

STATE OF NEW YORK

3902--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

Introduced by M. of A. ABINANTI, PAULIN, PRETLOW, GALEF, OTIS, JACOBSON, LUNSFORD, GOTTFRIED, SIMON, SEAWRIGHT, GLICK -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

9
10 The legislature finds that current law does not adequately protect
11 reproductive health care facilities or places of religious worship and
12 those who work in or seek services from or access to such facilities.
13 Therefore, the legislature has determined that it is appropriate for the
14 protection of the public health, safety and welfare, to enact legis-
15 lation to prohibit interference with access to reproductive health care
16 services or places of religious worship, so that persons harmed by such
17 conduct can seek redress in the courts and the state can obtain injunc-
18 tive relief and damages. Furthermore, the legislature has determined
19 that it is appropriate to enact this legislation to: ensure public safe-
20 ty and order; protect freedom to receive reproductive health services;

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

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1 advance medical privacy and the well-being of patients seeking reproduc-
2 tive health care services at facilities; protect the exercise of reli-
3 gious freedom at places of religious worship and the well-being of those
4 exercising their freedom of religion at places of religious worship; and
5 safeguard private property.

6 § 3. Section 240.70 of the penal law, as added by chapter 635 of the
7 laws of 1999, is amended to read as follows:

8 § 240.70 Criminal interference with health care services or religious
9 worship in the second degree.

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

12 (a) by force or threat of force or by physical obstruction, he or she
13 [~~intentionally~~] knowingly injures, intimidates or interferes with, or
14 attempts to injure, intimidate or interfere with, another person because
15 such other person was or is obtaining or providing, or assisting in
16 obtaining or providing, reproductive health services; or

17 (b) by force or threat of force or by physical obstruction, he or she
18 [~~intentionally~~] knowingly injures, intimidates or interferes with, or
19 attempts to injure, intimidate or interfere with, another person in
20 order to discourage such other person or any other person or persons
21 from obtaining or providing, or assisting in obtaining or providing,
22 reproductive health services; or

23 (c) by force or threat of force or by physical obstruction, he or she
24 [~~intentionally~~] knowingly injures, intimidates or interferes with, or
25 attempts to injure, intimidate or interfere with, another person because
26 such person was or is seeking to exercise, or assisting in the exercise
27 of the right of religious freedom at a place of religious worship; or

28 (d) he or she [~~intentionally~~] knowingly damages the property of a
29 health care facility, or attempts to do so, because such facility
30 provides reproductive health services, or intentionally damages the
31 property of a place of religious worship[~~-~~]; or

32 (e) he or she engages in a course of conduct or repeatedly commits
33 acts, or attempts to engage in a course of conduct or repeatedly commit
34 acts, within twenty-five feet of the premises of a reproductive health
35 care facility in order to discourage another person from obtaining or
36 providing, or assisting in obtaining or providing, reproductive health
37 care services when such behavior places such other person in reasonable
38 fear of harm; or

39 (f) he or she engages in a course of conduct or repeatedly commits
40 acts, or attempts to engage in a course of conduct or repeatedly commit
41 acts, within twenty-five feet of the premises of a place of religious
42 worship in order to discourage another person from exercising, or
43 assisting in exercising, their right of religion at a place of religious
44 worship when such behavior places such other person in reasonable fear
45 of harm; or

46 (g) within one hundred feet of the entrance to, or within, a reproduc-
47 tive health care services facility, he or she intentionally videotapes,
48 films, photographs, or records by electronic means, a reproductive
49 health care services patient, person assisting the reproductive health
50 care services patient, provider, or assistant, without that person's
51 consent with specific intent to intimidate the person from becoming or
52 remaining a reproductive health care services patient, person assisting
53 the reproductive health care services patient, provider, or assistant,
54 and thereby causes the person to be intimidated; or

55 (h) in any manner or forum, including, but not limited to, internet
56 websites and social media, he or she intentionally discloses or distrib-

1 utes a videotape, film, photograph, or recording knowing it was obtained
2 in violation of paragraph (g) of this subdivision with the specific
3 intent to intimidate the person from becoming or remaining a reproduc-
4 tive health care services patient, person assisting the reproductive
5 health care services patient, provider, or assistant, and thereby causes
6 the person to be intimidated; or

7 (i) he or she knowingly publicly posts or publicly displays,
8 discloses, or distributes on internet websites or social media, the
9 personal information or image of any reproductive health care services
10 patient, person assisting the reproductive health care services patient,
11 provider, or assistant, or other individuals residing at the same home
12 address with the intent to do either of the following:

13 (i) incite a third person to cause imminent great bodily harm to the
14 reproductive health care services patient, person assisting the repro-
15 ductive health care services patient, provider, or assistant, identified
16 in the posting or display, or to a co-resident of that person, where the
17 third person is likely to commit this harm; or

18 (ii) threatens the reproductive health care services patient, person
19 assisting the reproductive health care services patient, provider, or
20 assistant, identified in the posting or display, or a co-resident of
21 that person, in a manner that places the person identified or the co-re-
22 sident in objectively reasonable fear for their personal safety.

23 2. A parent or legal guardian of a minor shall not be subject to pros-
24 ecution for conduct otherwise prohibited by ~~paragraph (a) or (b) of~~
25 subdivision one of this section which is directed exclusively at such
26 minor.

27 3. For purposes of this section:

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

32 (b) the term "image" includes, but is not limited to, a photograph,
33 video footage, sketch, or computer-generated image that provides a means
34 to visually identify the person depicted;

35 (c) the term "interferes with" means to restrict a person's freedom of
36 movement and shall include, but shall not be limited to, activities that
37 restrict or attempt to restrict access to or from a health care facili-
38 ty, the performance of medical procedures at a health care facility or
39 the delivery of goods to such a facility or access to or from a place of
40 religious worship or delivery of goods to a place of religious worship;

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

44 ~~(d)~~ (e) the term "personal information" means information that iden-
45 tifies, relates to, describes, or is capable of being associated with a
46 reproductive health care services patient, person assisting the repro-
47 ductive health care services patient, provider, or assistant, including,
48 but not limited to, their name, signature, social security number, phys-
49 ical characteristics or description, address, telephone number, passport
50 number, driver's license or state identification card number, license
51 plate number, employment, employment history, and financial information;

52 (f) the term "physical obstruction" means rendering impassable ingress
53 to or egress from a facility that provides reproductive health services
54 or to or from a place of religious worship, or rendering passage to or
55 from such a facility or place of religious worship unreasonably diffi-
56 cult or hazardous; ~~and~~

~~(e)~~ (g) the term "publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public;

(h) the term "reproductive health care services" means health care services provided in a hospital, clinic, physician's office or other facility and includes medical, surgical, counseling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy~~[-]~~;

(i) the term "premises of a reproductive health care facility" means a health care facility and includes the driveway, entrance, entryway or exit of such facility, any parking lot in which the facility has an ownership or leasehold interest and any public parking lots within two hundred feet of the facility which serve the facility;

(j) the term "premises of a place of religious worship" means a structure or space where individuals or a group of people come to exercise their right of religious worship and includes the driveway, entrance, entryway or exit of such structure or space, any parking lot in which the structure or space has an ownership or leasehold interest and any public parking lots within two hundred feet of the structure or space which serves the structure or space;

(k) the term "reproductive health care services patient, person assisting the reproductive health care services patient, provider or assistant" means a person or entity, including, but not limited to, employees, staff, volunteers, and third-party vendors, that is or was involved in obtaining, seeking to obtain, providing, seeking to provide, or assisting or seeking to assist another person, at that person's request, to obtain or provide any services in a reproductive health care services facility, or a person or entity that is or was involved in owning or operating or seeking to own or operate a reproductive health care services facility; and

(l) the term "social media" means an electronic service or account, or electronic content, including, but not limited to, videos or still photographs, blogs, video blogs, podcasts, instant and text messages, email, online services or accounts, or internet website profiles or locations.

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

§ 4. Section 79-m of the civil rights law, as amended by chapter 566 of the laws of 2008, is amended to read as follows:

§ 79-m. Criminal interference with health care services, religious worship, funeral, burial or memorial service; injunction; civil action.

1. Whenever the attorney general or district attorney of the county where the affected health care facility, place of religious worship, or site of a funeral, burial or memorial service is located has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of section 240.21, 240.70 ~~[or]~~, 240.71, 240.72 or 240.73 of the penal law, the attorney general or district attorney may bring an action in the name of the people of the state of New York to permanently enjoin such violation. In such action preliminary and temporary relief may be granted under article sixty-three of the civil practice law and rules.

2. A civil claim or cause of action to recover from a defendant as hereinafter defined, for physical, psychological or other injury or condition suffered by a person, including any person whose ability to access the premises of a health care facility or premises of a place of religious worship has been interfered with or any owner or operator of

1 such a facility or owner of a building in which such facility is located
2 or any employee or volunteer working for such a facility, as a result
3 of acts by such defendant of criminal interference with health care
4 services or religious worship in the second degree as defined in section
5 240.70 of the penal law, criminal interference with health care services
6 or religious worship in the first degree as defined in section 240.71 of
7 the penal law, aggravated interference with health care services in the
8 second degree as defined in section 240.72 of the penal law, or aggra-
9 vated interference with health care services in the first degree as
10 defined in section 240.73 of the penal law may be brought within five
11 years. As used in this subdivision, the term "defendant" shall mean only
12 a person who commits the acts described in this subdivision or who, in a
13 criminal proceeding, could be charged with criminal liability for the
14 commission of such acts pursuant to section 20.00 of the penal law and
15 shall not apply to any related civil claim or cause of action arising
16 from such acts. Nothing in this section shall be construed to require
17 that a criminal charge be brought or a criminal conviction be obtained
18 as a condition of bringing a civil cause of action or receiving a civil
19 judgment pursuant to this subdivision or be construed to require that
20 any of the rules governing a criminal proceeding be applicable to any
21 such civil action. A plaintiff in a civil cause or action brought pursu-
22 ant to this subdivision may seek any relief available consistent with
23 the civil practice law and rules, including injunctive relief.

24 § 5. Severability. If any clause, sentence, paragraph, section or part
25 of this act shall be adjudged by any court of competent jurisdiction to
26 be invalid and after exhaustion of all further judicial review, the
27 judgment shall not affect, impair or invalidate the remainder thereof,
28 but shall be confined in its operation to the clause, sentence, para-
29 graph, section or part of this act directly involved in the controversy
30 in which the judgment shall have been rendered.

31 § 6. This act shall take effect on the first of November next succeed-
32 ing the date on which it shall have become a law.