

JAN 25 2023

A BILL FOR AN ACT

RELATING TO REPRODUCTIVE HEALTH CARE SERVICES.

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

1 SECTION 1. The legislature finds that Hawai`i has a long
2 tradition of protecting a person's right to privacy. Article I,
3 section 6 of the state constitution recognizes the "right of the
4 people to privacy" and charges the legislature with taking
5 "affirmative steps to implement this right". The right to
6 privacy encompasses a person's right to make decisions about
7 health care, including decisions relating to procreation,
8 contraception, abortion, and other aspects of reproductive
9 health.

10 The legislature further finds that, in 1970, Hawai`i became
11 the first state in the United States to decriminalize abortion.
12 Hawai`i law clearly states that the State may not deny or
13 interfere with this right. Pursuant to sections 453-16 and
14 457-8.7, Hawaii Revised Statutes, "[t]he State shall not deny or
15 interfere with a female's right to choose or obtain an abortion
16 of a nonviable fetus or an abortion that is necessary to protect
17 the life or health of the female".



1 The legislature also finds that, for forty-nine years, the
2 United States Supreme Court protected a federal right to
3 abortion based on the Court's decision in Roe v. Wade. However,
4 Roe was overturned by the Court's recent decision in Dobbs v.
5 Jackson Women's Health Organization, resulting in a number of
6 states banning or severely restricting access to abortion.
7 Following the Dobbs decision, many states also implemented
8 policies imposing civil or criminal liability or professional
9 discipline in connection with the provision or receipt of, or
10 assistance with, reproductive health care services, including
11 services provided or received outside the states' borders.

12 The legislature declares that it is unacceptable for other
13 states to seek to reach across state lines to penalize
14 individuals for health care services that were lawfully received
15 or provided in Hawai'i. Several states have already enacted
16 legislation in response to these kinds of overreaching policies.
17 In October 2022, the former governor of Hawai'i, David Y. Ige,
18 issued Executive Order No. 22-05 to help protect access to
19 reproductive health services and to protect the privacy of
20 persons who access, assist with, or provide these services in
21 the State.



1 Accordingly, the purpose of this Act is to codify this
2 executive order by:

3 (1) Prohibiting, with certain exceptions, any state agency
4 or political subdivision from providing private
5 information regarding, or authorizing an arrest
6 warrant based on, the receipt or provision of, or
7 assistance with, reproductive health care services
8 that are lawful in the State;

9 (2) Requiring the department of health to maintain on its
10 website information about access to abortion in the
11 State, including current information about state law;
12 and

13 (3) Requiring the director of commerce and consumer
14 affairs to assess and report to the legislature
15 whether any legislation is needed to ensure that no
16 person is disqualified from licensure or subject to
17 professional discipline based on the lawful receipt or
18 provision of reproductive health care services in the
19 State.



1 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 **"§321- Access to reproductive health care services;**
5 **privacy.** (a) Except as otherwise required by law or by order
6 of a court of competent jurisdiction, no agency of the State or
7 any of its political subdivisions shall provide any information,
8 including patient medical records, patient-level data, or
9 related billing information or expend state resources in
10 furtherance of any inquiry, investigation, or proceeding
11 initiated in or by another state seeking to impose civil,
12 criminal, or professional liability on a person or entity for:

- 13 (1) Providing or receiving reproductive health care
14 services that are lawful in this State; or
15 (2) Assisting or supporting any person or entity with
16 providing or receiving reproductive health care
17 services that are lawful in this State.

18 (b) The restrictions set forth in this section shall not
19 apply to any investigation or proceeding where it reasonably
20 appears that the conduct that is subject to potential liability
21 under the investigation or proceeding initiated in or by another



1 state would also be subject to civil or criminal liability or
2 professional sanction under the laws of Hawaii. If the conduct
3 being investigated would also violate the laws of this State,
4 agencies of the State or any of its political subdivisions may
5 provide information or assistance in connection with the
6 investigation or proceeding if authorized in writing by the
7 subject of the investigation or proceeding.

8 (c) Any agency of the State or any of its political
9 subdivisions shall decline a request from an executive authority
10 of any other state to issue a warrant for the arrest or
11 surrender of a person charged by another state with a criminal
12 violation of law if the violation involves the provision or
13 receipt of, or assistance with, reproductive health care
14 services, unless the acts on which the prosecution is based
15 would also constitute a criminal offense under the laws of
16 Hawaii.

17 (d) For purposes of this section, "reproductive health
18 care services" means all medical, surgical, counseling, or
19 referral services relating to the human reproductive system,
20 including services relating to pregnancy, contraception, or the
21 termination of a pregnancy."



1 SECTION 3. The department of health shall prominently
2 maintain on its website information about access to abortion in
3 the State, including current information about state law, for
4 use by the public and health care providers.

5 SECTION 4. (a) The director of commerce and consumer
6 affairs shall work with all boards of professional licensure
7 operating under the department's supervision to assess whether
8 any policy changes are needed to ensure that no person is
9 disqualified from licensure, or subject to discipline by a state
10 board of professional licensure:

11 (1) For providing, receiving, or assisting with the
12 provision or receipt of reproductive health care
13 services; or

14 (2) As a consequence of any judgment, discipline, or other
15 sanction threatened or imposed under the laws of
16 another state relating to reproductive health care
17 services;

18 provided that the services are lawful in Hawaii and consistent
19 with standards of good professional practice in the State.

20 (b) The director shall submit a report of the director's
21 findings and recommendations, including any proposed



1 legislation, to the legislature no later than twenty days prior
2 to the convening of the regular session of 2024.

3 SECTION 5. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 6. New statutory material is underscored.

7 SECTION 7. This Act shall take effect upon its approval.

8

INTRODUCED BY: _____

Karl Rhoads



S.B. NO. 1491

Report Title:

Department of Commerce and Consumer Affairs; Reproductive Health Care Services; Privacy; Report

Description:

Prohibits, with certain exceptions, any state agency or political subdivision from providing private information regarding, or authorizing an arrest warrant based on, the receipt or provision of, or assistance with, reproductive health care services that are lawful in the State. Requires the Department of Health to maintain on its website information about access to abortion in the State, including current information about state law. Requires the Director of Commerce and Consumer Affairs to assess and report to the Legislature on any policy changes or legislation needed to ensure that no person is disqualified from licensure or subject to professional discipline based on the lawful receipt or provision of, or assistance with, reproductive health care services in the State.

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