

# STATE OF NEW YORK

9655

## IN ASSEMBLY

March 28, 2022

Introduced by M. of A. PAULIN -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to establishing the "donor-conceived person protection 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 "donor-con-  
2 ceived person protection act".
- 3 § 2. Legislative findings and intent. The legislature acknowledges  
4 the importance of parents and donor-conceived persons knowing the  
5 medical history of individuals who have donated reproductive tissue to a  
6 reproductive tissue bank for purposes of an artificial insemination or  
7 assisted reproductive technology procedure and disseminating this histo-  
8 ry information to a recipient and donor-conceived person upon request,  
9 if any.
- 10 The legislature further acknowledges knowing the medical history of a  
11 donor will provide recipients with the necessary information to make  
12 informed decisions regarding the process of artificial insemination or  
13 assisted reproductive technology procedure and for donor-conceived  
14 persons to obtain essential medical information, which may reveal any  
15 genetic or mental health disorders.
- 16 The legislature finds that reproductive tissue banks, including semen  
17 banks, oocyte donation programs and embryo banks have a duty to collect  
18 and verify medical history information provided by donors on donor self-  
19 reported medical histories and during the donor screening processes and  
20 to keep detailed records of such for use by recipients and donor-con-  
21 ceived persons, if any, prior to a procedure and in the future.
- 22 The legislature further finds that the protections currently afforded  
23 to reproductive tissue bank donors' medical records be waived and that  
24 donors' identify all recent medical professionals on such donor self-re-  
25 ported histories and during the donor screening processes, in order to  
26 effectuate the provisions of this act.
- 27 § 3. Section 4360 of the public health law is amended by adding five  
28 new subdivisions 1-a, 11, 12, 13 and 14 to read as follows:

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

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1 1-a. "Reproductive tissue bank" means a facility, which acquires,  
2 processes, stores, distributes and/or releases reproductive tissue to an  
3 insemination/implantation site or recipient for use in artificial inse-  
4 mination or assisted reproductive technology procedures. Reproductive  
5 tissue banks include, but are not limited to, semen banks, oocyte  
6 donation programs and embryo banks.

7 11. "Donor" means a person who provides reproductive tissue for use in  
8 artificial insemination or assisted reproductive procedures performed on  
9 recipients other than that person or that person's regular sexual part-  
10 ner, and includes direct and known donors.

11 12. "Donor reproductive tissue" means any tissue from the reproductive  
12 tract intended for use in artificial insemination or any other assisted  
13 reproductive technology procedure. This includes, but is not limited  
14 to, semen, oocytes, embryos, spermatozoa, spermatids.

15 13. "Recipient" means a person who receives reproductive tissue from a  
16 donor.

17 14. "Donor-conceived person" means a person purposely conceived  
18 through an assisted reproductive technology procedure or artificial  
19 insemination via the donation of donor reproductive tissue.

20 § 4. The public health law is amended by adding a new section 4370 to  
21 read as follows:

22 § 4370. Donor-conceived person protection act. 1. Notwithstanding any  
23 other provision of law to the contrary, the commissioner shall ensure  
24 that reproductive tissue banks, licensed by the department, before sell-  
25 ing or otherwise providing a recipient with donor reproductive tissue,  
26 collect and verify medical information from any donor it procures repro-  
27 ductive tissue from and to disseminate such information to a recipient  
28 before a recipient purchases or otherwise receives such tissue, and to  
29 donor-conceived persons conceived with such tissue, if any, when such  
30 persons turn eighteen years of age or earlier upon consent of the recip-  
31 ient parent or guardian, consistent with this section.

32 2. A reproductive tissue bank donor shall:

33 (a) Provide the reproductive tissue bank information on all diagnosed  
34 medical conditions, including but not limited to, any genetic disorders,  
35 infectious diseases, mental disabilities and/or serious mental illnesses  
36 as such are defined within section 1.03 of the mental hygiene law;

37 (b) Provide the reproductive tissue bank information on all serious  
38 familial medical conditions, to the extent such donor has knowledge of  
39 or should have knowledge of such conditions, within the third degree of  
40 consanguinity, including but not limited to, any genetic disorders,  
41 infectious diseases, mental disabilities and/or serious mental illnesses  
42 as such are defined within section 1.03 of the mental hygiene law;

43 (c) Provide the names of any medical professionals seen by such donor,  
44 within the preceding five years from the date of donation to the repro-  
45 ductive tissue bank;

46 (d) Provide the reproductive tissue bank written consent authorizing  
47 the reproductive tissue bank to obtain all medical records held by such  
48 medical professionals seen by the donor in the preceding five years; and

49 (e) Provide written consent authorizing the release of medical infor-  
50 mation by the reproductive tissue bank, to include a waiver of the  
51 protection of medical history information pursuant to the Health Insur-  
52 ance Portability and Accountability Act of 1996 and their implementing  
53 regulations, to potential recipients and their physicians, as well as to  
54 donor-conceived persons conceived with the donor's reproductive tissue,  
55 if any, when such persons turn eighteen years of age or earlier upon  
56 consent of the recipient parent or guardian.

1 3. A reproductive tissue bank procuring donor reproductive tissue  
2 shall:

3 (a) Provide a statement, signed by the donor, informing him or her of  
4 their obligations contained within the provisions of subdivision two of  
5 this section;

6 (b) Verify medical information provided by the donor as required  
7 pursuant to subdivision two of this section against the donor's medical  
8 records, if any;

9 (c) Disclose to recipients before selling or otherwise providing them  
10 with donor reproductive tissue, and if applicable, donor-conceived  
11 persons conceived with the donor's reproductive tissue upon request,  
12 when such persons turn eighteen years of age or earlier upon consent of  
13 the recipient parent or guardian, all medical records of such donor, as  
14 well as any other information required to be provided by the donor,  
15 including the timeframes and type of medical professionals contained  
16 within the donor's medical records, except that if the reproductive  
17 tissue bank is unable to obtain such information from the donor's  
18 medical records, it shall note the type of medical professional and  
19 state the reason why such records were unable to be obtained;

20 (d) Produce a standard form, prescribed by the commissioner, identify-  
21 ing by reporting status, all medical information required to be provided  
22 by the donor under this section, utilizing verifiable information  
23 contained in the donor's medical records, and any unverifiable medical  
24 information provided by the donor to the reproductive tissue bank. Such  
25 form shall be made available at no charge to both the recipient and  
26 their physician, as well as any donor-conceived persons conceived with  
27 the donor's reproductive tissue upon request, if any, when such persons  
28 turn eighteen years of age or earlier upon consent of the recipient  
29 parent or guardian;

30 (e) Except in the case of known donors, redact any personal identify-  
31 ing information contained in the donor's medical records released to a  
32 recipient, their physician and donor-conceived persons conceived with  
33 the donor's reproductive tissue, if any. Such information shall include  
34 the donor's name, address, and any other information which would direct-  
35 ly or indirectly identify the donor. Redacted records shall be made  
36 available at no charge to the recipient, their physician as well as any  
37 donor-conceived person conceived with the donor's reproductive tissue  
38 upon request, if any, when such persons turn eighteen years of age or  
39 earlier upon consent of the recipient parent or guardian;

40 (f) No donor reproductive tissue procured by a reproductive tissue  
41 bank located outside the state of New York shall be used in any artifi-  
42 cial insemination or any other assisted reproductive technology proce-  
43 dure set to take place within the state unless and until the reproduc-  
44 tive tissue bank provides the recipient and/or the recipient's physician  
45 signed certification from the medical director of such reproductive  
46 tissue bank that it has complied with the medical verification require-  
47 ments of this section; and

48 (g) No donor reproductive tissue procured by a reproductive tissue  
49 bank located within the state of New York shall be sold or otherwise  
50 shipped or transferred to a recipient, their physician or a reproductive  
51 tissue bank located in another state unless the reproductive tissue is  
52 accompanied by a signed certification from the medical director of the  
53 reproductive tissue bank from which the donor reproductive tissue was  
54 procured that the reproductive tissue bank complied with the medical  
55 verification requirements of this section.

1 § 5. This act shall take effect on the ninetieth day after it shall  
2 have become a law. Effective immediately, the addition, amendment  
3 and/or repeal of any rule or regulation necessary for the implementation  
4 of this act on its effective date are authorized to be made and  
5 completed on or before such effective date.