

House Judiciary
03/01/2022 Upon Adjournment
HB22-1257 2022 Criminal & Juv Justice Commn Recommendations
Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Indra Lusero Amend Elephant Circle	<p>I received this letter from people who wish to remain anonymous due to their vulnerability to punishment under laws like the ones proposed. I am passing it along for your reference.</p> <p>- Indra Lusero</p> <p>To whom this may concern; In regards to House Bill 1257 Specifically Midwifery.</p> <p>The Autonomy of Women and their Families have already been scrutinized enough over the years. With many regulations and rules that have been infringing upon people's personal choices regarding their bodies, whom they choose to be present at their births and during the post partum period. Any kind of regulation that is constricting a families values, religion or ethics. Should never be placed on those who they choose to help them at the time of their births.</p> <p>Whether they are friends, relatives, and any kind of birth worker. No 'Felony' charge should ever be over their heads. This is a personal and private Family decision not for the state nor any government to regulate or charge. Helping Women in childbirth is one of the most fundamental basic and appropriate thing we do as women and families are the primary decision makers of their own lives. Please DO NOT pass this Bill 1257 which could devastate Families Choices in the future.</p> <p>Thank you!</p> <p>- All of us who want to continue helping and serving families without fear</p>

HB 1257: No Felony Charges for “Direct-Entry Midwifery”

HB 1257 proposes that the practice of certain professions without a license, certification, or registration should be a Class 6 Felony. The bill includes “Direct-Entry Midwifery” as one of these professions, making it a felony for direct-entry midwives to attend a birth without a license. Imposing criminal penalties will have harmful consequences for birthing families and their infants.

HB 1257 is intended to prevent harm to individuals and the community by imposing penalties upon people masquerading as professionals. In many instances, the harm from people holding themselves out as professionals to defraud others is clear. But this reasoning does not apply to midwifery, which has existed as a practice long before it was recognized as a profession by Colorado law.

References to Direct-Entry Midwifery should be removed from HB1257.

Criminalizing attending a birth does not protect pregnant people from harm.

- Births can take place anywhere, regardless of who is in attendance and whether they hold themselves out as “midwives,” and birthing people may opt for support from someone who does not have a license to practice direct-entry midwifery.
- Preventing harm to birthing Coloradoans requires ensuring seamless transfers of care between home and hospital in the event of a complication, and the possibility that a person who attends a birth will be criminalized makes this critical moment fraught.

Birthing people choose birth without a licensed attendant for a variety of reasons.

- For some people, the decision to give birth without a licensed birth attendant is based on their personal, cultural, or religious beliefs.
- For others, formal perinatal care systems are inaccessible (due to cost or other barriers), or may feel unsafe or hostile (to trans and nonbinary birthing people, or to Black, Indigenous, and other people of color who report more experiences of mistreatment and have worse outcomes in the U.S. healthcare system).
- Some people opt to birth completely unattended, while others may intentionally seek support from someone who is not licensed by the state, whether that is a loved one or a community member with knowledge of birth.

- Regardless of their reasons for giving birth without a licensed direct-entry midwife, Coloradoans should be able to seek care in the event of a complication without fear that doing so will trigger a criminal investigation.

Criminalizing care increases criminalization of people seeking care.

- Making it a crime to attend a birth means that people who give birth outside of hospitals and birth centers may be swept up in criminal investigations.
- Even if the birthing person is not the subject of the prosecution, being asked to disclose private health information and cooperate with a criminal proceeding against their birth attendant is invasive, disruptive, and harmful to individuals in the vulnerable perinatal period.
- Across the country, people have been criminally punished for abortions, pregnancy losses, and perinatal deaths; these arrests and prosecutions have only escalated in recent years with increased stigma and restrictions on reproductive freedom. Even in states with no law authorizing such arrests, the aura of illegality surrounding provision of reproductive health care leads to criminalization of pregnancy outcomes.

If/When/How: Lawyering for Reproductive Justice is a legal advocacy organization dedicated to transforming the legal landscape to ensure that everyone can self-determine their reproductive lives with dignity and without fear of punishment or coercion. For more information, contact If/When/How's Senior Counsel and Legal Director, Farah Diaz-Tello at farah@ifwhenhow.org.