

JAN 20 2023

A BILL FOR AN ACT

RELATING TO HEALTH CARE.

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

1 SECTION 1. The legislature reaffirms and declares that the
2 people of Hawaii have a right to privacy and personal autonomy
3 that encompasses personal decisions relating to procreation,
4 contraception, abortion, and other aspects of reproductive
5 health and choice. The legislature finds that Hawaii has a long
6 tradition of protecting the right to privacy and personal
7 autonomy independently of, and more broadly than, the federal
8 constitution. In 1970, three years before the United States
9 Supreme Court's Decision in *Roe v. Wade*, Hawaii was the first
10 state to repeal its law criminalizing abortion.

11 In light of the United States Supreme Court's recent
12 decision in *Dobbs v. Jackson Women's Health Organization*,
13 overturning *Roe v. Wade*, the legislature reaffirms the
14 protections for abortion care enshrined in Hawaii law, and the
15 State's commitment to reproductive health and choice. The
16 legislature finds that clarity regarding Hawaii's broad
17 protections for the right to access reproductive health services



1 is especially important following the United States Supreme
2 Court's Dobbs decision and the actions of other states to
3 restrict reproductive rights.

4 It is the policy of this State that the rights of equality,
5 liberty, and privacy guaranteed under article I, sections 3, 5,
6 and 6 of the Hawaii State Constitution are fundamental rights
7 that include each person's fundamental right to make
8 reproductive healthcare decisions about their own bodies and the
9 right of each individual to decide whether to bear a child or
10 obtain an abortion.

11 The legislature finds that, while Hawaii offers some of the
12 country's broadest protections for abortion rights, state laws
13 still contain archaic provisions that threaten criminal
14 punishment for some health providers who are engaging in safe
15 and basic care. According to available sources, no health
16 provider has ever been charged under these outdated statutes.
17 The legislature also intends to provide clarity by ensuring
18 statutory consistency across state abortion statutes. In 2021,
19 Hawaii passed legislation to allow advanced practice registered
20 nurses to provide medication and aspiration abortion care.
21 Statutory consistency between the chapters of the Hawaii Revised



1 Statutes that address physicians and nurses will leave no doubt
2 that the intent of this legislature is to ensure that advanced
3 practice registered nurses may legally provide abortion care.

4 It is also the legislature's intent to clarify that, to
5 ensure safe abortion care for patients in the State who may be
6 unable or unwilling to seek in-person medical services,
7 physicians and advanced practice registered nurses may
8 administer medication abortions via telehealth.

9 Accordingly, the purpose of this Act is to strengthen and
10 protect inclusive access to abortion and the full range of
11 sexual and reproductive health care by clarifying and amending
12 existing state law.

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

15 **"§453-16 Intentional termination of pregnancy; penalties;**
16 **refusal to perform.** [~~(a) No abortion shall be performed in~~
17 ~~this State unless:~~

18 ~~(1) The abortion is performed by a] (a) A licensed~~
19 physician or surgeon~~]~~ or [~~by a] licensed osteopathic~~
20 physician and surgeon [~~; and~~



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1 ~~(2) The abortion is performed in a hospital licensed by~~
2 ~~the department of health or operated by the federal~~
3 ~~government or an agency thereof, or in a clinic or~~
4 ~~physician's or osteopathic physician's office.~~

5 ~~(b) Abortion shall mean an operation to intentionally~~
6 ~~terminate the pregnancy of a nonviable fetus. The termination~~
7 ~~of a pregnancy of a viable fetus is not included in this~~
8 ~~section.~~

9 ~~(e)] may provide abortion care.~~

10 ~~(b) Notwithstanding any law to the contrary, a patient has~~
11 ~~the right to choose to obtain an abortion, or to terminate a~~
12 ~~pregnancy if the termination is necessary to protect the life or~~
13 ~~health of the patient. The State shall not deny or interfere~~
14 ~~with [a female's right to choose or obtain an abortion of a~~
15 ~~nonviable fetus or an abortion that is necessary to protect the~~
16 ~~life or health of the female.~~

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

20 ~~(e)] these rights.~~



1 (c) Nothing in this section shall require any hospital or
2 any person to participate in an abortion nor shall any hospital
3 or any person be liable for a refusal.

4 (d) For purposes of this section:

5 "Abortion" means an intentional termination of the
6 pregnancy of a nonviable fetus.

7 "Nonviable fetus" means a fetus that does not have a
8 reasonable likelihood of sustained survival outside of the
9 uterus."

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

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

19 (1) Has prescriptive authority;

20 (2) Practices within the advanced practice registered
21 nurse's practice specialty; and



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

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

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

10 ~~[(+)]~~ (b) Notwithstanding any law to the contrary, a
11 patient has the right to choose to obtain an abortion, or to
12 terminate a pregnancy if the termination is necessary to protect
13 the life or health of the patient. The State shall not deny or
14 interfere with ~~[a female's right to choose or obtain an abortion~~
15 ~~of a nonviable fetus or an abortion that is necessary to protect~~
16 ~~the life or health of the female.~~

17 ~~(d) Any person who knowingly violates subsection (a) shall~~
18 ~~be fined no more than \$1,000 or imprisoned no more than five~~
19 ~~years, or both.~~

20 ~~(+)]~~ these rights.



1 (c) Nothing in this section shall require any hospital or
2 any person to participate in an abortion, nor shall any hospital
3 or person be liable for refusal.

4 (d) For purposes of this section, "abortion" has the same
5 meaning as defined in section 453-16."

6 SECTION 4. If any provision of this Act, or the
7 application thereof to any person or circumstance, is held
8 invalid, the invalidity does not affect other provisions or
9 applications of the Act that can be given effect without the
10 invalid provision or application, and to this end the provisions
11 of this Act are severable.

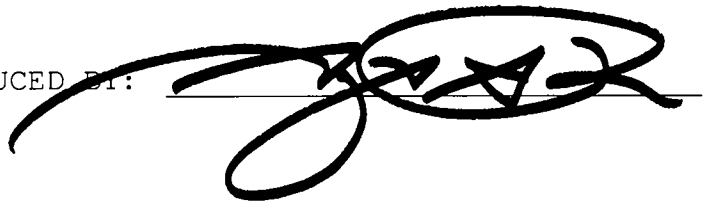
12 SECTION 5. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 6. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

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

18

INTRODUCED BY:

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is highly cursive and appears to be the name of the legislator who introduced the bill.

S.B. NO. 890

Report Title:

Abortion Care; Reproductive Health; Telehealth; Advanced Practice Registered Nurses

Description:

Prohibits the State from denying or interfering with a patient's right to choose to obtain an abortion or to terminate a pregnancy if the termination is necessary to protect the life or health of the patient. Repeals a criminal penalty for violations of certain abortion provisions. Clarifies that advanced practice registered nurses may provide abortion care. Clarifies that physicians, osteopathic physicians, and advanced practice registered nurses may administer a medication abortion via telehealth for a patient residing in the State.

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

