

# STATE OF NEW YORK

9039

## IN SENATE

May 4, 2022

Introduced by Sen. BIAGGI -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil rights law, in relation to establishing a cause of action for unlawful interference with protected rights

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 "freedom  
2 from interference with reproductive and endocrine health advocacy and  
3 travel exercise act", or the "FIRE HATE act".

4 § 2. The legislature finds that the rights of the residents of the  
5 state of New York are imperiled by actions which would attempt to or  
6 purport to prevent or limit travel to New York for the exercise of  
7 rights protected by the New York state constitution and the laws of the  
8 state of New York, or which would put those who travel to New York at  
9 risk of civil actions and criminal actions brought in courts outside the  
10 state of New York seeking to punish or impose civil liability on indi-  
11 viduals for traveling to New York to exercise individual and human  
12 rights protected within the state of New York. The legislature finds  
13 that imposing such liability creates distinct harm within the state of  
14 New York.

15 § 3. The civil rights law is amended by adding a new section 70-b to  
16 read as follows:

17 § 70-b. Unlawful interference with protected rights. 1. A claim of  
18 unlawful interference with protected rights is established under this  
19 section. Such claim shall arise when a person demonstrates that he or  
20 she exercised or attempted to exercise a right protected under the  
21 constitution of the state of New York and/or laws of the state of New  
22 York, to obtain medical care, whether involving reproductive or endoc-  
23 rine function, and such action results in litigation or criminal charges  
24 in the courts of any state, and such rights resulted in action, whether  
25 criminal or civil, brought against that person in any court in the  
26 United States or its territories.

27 2. A person shall have a claim for unlawful interference with  
28 protected rights against any person or organization who commences an

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

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1 action in any court, regardless of where situated, in which the allega-  
2 tions against the person, whether civil or criminal, involve travel to  
3 the state of New York, including, but not limited to, planned travel to  
4 the state of New York, for the purposes of exercising any right  
5 protected under the laws of the state of New York and/or the constitu-  
6 tion of the state of New York, including rights specified in subdivision  
7 six of this section.

8 3. In a claim for unlawful interference with protected rights under  
9 this section:

10 (a) costs and attorneys' fees shall be recovered upon a demonstra-  
11 tion of unlawful interference, including an adjudication pursuant to subdivi-  
12 sion (g) of rule thirty-two hundred eleven or subdivision (h) of rule  
13 thirty-two hundred twelve of the civil practice law and rules;

14 (b) other compensatory damages may only be recovered upon an addi-  
15 tional demonstration that the action involving public petition and  
16 participation was commenced or continued for the purpose of harassing,  
17 intimidating, punishing or otherwise maliciously inhibiting the free  
18 exercise of rights protected in New York;

19 (c) in any action or proceeding brought pursuant to this section, the  
20 court shall allow a prevailing plaintiff reasonable attorneys' fees and  
21 expert fees as a part of the costs which may be recovered; and

22 (d) punitive damages in the amount of treble the amount of any  
23 liability imposed by the court of any other state shall be recovered  
24 upon an additional demonstration that the action involving  
25 exercise of rights protected in New York was commenced or continued  
26 for the sole purpose of harassing, intimidating, punishing or  
27 otherwise maliciously inhibiting the free exercise of rights protected  
28 in New York.

29 4. Any action or proceeding brought pursuant to this section shall be  
30 commenced no later than six years after the date on which the violation  
31 of this section is committed.

32 5. Nothing in this section shall affect or preclude the right of any  
33 party to any recovery otherwise authorized by common law, or by statute,  
34 law or rule.

35 6. Rights specifically protected under this section shall include:

36 (a) the right to obtain reproductive health care, including, but not  
37 limited to, the legal termination of a pregnancy; and

38 (b) the right to obtain medical care, including, but not limited to,  
39 hormone therapy and/or other therapy related to gender.

40 7. Notwithstanding any other provision of law, the following are not a  
41 defense to an action brought under this section:

42 (a) ignorance or mistake of law;

43 (b) a defendant's belief that the requirements of this section are  
44 unconstitutional or were unconstitutional;

45 (c) a defendant's reliance on any court decision that has been over-  
46 ruled on appeal or by a subsequent court, even if that court decision  
47 had not been overruled when the defendant engaged in conduct that  
48 violates this section;

49 (d) a defendant's reliance on any state or federal court decision that  
50 is not binding on the court in which the action has been brought;

51 (e) non-mutual issue preclusion or non-mutual claim preclusion;

52 (f) the consent of any other individual to the action in the courts of  
53 another state; or

54 (g) any claim that the enforcement of this section or the imposition  
55 of civil liability against the defendant will violate the constitutional  
56 rights of third parties.

1 8. An action under this section shall be brought in the Supreme Court  
2 of the state of New York.

3 9. Notwithstanding any other provision of law, neither sovereign immu-  
4 nity nor qualified immunity shall be a defense to actions brought under  
5 this section.

6 § 3. This act shall take effect immediately.