STATE OF NEW YORK

10232

IN ASSEMBLY

May 11, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Lavine) -- read once and referred to the Committee on Health

AN ACT relating to protecting indigent women in the United States in the exercise of their personal control over their bodies and health care decisions and to promote commerce between the states

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

Section 1. Short title. This act shall be known and may be cited as the "Geraldine Santoro act of 2022".

§ 2. Statement of legislative intent. (a) Because medical care, personal autonomy over reproductive decisions, and the corresponding right of privacy are fundamental human rights, it is the intent of the New York State Legislature to provide full and complete protection to women seeking abortions and related medical services in this state, whether or not they reside in New York.

(b) Because cross-border medical services implicate and involve interstate commerce, as U.S. citizens often travel between the states to obtain such services, it is the intent of the New York State Legislature to encourage interstate travel and commerce for the provision of abortion services in this state.

(c) Because every year approximately 20 million women worldwide risk their lives to undergo unsafe abortions, and understanding that women who reside in states that have restricted or intend to restrict access to necessary abortions are more likely, as Geraldine Santoro did, to seek out unsafe methods or procedures to terminate pregnancies from unqualified individuals, including themselves, it is the intent of the New York State Legislature to prevent further physical harm to such women and/or dangerous complications to the pregnancy.

(d) Because strict limitations or bans on abortions will have a disproportionate impact on indigent women and women of color, it is the intent of the New York State Legislature to protect even women outside the state of New York, in coordination with other like-minded states.

§ 3. Travel to New York for abortions and related care. (a) Women living in the 50 U.S. States and territories, who (1) seek an abortion

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

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that is unlawful in their state of residence but is legal in New York, (2) do not have the means to pay for such medical care or travel to New York are eligible to apply for financial assistance to travel to New York to obtain such medical services.

(b) On an annual basis, the department of health, in consultation with the not-for-profit corporation created for this purpose, as provided in subdivision (d) of section four of this act, shall promulgate rules setting forth the financial qualifications for obtaining such financial assistance.

(c) Such rules shall be based upon the patient's financial means.

(d) Such rules shall aim to maximize the availability of funds from all sources.

(e) To the extent permitted by law, such rules shall seek to obtain reimbursement from the patient's health insurance, or from Medicare or Medicaid.

(f) In the event that the number of applications exceeds the amount of funds available, such rules shall prioritize paying for the cost of abortion procedures and travel in circumstances where: there is a lethal fetal anomaly; or to protect the patient's life or health; or where the pregnancy was the result of rape or incest.

(g) Immigration status shall not be a consideration in determining financial eligibility or participation in the program in any way. No information on legal status may be collected in connection with this program.

§ 4. Administration. (a) The department of health shall promulgate rules and regulations consistent with this act within 60 days of the effective date of this act.

(b) Effective immediately, the department of health shall be authorized to use fifteen million dollars ($15,000,000) for the program set forth in section three of this act, including through a new not-for-profit corporation, set forth in subdivision (d) of this section, to administer the program, to pay for eligible abortions, and to pay for eligible travel.

(c) Beginning in fiscal year 2023-2024, the state budget shall appropriate funds directly for the program created by this act.

(d) The department of health shall create a not-for-profit corporation to administer the program set forth in section three of this act, shall appoint its board of trustees, and shall be empowered to fund the corporation using the department's budget consistent with the other funding provisions of this act.

(e) Such not-for-profit corporation shall:

(1) administer the program, including facilitating travel arrangements and medical appointments for women who need them, and paying the costs where eligible;

(2) raise private money to help pay for this program;

(3) be authorized to enter into partnerships with existing, privately run not-for-profit corporations that can contribute funds or other resources to this program;

(4) be authorized to enter into pacts with other states that enact laws similar to this act, so that the funds, and other resources including information, from various states can be pooled; so that those funds and other resources can be used in the most efficient manner (allowing these benefits to be extended to as many women as possible); and so that eligible patients can be treated in the least disruptive and most compassionate manner, with the least amount of travel;

(5) maximize the availability of funds from sources other than New York, such as, where eligible, federal funding (including Medicaid and Medicare), or the patient's private insurance;

(6) be authorized to enter into agreements with common carriers for the purpose of administering the program under section three of this act in a cost-efficient manner; and

(7) provide, in circumstances defined within regulations promulgated by the department of health, a fast-track option in which applicants for financial assistance receive notice of the determination on their application within 48 hours of the application's receipt, or such other time limitation as determined by the department of health.

(f) The department of health shall determine, in consultation with the department of education, whether the state can safely and legally provide medical abortions to out-of-state residents through mail-order pharmacies and telehealth consultations, in which the patient would use the abortifacient medication in their home state, or in a nearby state; and if such a practice is determined to be safe and lawful, the not-for-profit corporation administering the program shall provide for such an option.

(g) The department of health shall identify and certify health care providers who are authorized to administer abortions in New York for out-of-state residents.

(h) Participation in the program shall not be conditioned, in any way, upon a patient's immigration status. No information on legal status may be collected in connection with this program.

§ 5. Civil liability. (a) Any person, other than an officer or employee of a state or local governmental entity in this state, may bring a civil action against any person who:

(1) obstructs, impedes or hinders any woman from exercising the right created in section two of this act;

(2) obstructs, impedes or hinders any medical professional from providing abortions or abortion-related services to any woman; or

(3) aids or abets any action proscribed by paragraph one or two of this subdivision.

(b) Except where otherwise prohibited by law, a civil action brought under this section shall be brought in the county in which one of the parties resided when it was commenced; the county in which a substantial part of the events or omissions giving rise to the claim occurred; or, if none of the parties then resided in the state, in any county designated by the plaintiff. A party resident in more than one county shall be deemed a resident of each such county.

(c) A person may bring an action under this section not later than the fourth anniversary of the date the cause of action accrues.

(d) If a claimant prevails in an action brought under this section, the court shall award:

(1) injunctive relief sufficient to prevent the defendant from violating this act or engaging in acts that aid or abet violations of this act;

(2) statutory damages in an amount of not less than $50,000 for each abortion the defendant obstructed in violation of this act; and

(3) reasonable attorneys' fees and costs.

(e) The following are not defenses to an action brought under this section:

(1) ignorance or mistake of law;

(2) a defendant's belief that the requirements of this act are or were unconstitutional;

(3) a defendant's reliance on any court decision that has been overruled on appeal or by a subsequent court, even if that court decision had not been overruled when the defendant engaged in conduct that violates this act;

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

(5) non-mutual issue preclusion or non-mutual claim preclusion; or

(6) any claim that the actions or activity in violation of this act were based on religious or moral beliefs about the sanctity of life.

§ 6. Sanctuary provisions. (a) New York governmental agencies shall not participate in out-of-state investigations, lawsuits, or criminal prosecutions related to an abortion that is lawfully performed in this state.

(b) The department of health, the not-for-profit corporation administering this program, all funding partners of this program, all transportation partners of this program, providers of health care, health care service plans, or contractors in this state shall not release any information (including identity) related to an individual seeking or obtaining an abortion in this state in out-of-state investigations, lawsuits, or criminal prosecutions related to abortions lawfully performed in this state, including in response to a subpoena, whether or not the individual received financial assistance.

(c) This state shall not extradite a person in New York to another state for having an abortion in New York under this act.

(d) No coroner in this state shall issue a statement on the certificate of fetal death intended to facilitate or encourage official or private legal actions against women availing themselves of the rights under this act or medical professionals providing abortions or abortion-related services in this state.

§ 7. Severability. If any provision, section, subsection, or clause of this act or its application to any person or circumstance is held invalid, it is the legislature's intent that the invalidity does not affect other provisions, sections, subsections, clauses or applications of this act which can be given effect without the invalid provision, section, subsection, or clause or application, and to this end the provisions of this act are severable.

§ 8. This act shall take effect immediately.