

STAND. COM. REP. NO.

1266

Honolulu, Hawaii

MAR 16, 2023

RE: S.B. No. 1
S.D. 2

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committees on Health & Homelessness and Judiciary & Hawaiian Affairs, to which was referred S.B. No. 1, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO HEALTH CARE,"

beg leave to report as follows:

The purpose of this measure is to:

- (1) Repeal the requirement that abortions be performed at certain locations;
- (2) Allow licensed physician assistants to perform certain abortions;
- (3) Clarify that the State shall not deny or interfere with a pregnant person's right to obtain an abortion or terminate a pregnancy, if termination is necessary to protect the life and health of the pregnant person;
- (4) Define "abortion" and "nonviable fetus";
- (5) Remove penalties for knowingly violating abortion laws;
- (6) Establish certain rights regarding reproductive health care services, including:

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- (A) Prohibiting disclosure of certain communication or information by certain covered entities;
 - (B) Prohibiting courts or court clerks from issuing certain subpoenas;
 - (C) Prohibiting agencies from providing certain information or expending resources in response to out-of-state parties seeking to impose certain civil or criminal liability;
 - (D) Prohibiting the State from taking adverse action against an individual based on the individual's pregnancy outcomes or for aiding or assisting a pregnant individual who is accessing reproductive health care services; and
 - (E) Requiring the Governor to deny demands for surrender of persons charged with certain crimes in another state related to reproductive health care;
- (7) Declare certain laws as contrary to the public policy of the State;
 - (8) Prohibit the issuance of a summons for persons to testify in another state regarding reproductive health care services that are lawful in the State, unless the acts would also constitute an offense in this State;
 - (9) Clarify under various licensing statutes that the provision or assistance in receipt or provision of certain reproductive health care services cannot form the basis for disciplinary action;
 - (10) Prohibit the enforcement of a judgment or other order arising from a foreign penal civil action or other penal law with respect to protected reproductive health care services; and
 - (11) Amend the definition of "medical care and services" so that a minor may consent to receive abortion care without any other person's consent.



Your Committees received testimony in support of this measure from the Department of Health; Department of Human Services; Department of the Attorney General; Hawai'i Civil Rights Commission; one member of the Kaua'i County Council; one member of the Hawai'i County Council; Hawai'i State Center for Nursing; Women's Caucus of the Democratic Party of Hawai'i; Patsy T. Mink PAC; AlohaCare; Stonewall Caucus of the Democratic Party of Hawai'i; Hawai'i State Coalition Against Domestic Violence; Americans for Democratic Action; Papa Ola Lokahi; Pride @ Work - Hawaii; We Are One, Inc.; Rainbow Family 808; Hawai'i Association of Professional Nurses; Healthcare Association of Hawaii; Hawai'i Academy of Physician Assistants; Hawai'i Public Health Institute; Kaiser Permanente Hawai'i; Hawaii Association of Health Plans; UNITE HERE Local 5; 'Ahahui o nā Kauka; UpCountry Doctor; Imua Alliance; Hawai'i Women Lawyers; American Association of University Women of Hawaii; American Civil Liberties Union of Hawai'i; Hawaii Medical Association; American College of Obstetricians and Gynecologists, Hawai'i Section; Democratic Party of Hawai'i; Hawaii Medical Service Association; Hawaii Maternal & Infant Health Collaborative; Planned Parenthood Alliance Advocates - Hawai'i; and numerous individuals. Your Committees received testimony in opposition to this measure from the Hawaii Federation of Republican Women, Hawaii Family Forum, and numerous individuals. Your Committees received comments on this measure from the Office of Information Practices, Hawaii Medical Board, and Board of Nursing.

Your Committees find that Hawaii has a strong commitment to the protection of civil rights. The State has long been at the forefront of ensuring safe access to reproductive health care, and in 1970, became the first state in the nation to legalize abortion. Your Committees further find that recent developments in the country's legal landscape threaten the State's policy to protect an individuals' right to safely receive reproductive health care, including obtaining an abortion. For nearly fifty years, the United States Supreme Court's decision in *Roe v. Wade*, 410 U.S. 113 (1973), established a fundamental right for an individual to access abortion based on a constitutional right to privacy. However, in June 2022, the Supreme Court overturned *Roe v. Wade* and half a century of federal precedent regarding reproductive rights when it held in *Dobbs v. Jackson Women's Health Organization*, 142 S.Ct. 2228 (2022) that the United States Constitution does not confer a right to abortion.



In response to the *Dobbs* ruling, many states have either banned or severely restricted access to abortion. Furthermore, an increasing number of states have enacted or proposed restrictions on an individual's right to reproductive freedoms through civil and criminal penalties imposed on individuals who knowingly aid or abet the performance or inducement of the termination of a pregnancy. For example, Missouri has proposed legislation that would allow private citizens to sue anyone who helps a Missouri resident obtain an abortion, including a physician lawfully practicing in another state. Your Committees find that such laws are contrary to the public policy of this State and should not be enforceable in any Hawaii court or be the basis for granting any legal or equitable relief in any Hawaii court. Reproductive health care decisions, including abortion care, are deeply personal choices and individuals in Hawaii should not fear State complicity in criminal prosecution or civil liability under the state laws of other jurisdictions for exercising this right.

Accordingly, your Committees conclude that it is imperative to reiterate and bolster the State's policy to affirm protection of the rights of individuals to obtain reproductive health care, including abortion care, within the State's boundaries. This measure therefore reaffirms the constitutional right to an abortion granted by *Roe v. Wade* and declares that the laws of other states authorizing civil actions and criminal prosecutions for receiving, seeking, providing, or aiding and abetting the provision of reproductive health care services are contrary to the State's public policy and prohibits the recognition and enforcement of other states' laws that impose civil or criminal liability relating to reproductive health care services.

As affirmed by the records of votes of the members of your Committees on Health & Homelessness and Judiciary & Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1, S.D. 2, and recommend that it pass Second Reading and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committees on Health &
Homelessness and Judiciary &
Hawaiian Affairs,



DAVID A. TARNAS, Chair



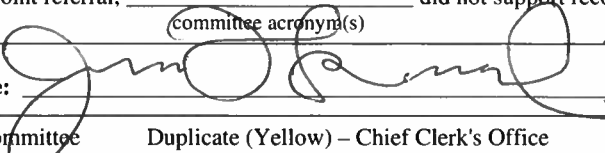
DELLA AU BELATTI, Chair



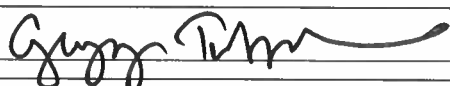
State of Hawaii
House of Representatives
The Thirty-second Legislature

HB CR 1266

Record of Votes of the Committee on Health & Homelessness

Bill/Resolution No.: SBI, SD2	Committee Referral: HLT/JHA	Date: 3/15/23		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input checked="" type="checkbox"/> Pass, unamended (as is) <input type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
HLT Members	Ayes	Ayes (WR)	Nays	Excused
1. BELATTI, Della Au (C)	/			
2. TAKENOUCI, Jenna (VC)	/			
3. AMATO, Terez	/			
4. ILAGAN, Greggor	/			
5. KOBAYASHI, Bertrand				/
6. MIZUNO, John M.	/			
7. NISHIMOTO, Scott Y.	/			
8. GARCIA, Diamond			/	
TOTAL (8)	6		1	1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small>(committee acronym(s))</small>				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				

Record of Votes of the Committee on Judiciary & Hawaiian Affairs

Bill/Resolution No.: SB1, SD2	Committee Referral: HLT/JHA	Date: 3/15/2023		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input checked="checked" type="checkbox"/> Pass, unamended (as is) <input type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
JHA Members	Ayes	Ayes (WR)	Nays	Excused
1. TARNAS, David A. (C)	✓			
2. TAKAYAMA, Gregg (VC)	✓			
3. GANADEN, Sonny	✓			
4. HOLT, Daniel	✓			
5. HASHIMOTO, Troy N.				✓
6. ICHIYAMA, Linda	✓			
7. ILAGAN, Greggor	✓			
8. KONG, Sam Satoru			✓	
9. MIZUNO, John M.	✓			
10. SOUZA, Kanani			✓	
TOTAL (10)	7	0	2	1
The recommendation is: <input checked="checked" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: _____ 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				