

# STATE OF NEW YORK

2735

2023-2024 Regular Sessions

## IN ASSEMBLY

January 27, 2023

Introduced by M. of A. PAULIN, CONRAD, ZEBROWSKI, FAHY -- 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. Short title. This act shall be known and may be cited as  
2 the "donor-conceived 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 § 3. The public health law is amended by adding a new section 4369-a  
23 to read as follows:

24 § 4369-a. Donor-conceived person protection act. 1. For the purposes  
25 of this section, the following terms shall have the following meanings:

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

LBD00575-03-3

1 (a) "Reproductive tissue bank" means any person or facility, which  
2 procures, stores, or arranges for the storage of or distributes and/or  
3 releases reproductive tissue to an insemination/implantation site or  
4 recipient for use in artificial insemination or assisted reproductive  
5 technology procedures. Reproductive tissue banks include, but are not  
6 limited to, semen banks, oocyte donation programs and embryo banks.

7 (b) "Reproductive tissue donor" means a person who provides reproduc-  
8 tive tissue for use in artificial insemination or assisted reproductive  
9 procedures performed on recipients other than that person or that  
10 person's regular sexual partner, and includes known donors.

11 (c) "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 (d) "Recipient" means a person who receives reproductive tissue from a  
16 donor.

17 (e) "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 (f) "Known donor" means a reproductive tissue donor whose identity is  
21 known to the recipient.

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

32 3. A reproductive tissue bank donor shall:

33 (a) Provide the reproductive tissue bank information on their medical  
34 history at the time of donation, including all available information  
35 setting forth conditions or diseases believed to be hereditary, and any  
36 drugs or medication being taken by the donor;

37 (b) Provide the reproductive tissue bank information on all serious  
38 familial medical conditions or diseases believed to be hereditary, to  
39 the extent such donor has knowledge of such conditions or diseases,  
40 within the third degree of consanguinity;

41 (c) Provide, to the best of their ability, the names of any licensed  
42 medical professional or licensed health care practitioner that are  
43 primarily responsible for the medical care of such donor, within the  
44 preceding five years from the date of donation to the reproductive  
45 tissue bank;

46 (d) Provide the reproductive tissue bank written consent authorizing  
47 the reproductive tissue bank to obtain all medical records held by any  
48 such licensed medical professional or licensed health care practitioner  
49 who are primarily responsible for the medical care of the donor in the  
50 preceding five years; and

51 (e) Provide written consent authorizing the release of medical infor-  
52 mation by the reproductive tissue bank, to include a waiver of the  
53 protection of medical history information pursuant to the Health Insur-  
54 ance Portability and Accountability Act of 1996 and their implementing  
55 regulations, to potential recipients and their physicians, as well as to  
56 donor-conceived persons conceived with the donor's reproductive tissue,

1 if any, when such persons turn eighteen years of age or earlier upon  
2 consent of the recipient parent or guardian.

3 4. A reproductive tissue bank procuring donor reproductive tissue  
4 shall:

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

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

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

21 (d) Produce a standard form, identifying by reporting status, all  
22 medical information required to be provided by the donor under this  
23 section, utilizing verifiable information contained in the donor's  
24 medical records, and any unverifiable medical information provided by  
25 the donor to the reproductive tissue bank. Such form shall be made  
26 available at no charge to both the recipient and their physician, as  
27 well as any donor-conceived persons conceived with the donor's reproduc-  
28 tive tissue upon request, if any, when such persons turn eighteen years  
29 of age or earlier upon consent of the recipient 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 and/or donor-conceived persons conceived with the donor's  
33 reproductive tissue, if any. Such information shall include the donor's  
34 name, address, and any other information which would directly or indi-  
35 rectly identify the donor. Redacted records shall be made available at  
36 no charge to the recipient and/or donor-conceived persons conceived with  
37 the donor's reproductive tissue upon request, when such persons turn  
38 eighteen years of age or earlier upon consent of the recipient parent or  
39 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 signed certification from the  
45 medical director of such reproductive tissue bank that it has complied  
46 with the medical verification requirements of this section; and

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

1 § 4. This act shall take effect on the ninetieth day after it shall  
2 have become a law and shall apply to all donor reproductive tissue  
3 donated on and after it shall have become a law; provided, however, that  
4 if chapter 814 of the laws of 2022 shall not have taken effect on or  
5 before such date then this act shall take effect on the same date and in  
6 the same manner as such chapter of the laws of 2022, takes effect.  
7 Effective immediately, the addition, amendment and/or repeal of any rule  
8 or regulation necessary for the implementation of this act on its effec-  
9 tive date are authorized to be made and completed on or before such  
10 effective date.