

# STATE OF NEW YORK

4841

2021-2022 Regular Sessions

## IN SENATE

February 16, 2021

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 penal law, in relation to establishing fertility fraud as a class E felony offense

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

1 Section 1. The penal law is amended by adding a new section 190.90 to  
2 read as follows:

3 § 190.90 Fertility fraud.

4 1. A health care provider is guilty of fertility fraud when such  
5 provider: (a) knowingly or intentionally performs an assisted reproduc-  
6 tion procedure using the spermatozoon or ovum of the health care  
7 provider or any other donor without the patient's informed written  
8 consent to treatment using spermatozoon or ovum from the health care  
9 provider or from any donor other than a donor from whom the patient  
10 consented in writing; or

11 (b) intentionally performs an assisted reproduction procedure and such  
12 provider knows or reasonably should have known that the human reproduc-  
13 tive material was used: (i) without the donor's consent; or (ii) in a  
14 manner or to an extent other than that to which the donor consented.

15 2. "Human reproductive material" means:

16 (a) a human spermatozoon or ovum; or

17 (b) a human organism at any stage of development from fertilized ovum  
18 to embryo.

19 Fertility fraud is a class E felony.

20 § 2. This act shall take effect on the one hundred twentieth day after  
21 it shall have become a law.

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

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