of freedoms based on changes in the courts or legislature.
- While Hawaii has a constitutional “Right to Privacy” that was intended in part to protect reproductive rights, that constitutional text never mentions “abortion”, “contraception” or any “reproductive” rights. It instead relied on a general right of privacy embodied in Roe v. Wade and related caselaw that was entirely gutted in 2022 as a result of political changes in the composition of the US Supreme Court.
- We do not want our state constitutional right of privacy to suffer should any similar changes ever occur to our Hawaii Supreme Court.
- We should amend our state constitution now, to expressly protect individual reproductive freedoms we hold dear.
- This can help assure that all individuals in Hawaii, regardless of age or marital status, have a fundamental constitutional right to safe and legal access to abortion and contraception, for generations to come.

Mahalo for considering my testimony in support of SB1167.

Jenny Silbiger

SB-1167

Submitted on: 2/1/2023 10:56:28 AM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

Imua. This is needed.

SB-1167

Submitted on: 1/31/2023 10:17:38 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Kathleen Triolo	Individual	Support	Written Testimony Only

Comments:

There is nothing more sacred and private than decisions we make about our reproductive lives. This bill ensures that all individuals in Hawaii, regardless of age or marital status, have a fundamental constitutional right to safe and legal access to abortion and contraception, for generations to come.

Working with adolescents who lack education about contraception, who do not know what is available and how to use it, I've seen their faces when having to make wrenching decisions as a result.

We have seen the detestable outcomes from other state laws including medical students not being taught standard of care procedures (which have their own ripple effects), when a physician is afraid to see a 10-year-old for fear of losing his license and going to jail, \$10,000 rewards for recklessly turning someone in for going into a Planned Parenthood.

I stand as a strong supporter of this bill.

SB-1167

Submitted on: 1/31/2023 10:50:56 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Barbara Krasniewski	Individual	Support	Written Testimony Only

Comments:

I strongly support SB1167 changing the Hawaii State Constitution to forever protect an individual's right to make health care choices relating to abortion and contraception without any interference. I'm confident the voters of Hawaii will approve this change. No government nor group should ever impose restrictions on such private and personal decisions. Thank you.

SB-1167

Submitted on: 2/1/2023 10:23:57 AM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Sue Hornik	Individual	Support	Written Testimony Only

Comments:

I stongly support SB1167.

Amending our constitution to clarify the constotutional rights of women is the best way to ensure individual reproductive rights in Hawaii. Constitutional amendments can help protect us from our loss of freedoms based on court and legislative fads or trends or misinformation or biases or bigoted ideology.

Hawaii's constitutional "Right to Privacy" was intended to protect reproductive rights, but the text never mentions "abortion", "contraception" or any "reproductive" rights so that must be fixed now. Relying on the general right of privacy embodied in Roe v. Wade and related caselaw was clearly a mistake that must be rectified since Roe was gutted in 2022 by the radically conservative US Supreme Court. Thank you for voting for women!

SB-1167

Submitted on: 2/1/2023 10:10:40 AM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
nancy sidun	Individual	Support	Written Testimony Only

Comments:

I would like to offer my full support for the amendment for bill SB1167 as amending our constitution is our strongest and most lasting way to ensure individual reproductive rights in Hawaii -- constitutional amendments assure state laws will not be enacted that are contrary to these constitutional rights. They can help protect from loss of freedoms based on changes in the courts or legislature. We should amend our state constitution now, to expressly protect individual reproductive freedoms we hold dear. This amendment will help assure that all individuals in Hawaii, regardless of age or marital status, have a fundamental constitutional right to safe and legal access to abortion and contraception, for generations to come.

SB-1167

Submitted on: 2/1/2023 9:04:04 AM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Ilima DeCosta	Individual	Support	Written Testimony Only

Comments:

Reproductive health is amongst the most private of personal rights protected by the First Amendment, and no persons rights to make decisions about their reproductive life should be infringed upon by the either the opinions or religious beliefs of others. In order to provide for the protections of the First Amendment, no federal or state laws should be enacted that undermine the rights of individuals to pursue their own, personal and private decisions regarding their reproductive health. As a human rights advocate, I strongly support a Constitutional Amendment that would protect the rights of all individuals to make their own decisions about their reproductive lives without the infringement of the federal or state government(s) or religious actors.

SB-1167

Submitted on: 2/1/2023 12:53:25 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Kathryn Chun	Individual	Support	Written Testimony Only

Comments:

I strongly support SB1167 in protection of individual reproductive rights. Interference in an individual's reproductive is government overreach and can have severe consequences of death for the individual, resulting from medical and/or mental health complications. As a clinical psychologist, I hear stories of trauma on a regular basis from patients, and many of these are the result of relationships in which individuals' rights to safety and wellbeing have been violated by others, including by institutions. It is critical that the state of Hawai'i stands for human rights and social justice and, to this end, the basic reproductive right to make a personal decision about one's own body.

SB-1167

Submitted on: 2/1/2023 7:30:20 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Leina Ijadic	Individual	Support	Written Testimony Only

Comments:

Aloha Senate,

Reproductive rights is reproductive health and I am in full support of SB1167.

Amending the State Constitution will be a lasting and strong way to protect rights that not only protect women, but also society as a whole.

SB-1167

Submitted on: 2/1/2023 10:49:38 AM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Brian Goodyear	Individual	Support	Written Testimony Only

Comments:

An amendment to the state constitution can help assure that all individuals in Hawaii, regardless of age or marital status, have a fundamental constitutional right to safe and legal access to abortion and contraception, for generations to come.

SB-1167

Submitted on: 2/1/2023 3:23:29 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Valerie Wayne	Individual	Support	Written Testimony Only

Comments:

Amending the state constitution is the most secure way to protect the right to abortion in our state, and I strongly support this bill. The constitution does not currently mention abortion directly, and we need that language to ensure that women have a right to make their own decisions about their bodies. An amendment will also ensure that right even if there are changes in the legislature or the constitution of our courts. Please support this bill to amend our constitution.

SB-1167

Submitted on: 2/1/2023 9:15:25 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Margaret ANN Renick	Individual	Support	Written Testimony Only

Comments:

Please pass this amendment, ensuring the continuation of a woman's right to privacy, and by extension, her reproductive rights. Mahalo.

February 3, 2023

The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice Chair
Senate Committee on Judiciary
Hawaii State Capitol
415 South Beretania
Honolulu, HI 96813

Testimony in support of SB 1167 Proposing an Amendment to the Hawaii State Constitution to Protect Individual Reproductive Rights

Thank you for considering SB 1167 which I support.

Many individual rights are under assault right now including a woman's right to choose what to do with her own body. These choices include terminating a pregnancy (or not) and whether to accept or refuse contraception.

Senate Bill 1167 would provide the long-term protection a woman needs to make her own decisions in the future. It prevents laws from being passed in opposition to reproductive rights. Please move this bill forward.

Mary Steiner

SB-1167

Submitted on: 2/2/2023 11:52:07 AM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael EKM Olderr	Individual	Support	Written Testimony Only

Comments:

Fifty years ago, our country should have guaranteed Women's rights to bodily autonomy with Roe v Wade. Still, decades of pressure and influence from right-wing politicians and judges have stolen the rights many women were born with. As Americans, we have taken for granted the rights and freedom that come from being born in this country, and we became complacent when signs of them started to deteriorate. Now, we have politicians and leaders within our government who campaign on the idea of taking away individual's rights under the guise of protection of religion. This so-called pro-life movement that promoted the idea of taking away the right to an abortion is hypocritical in its messaging, practically and spiritually. As a Christian, I reject the argument that Abortion is against our divine doctrine, and I believe that it hinders the call our call from God by attacking and judging women who consider it.

Furthermore, getting an abortion is a profoundly personal decision, one that a woman alone can make. And the risks of not getting an abortion can be the difference between life or death, whether the birth will end in both the baby's and the mother's death. Finally, the lack of abortion access has also been shown to unfairly affect women of color and women living in poverty because, statistically, people of color are often given sub-par medical treatment compared to their light skin counterparts, resulting in more women of color dying during childbirth.

Furthermore, an unplanned or forced pregnancy can continue the cycle of generational poverty and even throw a family or an unsuspecting individual into pregnancy if forced to raise it, resulting in a child forced to endure the emotional trauma of being born into poverty. Then there is the psychological burden of women who are victims of rape and incest, whose forced to live with the psychological scars of their unwilling and unlawful encounter. It is our duty to ensure the safety and the rights of women, not only of our islands but of our nation as well. Our islands must combat the hatred and bigotry that have been commonplace in our county and be the beacon of love and acceptance that we always claim to be. We must combat the deterioration of our institutions and trust in our government by cementing women's rights by enshrining them in our constitution forever.

SB-1167

Submitted on: 2/1/2023 6:15:57 AM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jennifer Taylor	Individual	Support	Written Testimony Only

Comments:

Please enact this critical constitutional amendment protecting our citizens' rights to privacy, especially the right to determine, alone with her medical provider, whether to continue a pregnancy or not. This is a fundamental right that was intended in Hawaii policy and statute and needs to be strengthened and codified in our constitution.

SENATE COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

TITLE OF BILL: SB1167 PROPOSING AN AMENDMENT TO THE HAWAII STATE
CONSTITUTION TO PROTECT INDIVIDUAL REPRODUCTIVE RIGHTS.

DATE: Friday, February 3, 2023
TIME: 9:30 AM
PLACE: Conference Room 016 & Videoconference
State Capitol
415 South Beretania Street

IN SUPPORT of S.B. No. 1167

Aloha Chair Rhoads and Vice Chair Gabbard,

My name is Francesca Glaza and I am a student at University of Hawai'i at Manoa. What I am expressing now are my personal thoughts and not a reflection of the university I attend. I am testifying in favor of SB1167.

Reasons why I support this bill:

- Having an individual's reproductive rights protected gives them the ability to exercise their basic human right of choosing if they would like to reproduce or not, including the choice of if they want to carry or terminate a pregnancy. This also includes having the right to decide their preferred method of contraceptives or family planning.
- Women, transgender, and non-binary people with reproductive systems need reproductive autonomy. The very definition of autonomy means "self-governing", which is important to have when making decisions on how they would like to shape their life.
- People with functioning reproductive systems need this bill passed to protect them in their reproductive decisions, especially when seeking abortion related healthcare. According to the World Health Organization (2021), when people are restricted from having access to proper reproductive healthcare, especially those who are affected by poverty or in a minority group, they are forced to resort to unsafe abortions such as, ingesting harmful substances or inflicting blunt trauma to the abdomen.

I feel lucky to live in Hawai'i where I could have freedom in exercising my reproductive rights. If I needed contraceptives, an abortion, prenatal services, or safe child birthing, they would all be accessible to me. However, not everyone in the U.S. has accessibility or protection of their reproductive rights. I imagine they would feel *isolated*, *terrified*, and *disempowered*, because I would feel this way if I did not have a choice on what happened to MY body.

In closing, I am in favor of SB1167 to help protect individual's reproductive rights. Please consider this bill to protect people's reproductive rights and make them feel safe in their own bodies. Thank you for this opportunity to testify.

Respectfully Submitted,
Francesca Glaza

SB-1167

Submitted on: 2/2/2023 9:22:05 AM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Shandhini Raidoo	Individual	Support	Written Testimony Only

Comments:

Aloha,

I am a board-certified obstetrician-gynecologist and complex family planning specialist and I provide abortion care in our community. I am submitting this testimony in strong support of SB 1167.

After the Supreme Court's decision to overturn Roe v Wade in June 2022 it has become clear that we as a state must take action to strengthen our protection of the right to bodily autonomy and the right to choose an abortion. Abortion is a common and safe part of medical care and access to abortion care is critical to decreasing pregnancy-related morbidity and mortality and to giving people control over their lives, allowing them to build their families in a way that is right for them. Our state has a long history of being at the forefront of reproductive rights and adding this to our constitution will affirm for our communities and to the nation overall that we strongly support people's right to choose abortion if it is right for them.

Mahalo for your time and consideration,

Shandhini Raidoo, MD, MPH

SB-1167

Submitted on: 2/1/2023 10:13:21 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Louise Ing	Individual	Support	Written Testimony Only

Comments:

As a longtime supporter of and advocate for reproductive freedom, I urge support of SB1167. In 2022, the US Supreme Court destroyed federal rights of privacy and abortion that had been enshrined in our constitution for almost 50 years. States are now free to restrict or prohibit abortion, as many states have already done. Hawaii was the first state to legalize abortion. However, our state laws need to be strengthened to ensure safe and legal access to abortion for all persons in Hawai`i, now that we have no federal protections. Future generations depend on us taking actions now to protect these rights in Hawaii.

Amending our constitution is our strongest and most lasting way to ensure individual reproductive rights in Hawaii. While Hawaii has a constitutional "Right to Privacy" that was intended in part to protect reproductive rights, that constitutional text never mentions "abortion", "contraception" or any "reproductive" rights. It instead relied on a general right of privacy embodied in Roe v. Wade and related caselaw that was entirely gutted in 2022 as a result of political changes in the composition of the US Supreme Court. We do not want our state constitutional right of privacy to suffer based on shifting political winds in the Hawai`i in the Judiciary or Legislature. SB 1167 will help assure that all individuals in Hawai`i continue to enjoy their fundamental constitutional right to safe and legal access to abortion and contraception for generations to come.

Steve Glanstein
P. O. Box 29213
Honolulu, HI 96820-1613

February 2, 2023

Honorable Sen. Karl Rhoads, Chair
Honorable Rep. Mike Gabbard, Vice-Chair
Senate Committee on Judiciary (JDC)
Hawaii State Capitol, Room 228
415 South Beretania Street
Honolulu, HI 96813

RE: Testimony in SUPPORT of SB1167; Hearing Date: February 3, 2023 at 9:30 a.m. in conference room 016/videoconference; sent via Internet

Dear Sen. Rhoads, Chairman; Sen. Gabbard, Vice-Chair; Committee Members,

Thank you for the opportunity to provide testimony in SUPPORT of this bill. Unfortunately, I have a prior annual meeting so will be unable to appear via videoconference.

Summary of Bill:

The Bill proposes to submit an amendment to the Hawaii constitution for a decision by its people.

The amendment is to provide constitutional protection to an individual's reproductive freedom in their most intimate decisions, which includes a fundamental right to have an abortion as well as to choose or refuse contraceptives.

History:

I have been a resident of Hawaii for almost 60 years. I was here when Hawaii legalized abortion. (1970 Act 1 HB61). Governor Burns let it become law without his signature and later discussed the struggle that he had with the bill while in office.

The recent Supreme Court Dobbs decision overturned almost 5 decades of precedent and triggered a flood of restrictive state legislation throughout the United States. It also energized "bounty" laws wherein individuals could seek monetary damages against individuals who obtained or performed an abortion.

There was one surprise shortly after Dobbs, i.e. the state of Kansas. Their legislature put forth a referendum to ban abortion. The citizens of Kansas were given a choice whether they wanted to restrict reproductive rights and resoundingly voted, "no."¹

¹ <https://nypost.com/2022/08/02/kansas-voters-overwhelmingly-reject-anti-abortion-measure/>

Notwithstanding that decision, their legislature continues to attempt to restrict abortion on a city and county level.²

Present legislative session:

Currently, there are about 7 bills pending in the legislature that propose to interfere with a woman's reproductive rights.

There are also a few bills in both the House and Senate that propose to implement additional safeguards to reproductive freedom and medical practitioners.

There are also another Senate bill (SB1528) that proposes to amend the constitution in a manner similar but slightly more inclusive than the current SB1167.

Summary:

There is no downside to presenting this issue to Hawaii's citizens for a decision. The question this bill presents is whether to present this amendment to Hawaii's citizens for a decision.

If Hawaii's citizens decide to vote down the amendment, then legislators can continue to present bills expanding or reducing reproductive and contraceptive rights.

Should Hawaii's citizens decide to approve the amendment, then it will send our legislators and the rest of the country a clear message about our state's position on these issues.

Let us be Hawaii no ka oi and present this amendment to our people for their consideration. If nothing else, there will be millions of dollars of advertising revenue that will flow into our state!

Trust the people.

Mahalo for your consideration,

Steve Glanstein

Steve Glanstein

² <https://newrepublic.com/post/170108/kansas-republicans-bill-ban-abortion-voters>

SB-1167

Submitted on: 2/1/2023 9:09:56 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Sharon R Keith	Individual	Support	Written Testimony Only

Comments:

- Amending our constitution is our strongest and most lasting way to ensure individual reproductive rights in Hawaii.
- Constitutional amendments assure state laws will not be enacted that are contrary to these constitutional rights.
- Constitutional amendments can help protect from loss of freedoms based on changes in the courts or legislature.
- While Hawaii has a constitutional “Right to Privacy” that was intended in part to protect reproductive rights, that constitutional text never mentions “abortion”, “contraception” or any “reproductive” rights. It instead relied on a general right of privacy embodied in Roe v. Wade and related caselaw that was entirely gutted in 2022 as a result of political changes in the composition of the US Supreme Court.
- We do not want our state constitutional right of privacy to suffer should any similar changes ever occur to our Hawaii Supreme Court.
- We should amend our state constitution now, to expressly protect individual reproductive freedoms we hold dear.
- This can help assure that all individuals in Hawaii, regardless of age or marital status, have a fundamental constitutional right to safe and legal access to abortion and contraception, for generations to come.

February 2, 2023

Re: **TESTIMONY IN SUPPORT of SB1167 PROPOSING AN AMENDMENT TO THE HAWAII STATE CONSTITUTION TO PROTECT INDIVIDUAL REPRODUCTIVE RIGHTS.**

HEARING: Friday, February 3, 2023 at 9:30 am

Senator Karl Rhoads, Chair
Senate Committee on Judiciary

Dear Chair Rhoads and Committee members:

This letter is to strongly support SB1167, which aims to protect individual reproductive rights in Hawaii. Amending our constitution is the strongest and most lasting way to ensure individual reproductive rights in Hawaii, which can help protect from loss of freedoms based on changes in the courts or legislature. Hawaii has no constitutional right to ensure reproductive freedom and one is needed as a consequence of the Supreme Court overturning of *Roe v. Wade* by *Dobbs v. Jackson Women's Health Organization*.

Growing up in Hawaii and understanding that I had reproductive rights afforded me the right to choose when and with whom I wanted to have children with, which made a significant and positive impact in my own life. When I was twenties, I got into a toxic relationship and I cannot imagine what my life would have been without the ability to make reproductive decisions so that I was not tied for life with that significant other at the time for life due to any unplanned pregnancy. Fast forward a few decades, I now have a successful career as a partner in a law firm and am a contributing member to society by serving on non-profit boards and volunteering to worthy causes. I have wonderful husband who is a loving father and we raised two good young men. Without my reproductive rights, I would not be the person I am today and I urge you to protect these rights for generations to follow.

Thank you for allowing me to provide comment in support of SB1167.

Very truly yours,



Lauren R. Sharkey
c/o Case Lombardi
737 Bishop Street, Suite 2600
Honolulu, HI 96813

SB-1167

Submitted on: 2/2/2023 8:19:16 AM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Barbara Richardson	Individual	Support	Written Testimony Only

Comments:

- Constitutional amendments assure state laws will not be enacted that are contrary to constitutional rights.
- While Hawaii has a constitutional “Right to Privacy” that was intended in part to protect reproductive rights, that constitutional text never mentions “abortion”, “contraception” or any “reproductive” rights. It instead relied on a general right of privacy embodied in Roe v. Wade and related caselaw that was entirely gutted in 2022 as a result of political changes in the composition of the US Supreme Court.
- We do not want our state constitutional right of privacy to suffer should any similar changes ever occur to our Hawaii Supreme Court.
- We should amend our state constitution now, to expressly protect individual reproductive freedoms.

SB-1167

Submitted on: 1/31/2023 1:43:41 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Lisa Shorba	Individual	Oppose	Written Testimony Only

Comments:

Please do not pass this measure. This measure is unnecessary as well as a vague standard to protect. It is not something that would benefit everyone, and is one-sided...therefore I disagree with it completely. Please do not pass SB1167. Mahalo for hearing my testimony.

SB-1167

Submitted on: 1/30/2023 4:35:28 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

Killing Babies is just not right. Any one that does this should Get the Death Penalty!!!

TO: SENATE COMMITTEE ON JUDICIARY

RE: SB1167 PROPOSING AN AMENDMENT TO THE HAWAII STATE
CONSTITUTION TO PROTECT INDIVIDUAL REPRODUCTIVE RIGHTS.

Proposes a constitutional amendment to protect an individual's reproductive freedom in their most intimate decisions, including the right to abortion and contraceptives.

FOR HEARING ON Friday, February 3, 2023

FROM:

Kenneth R. Conklin, Ph.D.
46-255 Kahuhipa St. Apt. 1205
Kane'ohe, HI, 96744
Tel. 808.247.7942

TESTIMONY IN OPPOSITION

SUMMARY

Regarding abortion: there's a way to reconcile the pro-choice and pro-life positions. Here are two rights which can both be achieved together. (1) A woman has a right to "control her own body" by terminating her pregnancy at any time. (2) An unborn baby has a right to live; therefore mother and her helpers have a duty to use all reasonable methods to protect baby's life and health during the process of terminating the pregnancy. Killing the baby should not be allowed as the method for ending a pregnancy, unless necessary for a woman exercising self-defense against a pregnancy that is killing her. It is both factually incorrect and morally wrong to assume that killing the embryo or fetus is the method that must or should automatically be used for a woman who chooses early termination of her pregnancy.

It is already standard medical care that babies born prematurely are taken to Neonatal Intensive Care Unit where their lives are saved. If mom chooses to

end pregnancy, early birth can be induced medically by pill or injection, or surgically by Caesarean section; then use NICU. At earliest stages, use procedures from in vitro fertilization clinics to transfer zygote or embryo from a woman who chooses to end her pregnancy to a woman who is eager to become pregnant but biologically unable or personally unwilling to do it through sexual intercourse.

There are various methods currently used to kill an embryo or fetus to begin an abortion: pills which can be purchased in pharmacies and used at home or in clinics to kill it quietly and then expel it; dismemberment inside the uterus followed by using suction or forceps to remove the pieces; etc. All such methods are killing with malice aforethought, also known as murder. The person who orders a murder or pays to hire a murderer (the mother) is equally as guilty as the person who actually does the killing (doctor, nurse). A clinic or hospital which knowingly allows its facilities to be used for murder is an accomplice in the crime.

Should the State of Hawaii have a law which renders unenforceable the laws of other states which prohibit abortions, and/or demand extradition of women and/or their helpers who order or perform abortions? The U.S. Constitution Article IV, Section 1 says "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof." Therefore it would be inadvisable, and probably unconstitutional, for Hawaii to pass such a law making other states' laws unenforceable. Doing so would undoubtedly result in protracted and very expensive litigation. Of course the "Full Faith and Credit" clause works in both directions. Just as Hawaii might not be allowed to override or circumvent the abortion laws of other states, so also those other states might not be allowed to override or circumvent the Hawaii law that this legislature is considering for enactment. Just imagine the costs of litigation as numerous pairs of states wage war against each other in court; while doctors, nurses, hospitals, and pregnant women by the millions embark on class-action lawsuits for damages -- lawyers will prosper greatly at taxpayer expense!

DISCUSSION

Let's consider the various stages of pregnancy regarding when human life begins; and the timing of an abortion; and selection of a method for performing it in a way that protects baby's life:

Definitions:

"Abortion" is the termination of a pregnancy at any time before the baby is born either by vaginal delivery or by full-term surgical removal (Cesarean section).

"Pregnancy" begins when a blastocyst is implanted into the lining of the uterus, and ends when the fetus is born or aborted. Biology lesson about "pregnancy": When an egg has passed from a woman's ovary into a fallopian tube it may become fertilized by a sperm and is then called a zygote during its passage through the tube. Note that the egg was already fertilized during its passage through the fallopian tube; that fertilization, also called "conception", is what some religions say marks the beginning of human life. The zygote continues on its journey through the tube into the uterus where it repeatedly divides creating a hollow ball of cells called a blastocyst. The blastocyst then becomes implanted in the lining of a woman's uterus where it is called an embryo and the woman can now be called "pregnant." After 9 more weeks of growth and organ development it is called a fetus. Terminology provided here is based on information provided by the Mayo Clinic and the Cleveland Clinic.

Adopting those definitions allows us to set aside several much-discussed types of contraception before pregnancy as irrelevant to the issue of abortion. But see a section at the end of this testimony: "When does human life begin so that an unborn baby has rights? Some technicalities regarding contraception vs. abortion"

For decades there has been great controversy and strident language between pro-life and pro-choice partisans on the issue of abortion. The Roe v Wade Supreme Court decision 50 years ago guaranteed women a right to an abortion subject to various levels of federal and state regulation depending on which trimester a pregnancy was in. The Dobbs v. Jackson Women's Health Organization decision by the Supreme Court in 2022 overturned Roe as having been wrongly decided, and ruled that each state can decide the matter for itself, or Congress can enact a nationwide law.

What makes this controversy pro-life vs. pro-choice so strident is the nearly universal assumption that there is no middle ground or compromise possible.

But in fact it is possible for both pro-life and pro-choice positions to win. The difficulties arise because both sides are assuming that abortion means killing the baby -- embryo or fetus -- even the choice of words is controversial.

Hospitals today have NICUs -- Neonatal Intensive Care Units. Thousands of babies born prematurely are taken to these specialized places where they are given all the medical tests and treatments they need to survive. Some babies born only halfway through a normal gestation period, 4-5 months, are saved. Anxious and loving parents come visit them every day to have an extended finger grasped by their tiny baby, or get their shirt drooled on. Yes, it's very expensive. But how much is a human life worth, especially if it's your own child's?

A pro-choice woman/girl who wants to "control her own body" and get rid of an unwanted pregnancy anytime during its final several months can do so without killing her unborn baby. Get the fetus delivered out of mother's body into a NICU by having the mother choose to use methods already being used when mother's life is endangered by pregnancy. A choice to cause birth early can be achieved either medically with pills or shots, or surgically by Caesarean section. Of course this would be expensive, and painful, to the mother. But it's her choice, and many choices in life are expensive and painful. There might be occasions when such procedures cannot be used for valid medical reasons related to either the mother's or baby's health. In

that case, mother simply cannot exercise that choice. However, neither mother nor her medical helpers should be allowed to murder the baby merely because mother doesn't want the inconvenience and cost of raising the child, or doesn't want the pain or cost of surgically or medically induced early birth. I would choose to fly my own airplane to Paris to see how the repair of Notre Dame is coming along and dine at "Le Souffle" restaurant, but I have neither the skill nor money to exercise that choice.

Even at the earliest stages of pregnancy, there are ways to end it without killing the embryo. The techniques for doing that are improving constantly as we see in numerous advertisements for "in vitro" fertilization clinics. A couple want to make a baby but either the man or the woman has a problem that prevents them from making a baby in the usual way. The woman's egg and the man's sperm (or donations of one or the other from outsiders) are mixed in a petrie dish to cause fertilization, and then the organism (zygote, blastocyst, or embryo) is implanted into the appropriate place in the woman. In a different sort of procedure, the organism can be implanted into the body of a volunteer mother who carries the pregnancy to term as a surrogate for the woman who is unable to achieve or continue a pregnancy. Such techniques are widely used already to help couples who want to make a baby; and the same techniques could be used to harvest an unborn baby from a woman who chooses to end her pregnancy during its early stages and donate it to a woman or couple who eagerly want it. Of course this would be expensive, and painful, to the woman who chooses to end her pregnancy. But it's her choice, and many choices in life are expensive and painful. There might be occasions when such procedures cannot be used for valid medical reasons related to either the mother's or baby's health. In that case, mother simply cannot exercise that choice. However, neither mother nor her medical helpers should be allowed to murder the baby merely because mother doesn't want the inconvenience and cost of raising the child, or doesn't want the pain or cost of undergoing the procedures necessary to save the baby's life.

I believe it is clear that the pro-choice position is NOT primarily based on a claim that a woman has "the right to control my own body." Early in a pregnancy she might not even be feeling any symptoms of it. She might

not know she is pregnant until she misses a couple periods and sees the wrong color on a urine test strip. It's not her body that worries her. It's the loss of control over her social life and her money. Late in her pregnancy she will "show"; and after the baby is born she must stay home to take care of it. Men won't date her; she'll have to give up college and a career; she'll be spending many thousands of dollars every year for the next 20 years to raise her child: food, diapers, doctor bills, baby sitters, clothes, school supplies, college tuition.

The pregnant girl/woman is in the same position as a middle-aged adult stuck with taking care of an elderly parent with dementia who has medical problems that are costing lots of money, causing chaos and unhappiness in the family's homelife, and eroding what "should" be an inheritance. The easy solution in both situations is to get rid of the inconvenient person. Either kill them yourself or hire a killer. Both the actual killer (doctor, nurse, back-alley abortionist), and the person who recruited and paid the killer (Mom) are guilty of murder -- especially in view of the fact that there are ways to save the baby's life during the process of terminating the pregnancy. Medical science is making rapid advances in taking care of premature babies. As time goes by it will become possible to do so in a NICU at shorter and shorter periods of gestation.

Killing an elderly adult is very hard to get away with, because they are well known and people will notice if they suddenly disappear. But in some cultures it is/was (allegedly) a customarily accepted practice to send grandma on a final journey by putting her on a canoe or ice floe and sending her out to sea.

Killing an unborn baby is easy -- it's quite possible that nobody knows the woman is pregnant -- she can have a "medical" abortion privately, at home, by taking some pills that come in the mail or buying them at the drugstore; or a surgical abortion where HIPAA privacy laws keep the secret for her. And even if friends and neighbors know about it, abortion happens so often that it has become socially acceptable. Many people today complain about gun violence with multiple victims; but those numbers are very small compared with the enormous number of unborn babies murdered lawfully by

abortion every day. I hope our legislature will not become an accomplice in these mass murders.

Let's be clear. Killing an unborn baby should be illegal except in self-defense when the pregnancy is actually killing its mother and there's no way to remove the baby that is safe for both mother and baby. "Killing its mother" should be defined as "physical", not merely the easily-stretched "psychological." The "balance of harms" test regards saving a life as more important than alleviating mental distress to mother from several months of constant reminder of the trauma that produced the baby growing inside her. If a pregnancy results from rape or incest, those are not reasons for killing the innocent baby but the legislature might specify that those factors justify the charity of government payment for the procedures needed to protect baby. Legislators considering granting "personhood" status to "Mother Earth" or to various rivers, mountains, etc. should consider whether geological features are "persons" but unborn human babies are not persons and have no inherent right to exist.

When does human life begin so that an unborn baby has rights? Some technicalities regarding contraception vs. abortion

The Roman Catholic Pope Paul VI in his encyclical "Humanae Vitae" (25 July 1968) stated the church's position that life begins at the moment of conception, when an egg has been fertilized by a sperm. This would mean that human life has begun while a fertilized egg (zygote) is still in the fallopian tube passing from the ovary to the uterus, and several days before implantation into the uterus. Thus we might conclude that deliberate use of any medication which would block implantation, for the purpose of preventing a pregnancy, would be murder or attempted murder if in fact a fertilized egg (either zygote or blastocyst) was present in the uterus at that time.

"Humanae Vitae" went a step further by stating that every act of sexual intercourse must remain open to the transmission of life, meaning that

contraception by barrier methods such as condoms or diaphragms must also be prohibited. The only acceptable way to avoid pregnancy while still enjoying vaginal sex would be the "rhythm method" consisting of restricting such an encounter to happen at a time in a woman's menstrual cycle when an egg is not yet present in the fallopian tube and also at a time when a sperm's lifespan will end before an egg has arrived in the tube. Accurate timing of such things is difficult if not impossible, and also limits the spontaneity which may be essential to intimacy and enjoyment; for example, accuracy might require a woman to often measure her temperature during 2-3 weeks every month to judge whether and when ovulation has occurred, and to faithfully continue doing so for decades until menopause.

Fortunately our U.S. Constitution prohibits us from enacting laws that would constitute an "establishment of religion." Thus legislators need not obey the views of the Catholic Church, although legislators might consider them for advice when consulting their consciences while deciding how to vote. Religions besides Roman Catholic or other Christian, including Judaism, Buddhism, Hinduism, Muslim should also be considered because there are a wide variety and large number of adherents who are citizens and residents of Hawaii, and legislators feel obligated to represent the views of their constituents.

The "morning after pill" poses a dilemma about whether it is contraception or abortion. This is a pill which a woman might take soon after having unprotected sex. Does the pill merely prevent implantation? Or does it cause ejection of an egg within a day or two after it has already been implanted? Ejection would actually be abortion, although it might not be detectable as an ejection because of the extremely small amount of material. Perhaps scientists can tell us definitively whether the "morning after pill" works only to prevent implantation and is impossible to cause an ejection. However, those who believe human life exists at the moment of conception will say it does not matter whether the "morning after pill" merely prevents implantation or actually causes ejection -- because either way, life already began when the sperm fertilized the egg inside the fallopian tube even before it arrived into the uterus.

SB-1167

Submitted on: 1/31/2023 10:05:43 AM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Peter J Long III	Individual	Oppose	Written Testimony Only

Comments:

I wish to submit this testimony in OPPOSITION to the proposed legislation.

I believe that we as a state and country should cease our war on unborn children. The ease and callousness with which we needlessly kill our babies has reached an unprecedented scale. Each and every abortion stops a beating heart, it causes the death of a child. This is not a thing to be celebrated in our State Constitution.

We should, as a community and State, uphold life and life-affirming policies with legislation and resources. Especially when there are organizations and churches begging for the opportunity to assist expectant mothers who find themselves in difficult circumstances, especially when there are well-off couples begging for the opportunity to adopt otherwise healthy babies.

The death of babies should NOT be enshrined in our State Constitution. I urge legislators to vote this proposal down.

SB-1167

Submitted on: 2/1/2023 9:58:02 AM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
NICOLE CRISTOBAL	Individual	Oppose	Written Testimony Only

Comments:

I am in opposition of a constitutional ammendment because we already have the right to abortion established.

SB-1167

Submitted on: 1/31/2023 10:30:20 AM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Susana Kwock	Individual	Oppose	Written Testimony Only

Comments:

Oppose SB1167

SB-1167

Submitted on: 1/30/2023 3:00:15 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Alfred Hagen	Individual	Oppose	Written Testimony Only

Comments:

My first objection is with the language of the amendment. As written, it hamstrings lawmakers for future events that may require intervention.

One example might be the invention of an abortifacient that seriously harms the pregnant mother. With this proposed amendment, the state will not be able to intervene as it will be challenged for interfering with a woman's right to have an abortion regardless of the consequences.

My second objection is that should a baby survive an abortion will the baby be left to die without due care for its survival? Since the mother elected to have an abortion, should she be guaranteed 100% satisfaction? With this amendment the state cannot legally intervene since it would be interpreted as denying the right to have an abortion, which is the killing of the baby whether inside or outside the mother's womb.

For these reasons, I ask that members of the JDC vote "no" on SB1167 to putting this amendment on the ballot to be voted on by the public.

Sincerely,

Alfred Hagen

SB-1167

Submitted on: 2/1/2023 2:04:14 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
S Henderson	Individual	Oppose	Written Testimony Only

Comments:

Aloha Honorable Senators,

I oppose SB1167 regarding abortion and urge you to vote against it. The bill does not state the section of the Hawaii State Constitution under which it should be placed, but it seems inconsistent with the Constitution in whole.

Article I Section 2 of our state Constitution states, "...Among these rights are the enjoyment of life, liberty and the pursuit of happiness.... These rights cannot endure unless the people recognize their corresponding obligations and responsibilities."

Article I Section 5 states, "No person shall be deprived of life, liberty or property without due process of law, nor be denied the equal protection of the laws...."

Article I Section 6 states, "The right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest. The legislature shall take affirmative steps to implement this right."

SB1167 seeking to create an amendment protecting abortion attempts to justify denying the right to life of the baby in utero in order to grant the right to pursuit of happiness by the parent(s) of that baby, and without requiring the parent(s) to exercise every obligation and responsibility at their disposal to prevent the creation or conception of an unwanted life. Thus abortion is not protected under Article I Section 2 of the Hawaii Constitution.

SB1167 appears to deprive the baby of life without due process or law and deny equal protection of the laws. It seems logical that the right to life should supercede the right to pursuit of happiness. (Does one adult have the right to take the life of another adult in the pursuit of happiness? No.) Thus abortion is not protected under Article I Section 5 of the Hawaii Constitution. Instead, you should be working against the denial of equal protection of the law for the unborn.

The right to privacy guaranteed in Section 6 does not grant the right to commit crimes such as murder or theft simply because those crimes may be committed in private. Instead, Article I Section 6 of the HI Constitution seems to declare that the state has a compelling interest, and should take affirmative steps, to protect the right to life of all, including the unborn, against harmful actions done in private (such as abortion).

I see nothing in Article IX Public Health and Welfare, that would justify the murder of one individual in the womb of another individual in the name of health care for the host individual. In fact, the murder of the small, helpless individual by the larger, powerful individual seems to be the ultimate bullying, and surely could not be condoned, much less promoted, by the State.

SB1167 appears to be unconstitutional on multiple counts and should be opposed.

Ua mau ke ea o ka 'aina i ka pono.

Mahalo,

Ms. S Henderson

SB-1167

Submitted on: 2/1/2023 4:03:12 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Dr. Guy Yatsushiro	Individual	Oppose	Written Testimony Only

Comments:

Oppose

From Holy Love Ministry, Jesus speaking to visionary, Maureen – June 5, 2015:

"I am your Jesus, born Incarnate."

"Understand that every transgression against the Ten Commandments is the bad fruit of disordered self-love. The world's number one commandment is to love self above God and neighbor. If Truth gets in the way, it is trampled on - made to look outdated and unimportant in the scheme of things."

"Taking this 'commandment' to the highest level of absurdity, you now have contraception, abortion and sodomy as the 'new' norms. Anyone who objects is accused of persecuting these now acceptable practices and find themselves persecuted. Satan has carried abortion and sodomy into the legal system when they are really moral decisions. Therefore, entire nations live by abuse of authority and compromised Truth."

"Even worse, if this is possible, is that religious leaders remain silent on these issues - a silence which misleads their flocks and masquerades as tacit approval."

"Realize the path you are silently being led upon - not towards your salvation but away from it."

"Be courageous enough to stand for the Truth - My Truth. Do not change your moral standards to please man."

SB-1167

Submitted on: 1/30/2023 3:49:00 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Victor K. Ramos	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose this proposal.

Abortion should not be viewed as a "contraceptive." A new life begins at conception. A new life of another human being that has no voice to defend itself from a sentence of death.

SB-1167

Submitted on: 2/2/2023 12:11:25 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Mary Smart	Individual	Oppose	Written Testimony Only

Comments:

I Most Strongly Oppose SB 1167. There can never be a constitutional right to terminate the life of a living human being. Even Planned Parenthood admitted in a 1950's pamphlet that abortion ends the life of a child.

Everyone has Reproductive Rights if its true meaning that everyone has a right to reproduce and have a family which size is unconstrained by government policy. The China population control policies have devastated that country.

Many contraceptives disable healthy reproductive organs and have found to contain carcinogens. Others have seriously jeopardized the health and welfare of women (IUDs for example) and negatively impacted their future fertility. Just as any other dangerous interventions can be controlled, so too can dangerous contraception medications and devices be controlled/banned. Abortion can never be considered as a means of "contraception" as the conception has already occurred when an abortion is performed.

Calling abortion a "reproductive right" is an abuse of the English language.

Do not pass SB1167. Vote No.



ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII
DIOCESE OF HONOLULU
Witness to Jesus



Online Submittal: February 2, 2023

HEARING: Friday, February 3, 2023

TO: Senate Committee on Judiciary
Sen. Karl Rhoads, Chair
Sen. Mike Gabbard, Vice-Chair

FROM: Bishop Larry Silva, Roman Catholic Church in the State of Hawaii

POSITION: Opposition to SB 1167, Proposing an Amendment to the Hawaii State Constitution to Protect Individual Reproductive Rights

Honorable members of the Senate Judiciary committee, I am Bishop Larry Silva, representing the Roman Catholic Church in the State of Hawaii. Thank you for the opportunity to provide testimony in opposition to SB 1167, Proposing an Amendment to the Hawaii State Constitution to Protect Individual Reproductive Rights.

The Hawaii Catholic Conference vehemently opposes SB 1167, which looks to enshrine the most extreme forms of abortion into the Hawaii Constitution. We believe in protecting life at every age in every stage and are extremely troubled by the broad language in the bill referencing "reproductive freedom". Usage of such a broad term paves the way for unregulated abortion, commercial surrogacy, and sterilizing gender transition surgeries.

The sad reality is that Hawaii already has some of the most accommodating abortion laws in the nation which include extensive funding for abortion services without any corresponding equitable funding for pregnant women and mothers.

Please do not pass this bill. Mahalo for the opportunity to submit written testimony in opposition.

Most Reverend Larry Silva
Bishop of Honolulu

HAWAII CATHOLIC CONFERENCE

(The public policy voice for the Roman Catholic Church in the State of Hawaii)

SB-1167

Submitted on: 2/2/2023 1:48:26 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Bliss Kaneshiro	Individual	Support	Written Testimony Only

Comments:

I support this measure to protect access to abortion and contraception for our state in the years to come.

SB-1167

Submitted on: 2/2/2023 2:50:16 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Chien-Wen Tseng	Individual	Support	Written Testimony Only

Comments:

Dear Legislators,

As a family physician taking care of our keiki and ohana, I would ask you to support this bill to expressly protect abortion and contraception access for our friends and family, and in doing so to protect the health of our community. This is so important for our people. Mahalo,

Chien-Wen Tseng, MD MS MPH

SB-1167

Submitted on: 2/3/2023 9:02:12 AM

Testimony for JDC on 2/3/2023 9:30:00 AM



Submitted By	Organization	Testifier Position	Testify
Shana Wailana Kukila	Individual	Comments	Written Testimony Only

Comments:

SB1167 needs clarity on the following items:

1. The term, "individual" needs clarification. This is too broad and will lead to constitutional challenges moving forward due to numerous "individual" rights being in conflict pertaining to reproductive freedoms.
2. The term, "no law shall be enacted that denies or interferes with" may invalidate the rights of protections afforded to the vulnerable and minor citizens who may not be able to make sound reproductive choices on their own without parental or qualified, professional interventions. Clarification is needed here to protect the vulnerable in our community.
3. "Reproductive freedom" should be clarified. What are the parameters of this broad statement? It could mean a lot of things to a lot of different people, not just the target populations this bill may be trying to protect.
4. The purpose of this law must also be better clarified. While the intent may be correct, this bill may open up a pandora's box of issues that this state is not equipped to deal with. The issue is more reactive than responsive, and needs more thought to how culturally relevant this legislation is to our state, which already is supporting reproductive freedoms without it being mandated and codified. The people of Hawai'i are not grappling with this issue like those on the continent, and this bill may attract unwanted changes to the existing equilibrium on this issue. It will only bring out the worst side of everyone. So is this the time to put our community through this? Is it truly necessary and expedient? The First Amendment of the federal and state constitution covers this right already in one's right to life and liberty, and codifying reproductive freedom is therefore unnecessary. If not written well with the proper clarifications, it will only open the door to challenges from various perspectives and divide the community at a time when we strive for and need more unity.

Please consider these questions and mana'o.

Mahalo,

Shana W. Kukila

Hilo, HI

LATE

SB-1167

Submitted on: 2/3/2023 9:16:57 AM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Andrew Crossland	Individual	Oppose	Written Testimony Only

Comments:

I oppose this Bill.