



# EXPANDING ACCESS TO MIDWIFERY LICENSURE AND MATERNAL HEALTH CARE IN HAWAI'I: PRIORITY LEGISLATION FOR 2025

HO'OIKAIKA PARTNERSHIP

FEBRUARY 11, 2025 AT 11:30AM



# ROAD MAP

- **Current Midwifery Law 2019**
- **Litigation (pending)**
- **Proposed Remedial Legislation H.B. 1328 (contrast with H.B. 1194)**
- **Historical Context: Native Hawaiian Traditional & Customary Birthing Practices**
- **Call to Action**



# CURRENT MIDWIFERY LAW (H.R.S. 457J)

- **SB 1033 (ACT 32) Bill Relating to Midwifery passed in 2019, but sunsets on June 30, 2025**
- **Restricts pathways to obtain midwifery licensure; recognizes Certified Midwives and Certified Professional Midwives but only through a MEAC midwifery school, but not the Portfolio Evaluation Process apprenticeship pathway unless obtained out of state before 2020**
- **“Birth Attendant” exemption created, but expired in July 2023**
- **Exemption for Native Hawaiian traditional and customary practitioners recognized by a kupuna council convened by Papa Ola Lōkahi, but a court found that this exemption does not effectively protect Native Hawaiian traditional birthing practitioners.**
- **Attorney General’s Opinion (2024) - individuals who engage in “midwifery” practices without a license are subject to fines and criminal penalties. In effect, the current law subjects family members and birth professionals (i.e. traditional midwives, doulas, lactations consultants, and cultural practitioners) to criminalization.**



# LEGAL CHALLENGE TO THE CURRENT MIDWIFERY LAW



- Native Hawaiian Legal Corporation and Center for Reproductive Rights filed a Lawsuit, *Kaho'ohanohano v. Hawai'i* (2024)
- Court issued a statewide preliminary injunction, ruling that the recognition system for Native Hawaiian birthing practices, in practice, is unconstitutional.”
- Injunction prevents the State from enforcing civil and criminal penalties against individuals who “practice, teach and learn pale keiki ho‘ohānau, and hānau practices – meaning Native Hawaiian healing practices of prenatal, maternal and child care.”



# H.B. 1328 PROPOSED LICENSURE LAW TO EXPAND ACCESS TO MIDWIFERY & MATERNAL CARE

- **Legislative intent** is to allow a pregnant person the right to choose where and with whom they give birth.

## Expands access to Licensure

- Recognizes national certification using the MEAC accredited education pathway AND the PEP plus bridge apprenticeship pathway
- Allows licensed midwives to practice to the full scope of their certification, education and training





# MIDWIFERY LICENSURE EXEMPTIONS UNDER H.B. 1328

## DECRIMINALIZE TRADITIONAL BIRTHING PRACTICES



Lahaina fire relief, 2023

- Native Hawaiian Traditional & Customary Birthing Practices protections
- Birth Attendants provided they comply with DCCA disclosure requirements
- Religious and Cultural birthing practices (similar to nursing statute)
- Does Not Criminalize family and other Birth Professionals (i.e. doulas, lactation consultants, childbirth educators, etc.)

## **H.B. 1328 RELATING TO MIDWIVES (SUPPORT)**

[https://www.capitol.hawaii.gov/session/measure\\_indiv.aspx?billtype=HB&billnumber=1328&year=2025](https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=HB&billnumber=1328&year=2025)

**COMMITTEES: HLT/CPC, FIN**

**INTRODUCERS:**

**COCHRAN, AMATO, BELATTI, GARCIA, HUSSEY, IWAMOTO,  
KAHALOA, KAPELA, KONG, MATSUMOTO, PERRUSO,  
PIERICK, POEPOE, REYES ODA, SOUZA**

# H.B. 1194 RELATING TO MIDWIVES (OPPOSE)

- [https://www.capitol.hawaii.gov/session/measure\\_indiv.aspx?billtype=HB&billnumber=1194&year=2025](https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=HB&billnumber=1194&year=2025)
- COMMITTEES: HLT/CPC, **FIN (then cross over to Senate)**
- INTRODUCERS: ICHIYAMA, MARTEN, MATAYOSHI, TAKAYAMA
- 02/10/25: Bill passed with substantial amendments; a new draft

H.D.1 must be filed by 02/13/25

**Summary:** No PEP apprenticeship pathway, restrictions on scope of practice, and no clear exemptions for birth attendants, religious and cultural practices, extended family and other professionals (i.e. doulas, lactation consultants, etc.). Awaiting review of statutory language exempting Native Hawaiian traditional and customary healing and birthing practices.



# PROTECTING NATIVE HAWAIIAN TRADITIONAL AND CUSTOMARY BIRTHING PRACTICES



# HISTORICAL CONTEXT: NATIVE HAWAIIAN BIRTHING PRACTICES



- Hānau (birthing) is the oldest Kanaka Maoli practice.
- Despite criminalization of “midwifery” in the 20th Century, at-home birth was common in Hawai’i until the 1950’s, especially in rural areas.
- 1998 - laws that prohibited traditional birth attendance sunset (expired), making it once again legal for traditional practitioners, extended family, church/spiritual midwives and others to attend births.
- During the period of legality from 1998 to 2019, a cultural renaissance in Kanaka Maoli birth work took place.



The background is a blue gradient with white circuit-like lines in the corners. The text "CALL TO ACTION!" is centered in a bold, red, sans-serif font.

**CALL TO ACTION!**

# QUESTIONS?

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# MAHALO!

