

10788

I N A S S E M B L Y

June 19, 2012

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Abinanti, Paulin, Mayer, Galef, Latimer, Pretlow) -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the civil rights law, in relation to enacting the reproductive health care facilities access act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "reproduc-
2 tive health care facilities access act".

3 S 2. Legislative intent. The legislature finds that the right to
4 obtain reproductive health services is an essential personal right
5 protected by state and federal law. Equally, the right to peaceably
6 protest and express one's views is protected by state and federal law.
7 Such actions include, but are not limited to, the right to speak, march,
8 demonstrate, or engage in other activity protected by the First Amend-
9 ment.

10 The legislature finds that current law does not adequately protect
11 reproductive health care facilities and those who work in or seek
12 services from such facilities. Therefore, the legislature has determined
13 that it is appropriate for the protection of the public health, safety
14 and welfare, to enact legislation to prohibit interference with access
15 to reproductive health care services, so that persons harmed by such
16 conduct can seek redress in the courts and the state can obtain injunc-
17 tive relief and damages. Furthermore, the legislature has determined
18 that it is appropriate to enact this legislation to: ensure public safe-
19 ty and order; protect freedom to receive reproductive health services;
20 advance medical privacy and the well-being of patients seeking reproduc-
21 tive health care services at facilities; and safeguard private property.

22 S 3. Section 240.70 of the penal law, as added by chapter 635 of the
23 laws of 1999, is amended to read as follows:

24 S 240.70 Criminal interference with health care services or religious
25 worship in the second degree.

26 1. A person is guilty of criminal interference with health services or
27 religious worship in the second degree when:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 (a) by force or threat of force or by physical obstruction, he or she
2 [intentionally] KNOWINGLY injures, intimidates or interferes with, or
3 attempts to injure, intimidate or interfere with, another person because
4 such other person was or is obtaining or providing, OR ASSISTING IN
5 OBTAINING OR PROVIDING, reproductive health services; or

6 (b) by force or threat of force or by physical obstruction, he or she
7 [intentionally] KNOWINGLY injures, intimidates or interferes with, or
8 attempts to injure, intimidate or interfere with, another person in
9 order to discourage such other person or any other person or persons
10 from obtaining or providing, OR ASSISTING IN OBTAINING OR PROVIDING,
11 reproductive health services; or

12 (c) by force or threat of force or by physical obstruction, he or she
13 intentionally injures, intimidates or interferes with, or attempts to
14 injure, intimidate or interfere with, another person because such person
15 was or is seeking to exercise the right of religious freedom at a place
16 of religious worship; or

17 (d) he or she intentionally damages the property of a health care
18 facility, or attempts to do so, because such facility provides reproduc-
19 tive health services, or intentionally damages the property of a place
20 of religious worship[.]; OR

21 (E) HE OR SHE ENGAGES IN A COURSE OF CONDUCT OR REPEATEDLY COMMITS
22 ACTS, OR ATTEMPTS TO ENGAGE IN A COURSE OF CONDUCT OR REPEATEDLY COMMIT
23 ACTS, WITHIN TWENTY-FIVE FEET OF THE PREMISES OF A REPRODUCTIVE HEALTH
24 CARE FACILITY IN ORDER TO DISCOURAGE ANOTHER PERSON FROM OBTAINING OR
25 PROVIDING, OR ASSISTING IN OBTAINING OR PROVIDING, REPRODUCTIVE HEALTH
26 SERVICES WHEN SUCH BEHAVIOR PLACES SUCH OTHER PERSON IN REASONABLE FEAR
27 OF HARM.

28 2. A parent or legal guardian of a minor shall not be subject to pros-
29 ecution for conduct otherwise prohibited by [paragraph (a) or (b) of]
30 subdivision one of this section which is directed exclusively at such
31 minor.

32 3. For purposes of this section:

33 (a) the term "health care facility" means a hospital, clinic, physi-
34 cian's office or other facility that provides reproductive health
35 services, and includes the building or structure in which the facility
36 is located;

37 (b) the term "interferes with" means to restrict a person's freedom of
38 movement AND SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, ACTIVITIES THAT
39 RESTRICT OR ATTEMPT TO RESTRICT ACCESS TO OR FROM A HEALTH CARE FACILI-
40 TY, THE PERFORMANCE OF MEDICAL PROCEDURES AT A HEALTH CARE FACILITY OR
41 THE DELIVERY OF GOODS TO SUCH A FACILITY;

42 (c) the term "intimidates" means to place a person in reasonable
43 apprehension of physical injury to himself or herself or to another
44 person;

45 (d) the term "physical obstruction" means rendering impassable ingress
46 to or egress from a facility that provides reproductive health services
47 or to or from a place of religious worship, or rendering passage to or
48 from such a facility or place of religious worship unreasonably diffi-
49 cult or hazardous; [and]

50 (e) the term "reproductive health services" means health care services
51 provided in a hospital, clinic, physician's office or other facility and
52 includes medical, surgical, counseling or referral services relating to
53 the human reproductive system, including services relating to pregnancy
54 or the termination of a pregnancy[.]; AND

55 (F) THE TERM "PREMISES OF A REPRODUCTIVE HEALTH CARE FACILITY" MEANS A
56 HEALTH CARE FACILITY AND INCLUDES THE DRIVEWAY, ENTRANCE, ENTRYWAY OR

1 EXIT OF SUCH FACILITY, ANY PARKING LOT IN WHICH THE FACILITY HAS AN
2 OWNERSHIP OR LEASEHOLD INTEREST AND ANY PUBLIC PARKING LOTS WITHIN TWO
3 HUNDRED FEET OF THE FACILITY WHICH SERVE THE FACILITY.

4 Criminal interference with health care services or religious worship
5 in the second degree is a class A misdemeanor.

6 S 3. Section 79-m of the civil rights law, as amended by chapter 566
7 of the laws of 2008, is amended to read as follows:

8 S 79-m. Criminal interference with health care services, religious
9 worship, funeral, burial or memorial service; injunction; CIVIL ACTION.
10 1. Whenever the attorney general or district attorney of the county
11 where the affected health care facility, place of religious worship, or
12 site of a funeral, burial or memorial service is located has reasonable
13 cause to believe that any person or group of persons is being, has been,
14 or may be injured by conduct constituting a violation of section 240.21,
15 240.70 [or], 240.71, 240.72 OR 240.73 of the penal law, the attorney
16 general or district attorney may bring an action in the name of the
17 people of the state of New York to permanently enjoin such violation. In
18 such action preliminary and temporary relief may be granted under arti-
19 cle sixty-three of the civil practice law and rules.

20 2. A CIVIL CLAIM OR CAUSE OF ACTION TO RECOVER FROM A DEFENDANT AS
21 HEREINAFTER DEFINED, FOR PHYSICAL, PSYCHOLOGICAL OR OTHER INJURY OR
22 CONDITION SUFFERED BY A PERSON, INCLUDING ANY PERSON WHOSE ABILITY TO
23 ACCESS THE PREMISES OF A HEALTH CARE FACILITY HAS BEEN INTERFERED WITH
24 OR ANY OWNER OR OPERATOR OF SUCH A FACILITY OR OWNER OF A BUILDING IN
25 WHICH SUCH FACILITY IS LOCATED OR ANY EMPLOYEE OR VOLUNTEER WORKING FOR
26 SUCH A FACILITY, AS A RESULT OF ACTS BY SUCH DEFENDANT OF CRIMINAL
27 INTERFERENCE WITH HEALTH CARE SERVICES OR RELIGIOUS WORSHIP IN THE
28 SECOND DEGREE AS DEFINED IN SECTION 240.70 OF THE PENAL LAW, CRIMINAL
29 INTERFERENCE WITH HEALTH CARE SERVICES OR RELIGIOUS WORSHIP IN THE FIRST
30 DEGREE AS DEFINED IN SECTION 240.71 OF THE PENAL LAW, AGGRAVATED INTER-
31 FERENCE WITH HEALTH CARE SERVICES IN THE SECOND DEGREE AS DEFINED IN
32 SECTION 240.72 OF THE PENAL LAW, OR AGGRAVATED INTERFERENCE WITH HEALTH
33 CARE SERVICES IN THE FIRST DEGREE AS DEFINED IN SECTION 240.73 OF THE
34 PENAL LAW MAY BE BROUGHT WITHIN FIVE YEARS. AS USED IN THIS SUBDIVI-
35 SION, THE TERM "DEFENDANT" SHALL MEAN ONLY A PERSON WHO COMMITS THE ACTS
36 DESCRIBED IN THIS SUBDIVISION OR WHO, IN A CRIMINAL PROCEEDING, COULD BE
37 CHARGED WITH CRIMINAL LIABILITY FOR THE COMMISSION OF SUCH ACTS PURSUANT
38 TO SECTION 20.00 OF THE PENAL LAW AND SHALL NOT APPLY TO ANY RELATED
39 CIVIL CLAIM OR CAUSE OF ACTION ARISING FROM SUCH ACTS. NOTHING IN THIS
40 SECTION SHALL BE CONSTRUED TO REQUIRE THAT A CRIMINAL CHARGE BE BROUGHT
41 OR A CRIMINAL CONVICTION BE OBTAINED AS A CONDITION OF BRINGING A CIVIL
42 CAUSE OF ACTION OR RECEIVING A CIVIL JUDGMENT PURSUANT TO THIS SUBDIVI-
43 SION OR BE CONSTRUED TO REQUIRE THAT ANY OF THE RULES GOVERNING A CRIMI-
44 NAL PROCEEDING BE APPLICABLE TO ANY SUCH CIVIL ACTION. A PLAINTIFF IN A
45 CIVIL CAUSE OR ACTION BROUGHT PURSUANT TO THIS SUBDIVISION MAY SEEK ANY
46 RELIEF AVAILABLE CONSISTENT WITH THE CIVIL PRACTICE LAW AND RULES,
47 INCLUDING INJUNCTIVE RELIEF.

48 S 4. Severability. If any clause, sentence, paragraph, section or part
49 of this act shall be adjudged by any court of competent jurisdiction to
50 be invalid and after exhaustion of all further judicial review, the
51 judgment shall not affect, impair or invalidate the remainder thereof,
52 but shall be confined in its operation to the clause, sentence, para-
53 graph, section or part of this act directly involved in the controversy
54 in which the judgment shall have been rendered.

55 S 5. This act shall take effect on the first of November next succeed-
56 ing the date on which it shall have become a law.