

STATE OF NEW YORK

10365

IN ASSEMBLY

May 13, 2022

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

AN ACT to amend the civil practice law and rules and the criminal procedure law, in relation to protections for persons receiving and providing reproductive health care services and access to reproductive health care services in New York state

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

Section 1. 1. As used in this act:

(a) "Reproductive health care services" includes all medical, surgical, counseling or referral services relating to the human reproductive system, including, but not limited to, services relating to pregnancy, contraception or the termination of a pregnancy; and

(b) "Person" includes an individual, a partnership, an association, a limited liability company or a corporation.

2. Notwithstanding any other law or rule to the contrary, when any person has had a judgment entered against such person, in any state, where liability, in whole or in part, is based on the alleged provision, receipt, assistance in receipt or provision, material support for, or any theory of vicarious, joint, several or conspiracy liability derived therefrom, for reproductive health care services that are permitted under the laws of this state, such person may recover damages from any party that brought the action leading to that judgment or has sought to enforce that judgment. Recoverable damages shall include: (a) Just damages created by the action that led to that judgment, including, but not limited to, money damages in the amount of the judgment in that other state and costs, expenses and reasonable attorney's fees spent in defending the action that resulted in the entry of a judgment in another state; and (b) costs, expenses and reasonable attorney's fees incurred in bringing an action under this section as may be allowed by the court.

3. The provisions of this section shall not apply to a judgment entered in another state that is based on: (a) an action founded in tort, contract or statute, and for which a similar claim would exist under the laws of this state, brought by the patient who received the

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

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1 reproductive health care services upon which the original lawsuit was
2 based or the patient's authorized legal representative, for damages
3 suffered by the patient or damages derived from an individual's loss of
4 consortium of the patient; (b) an action founded in contract, and for
5 which a similar claim would exist under the laws of this state, brought
6 or sought to be enforced by a party with a contractual relationship with
7 the person that is the subject of the judgment entered in another state;
8 or (c) an action where no part of the acts that formed the basis for
9 liability occurred in this state.

10 § 2. 1. Except as provided in subdivision two of this section, in any
11 civil action or any proceeding preliminary thereto or in any probate,
12 legislative or administrative proceeding, no covered entity, as defined
13 in 45 CFR 160.103, shall disclose (a) any communication made to such
14 covered entity, or any information obtained by such covered entity from,
15 a patient or the conservator, guardian or other authorized legal repre-
16 sentative of a patient relating to reproductive health care services, as
17 defined in section one of this act, that are permitted under the laws of
18 this state, or (b) any information obtained by personal examination of a
19 patient relating to reproductive health care services, as defined in
20 section one of this act, that are permitted under the laws of this
21 state, unless the patient or that patient's conservator, guardian or
22 other authorized legal representative explicitly consents in writing to
23 such disclosure. A covered entity shall inform the patient or the
24 patient's conservator, guardian or other authorized legal representative
25 of the patient's right to withhold such written consent.

26 2. Written consent of the patient or the patient's conservator, guard-
27 ian or other authorized legal representative shall not be required for
28 the disclosure of such communication or information (a) pursuant to the
29 laws of this state or the rules of court prescribed by the chief admin-
30 istrator of the courts, (b) by a covered entity against whom a claim has
31 been made, or there is a reasonable belief will be made, in such action
32 or proceeding, to the covered entity's attorney or professional liabil-
33 ity insurer or such insurer's agent for use in the defense of such
34 action or proceeding, (c) to the commissioner of health for records of a
35 patient of a covered entity in connection with an investigation of a
36 complaint, if such records are related to the complaint, or (d) if child
37 abuse, abuse of an elderly individual, abuse of an individual who is
38 physically disabled or incompetent or abuse of an individual with intel-
39 lectual disability is known or in good faith suspected.

40 3. Nothing in this section shall be construed to impede the lawful
41 sharing of medical records as permitted by state or federal law or the
42 rules of the court prescribed by the chief administrator of the courts,
43 except in the case of a subpoena commanding the production, copying or
44 inspection of medical records relating to reproductive health care
45 services, as defined in section one of this act.

46 § 3. Notwithstanding any other provision of law to the contrary, a
47 judge, justice of the peace, notary public or court clerk shall not
48 issue a subpoena, appointed according to the laws or usages of any other
49 state or government, or by any court of the United States or of any
50 other state or government, when such subpoena relates to reproductive
51 health care services, as defined in section one of this act, that are
52 permitted under the laws of this state, unless the subpoena relates to:
53 (a) an out-of-state action founded in tort, contract or statute, for
54 which a similar claim would exist under the laws of this state, brought
55 by a patient or the patient's authorized legal representative, for
56 damages suffered by the patient or damages derived from an individual's

1 loss of consortium of the patient; or (b) an out-of-state action founded
2 in contract, and for which a similar claim would exist under the laws of
3 this state, brought or sought to be enforced by a party with a contrac-
4 tual relationship with the person that is the subject of the subpoena
5 requested by a commissioner appointed according to the laws or usages of
6 another state.

7 § 4. No state or local department, division, office, bureau or public
8 authority, or any employee, appointee, officer or official or any other
9 person acting on behalf thereof, may provide any information or expend
10 or use time, money, facilities, property, equipment, personnel or other
11 resources in furtherance of any interstate investigation or proceeding
12 seeking to impose civil or criminal liability upon a person or entity
13 for (a) the provision, seeking or receipt of or inquiring about repro-
14 ductive health care services, as defined in section one of this act,
15 that are legal in this state, or (b) assisting any person or entity
16 providing, seeking, receiving or responding to an inquiry about repro-
17 ductive health care services, as defined in section one of this act,
18 that are legal in this state. This section shall not apply to any inves-
19 tigation or proceeding where the conduct subject to potential liability
20 under the investigation or proceeding would be subject to liability
21 under the laws of this state if committed in this state.

22 § 5. Section 3119 of the civil practice law and rules is amended by
23 adding a new subdivision (g) to read as follows:

24 (g) Out-of-state abortion proceedings. Notwithstanding any other
25 provisions of this section or any other law, no court or county clerk
26 shall issue a subpoena or a summons in a case where prosecution is pend-
27 ing, or where a grand jury investigation has commenced or is about to
28 commence for a criminal violation of a law of such other state involving
29 the provision or receipt of or assistance with reproductive health care
30 services that are legal in this state, unless the acts forming the basis
31 of the prosecution or investigation would also constitute an offense in
32 this state. For the purposes of this subdivision, "reproductive health
33 care services" means and includes all medical, surgical, counseling or
34 referral services relating to the human reproductive system, including,
35 but not limited to, services relating to pregnancy, contraception or the
36 termination of a pregnancy.

37 § 6. The criminal procedure law is amended by adding a new section
38 570.17 to read as follows:

39 § 570.17 Extradition of abortion providers.

40 No demand for the extradition of a person charged with providing an
41 abortion shall be recognized by the governor unless the executive
42 authority of the demanding state shall allege in writing that the
43 accused was present in the demanding state at the time of the commission
44 of the alleged offense, and that thereafter he, she or they fled from
45 that state.

46 § 7. This act shall take effect immediately.