

CENTER *for* REPRODUCTIVE RIGHTS

Hawai'i Law Restricting Midwives Challenged in Court

Native Hawaiian midwives and others sue state to block law that prevents them from serving communities in traditional ways

02.27.24 (PRESS RELEASE) – Today, the Center for Reproductive Rights and the Native Hawaiian Legal Corporation [filed a case](#) in the First Circuit Court of Hawai'i challenging a new Midwifery Restriction Law that is preventing pregnant people in Hawai'i from using skilled midwives for their pregnancies and births, as they have for generations. The Midwifery Restriction Law also endangers constitutionally protected Native Hawaiian traditional birthing practices. The nine plaintiffs include 3 midwives and 3 midwifery students who, under the Restriction Law, could now face criminalization for providing culturally informed care for their communities. Plaintiffs also include Native Hawaiian women who have relied on or wish to access care from such midwives for their pregnancies and births.

This lawsuit is asking the Court to stop the law's threat of prison time and fines for midwives who train through traditional and apprenticeship-based pathways, which have served pregnant people in Hawai'i since it was an independent nation. The law reduces access to maternal care for pregnant people in rural areas of Hawai'i who may have to drive many hours—or travel to another island—to reach the nearest hospital. In the face of poor health outcomes and discrimination in health care, it is critical that pregnant people have access to the trusted provider of their choosing.

As of summer 2023, the Midwifery Restriction Law penalizes essentially anyone providing advice, information, or care, during pregnancy, birth, and postpartum who does not have a specific state license. There are no education programs in Hawai'i that meet the law's requirements, meaning that already-trained traditional midwives would need to travel thousands of miles to be re-educated through western programs that are expensive and inaccessible to many. Furthermore, this law erases the time-honored apprenticeship model utilized and sought out by many pregnant Native Hawaiians and midwives.

"I am joining this lawsuit because of my kūpuna—my ancestors—and the responsibility I have to care for and heal my community," said **Ki'inaniokalani Kaho'ohanohano, who served her community in Maui as a midwife for twenty years before the Restriction Law went into effect.** "This law is preventing me from passing along the life-changing and life-saving knowledge and traditions that I was gifted. It is robbing the next generation of Native Hawaiians of our own ancestral healing knowledge and power. Our communities are experiencing a maternal health crisis in hospitals, and cutting off our ability to care for our families with our own traditions and practices is medical colonialism."

"This law is undermining the sisterhood and the community of midwives who work together to provide support for mamas who seek out our knowledge and care," said **Ezinne Dawson, a midwife in**

O'ahu. "I went through three stressful and disempowering hospital births, so for my fourth child, I decided to do a home birth. It transformed my entire understanding of pregnancy and birth, which is why I decided to apprentice and become a midwife. My heart is breaking for every pregnant person in Hawai'i who is now unable to get the care that makes them feel most physically and emotionally safe because of this law."

"We are going to court to ensure that every person in Hawai'i has the right to make their own decisions about their pregnancy care, including the decision to give birth at home with a traditional midwife," said **Nancy Northup, president and CEO at the Center for Reproductive Rights.** "Right now in Hawai'i, skilled midwives are facing criminal prosecution for serving their communities in ways they have for generations. Hawai'i is unconstitutionally restricting who can provide advice, information, and care during pregnancy, birth, and postpartum. The Hawai'i Constitution protects the right to reproductive autonomy and guarantees that an individual can make the fundamental decision to have a home birth supported by those trained in the wisdom and practices passed down for generations. The government's criminalization of traditional midwives is bad law and bad policy. People in Hawai'i need more, not fewer, midwives to address the serious lack of maternal health services in the state."

"An important part of this case is the protection of traditional and customary Native Hawaiian birthing practices. This legislation results in significant risk of criminal liability for cultural practitioners, threatens the extinction of those traditional practices, and must be challenged," said **Kirsha Durante, Litigation Director, Native Hawaiian Legal Corporation.**

Read about the plaintiffs [here](#).

Pregnant people in Hawai'i are already facing a [shortage](#) of care in their communities, [inequitable treatment](#) in the health care system, and preventable deaths and illnesses during pregnancy, birth, and postpartum. Today, Native Hawaiian and Other Pacific Islander people are [4.5 times more likely](#) to die from pregnancy-related causes than white people, and have the highest rates of mortality overall.

In the U.S. hospital system, doctors routinely pressure their patients into unnecessary medical interventions including [cesarian](#) surgery, [induction](#), and [episiotomy](#), and override patients' wishes and decisions about what [position](#) they give birth in, who can accompany them, and even whether they can [drink water](#) during labor. Many people who give birth at home do so to maintain autonomy about their birthing experience and to ensure their cultural values and traditions are respected.

The lawsuit was filed by the Center for Reproductive Rights, the Native Hawaiian Legal Corporation, and Perkins Coie on behalf of plaintiffs Ki'inaniokalani Kaho'ohanohano, Kiana Rowley, A. Ezinne Dawson, Makalani Franco-Francis, Kawehi Ku'ailani, Moriah Salado, Morea Mendoza, Emilie A., and Pi'ilani Schneider-Furuya.

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