

# STATE OF NEW YORK

---

6678

2019-2020 Regular Sessions

## IN ASSEMBLY

March 15, 2019

---

Introduced by M. of A. JAFFEE -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to notice of employee rights and remedies

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 203-e of the labor law, as added by a chapter of  
2 the laws of 2019, amending the labor law relating to discrimination  
3 based on an employee's or a dependent's reproductive health decision  
4 making, as proposed in legislative bill numbers S. 660 and A. 584, is  
5 amended to read as follows:

6 § 203-e. Prohibition of discrimination based on an employee's or a  
7 dependent's reproductive health decision making. 1. An employer shall be  
8 prohibited from accessing an employee's personal information regarding  
9 the employee's or the employee's dependent's reproductive health deci-  
10 sion making, including but not limited to, the decision to use or access  
11 a particular drug, device or medical service without the employee's  
12 prior informed affirmative written consent.

13 2. An employer shall not:

14 (a) discriminate nor take any retaliatory personnel action against an  
15 employee with respect to compensation, terms, conditions, or privileges  
16 of employment because of or on the basis of the employee's or depen-  
17 dent's reproductive health decision making, including, but not limited  
18 to, a decision to use or access a particular drug, device or medical  
19 service; or

20 (b) require an employee to sign a waiver or other document which  
21 purports to deny an employee the right to make their own reproductive  
22 health care decisions, including use of a particular drug, device, or  
23 medical service.

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

LBD02778-03-9

1 3. [~~An employer that provides an employee handbook to its employees~~  
2 ~~must include in the handbook notice of employee rights and remedies~~  
3 ~~under this section.~~

4 4.] An employee may bring a civil action in any court of competent  
5 jurisdiction against an employer alleged to have violated the provisions  
6 of this section. In any civil action alleging a violation of this  
7 section, the court may:

8 (a) award damages, including, but not limited to, back pay, benefits  
9 and reasonable attorneys' fees and costs incurred to a prevailing plain-  
10 tiff;

11 (b) afford injunctive relief against any employer that commits or  
12 proposes to commit a violation of the provisions of this section;

13 (c) order reinstatement; and/or

14 (d) award liquidated damages equal to one hundred percent of the award  
15 for damages pursuant to paragraph (a) of this subdivision unless an  
16 employer proves a good faith basis to believe that its actions in  
17 violation of this section were in compliance with the law.

18 [5.] 4. Nothing in this section shall be construed to limit any rights  
19 of an employee provided through any other provision of law, common law  
20 or collective bargaining unit.

21 [6.] 5. Any act of retaliation for an employee exercising any rights  
22 granted under this section shall subject an employer to separate civil  
23 penalties under this section. For the purposes of this section, retali-  
24 ation or retaliatory personnel action shall mean discharging, suspend-  
25 ing, demoting, or otherwise penalizing an employee for:

26 (a) making or threatening to make, a complaint to an employer,  
27 co-worker, or to a public body, that rights guaranteed under this  
28 section have been violated;

29 (b) causing to be instituted any proceeding under or related to this  
30 section; or

31 (c) providing information to, or testifying before, any public body  
32 conducting an investigation, hearing, or inquiry into any such violation  
33 of a law, rule, or regulation by such employer.

34 § 2. Section 203-e of the labor law, as added by a chapter of the laws  
35 of 2019, amending the labor law relating to discrimination based on an  
36 employee's or a dependent's reproductive health decision making, as  
37 proposed in legislative bill numbers S. 660 and A. 584, is amended by  
38 adding a new subdivision 6 to read as follows:

39 6. An employer that provides an employee handbook to its employees  
40 must include in the handbook notice of employee rights and remedies  
41 under this section.

42 § 3. This act shall take effect on the same date and in the same  
43 manner as a chapter of the laws of 2019, amending the labor law relating  
44 to discrimination based on an employee's or a dependent's reproductive  
45 health decision making, as proposed in legislative bill numbers S. 660  
46 and A. 584, takes effect; provided, however that section two of this act  
47 shall take effect on the sixtieth day after such chapter of the laws of  
48 2019, takes effect.