

STATE OF NEW YORK

4596

2023-2024 Regular Sessions

IN ASSEMBLY

February 17, 2023

Introduced by M. of A. BICHOTTE HERMELYN, PAULIN, PRETLOW, OTIS, JACOBSON, LUNSFORD, SIMON, SEAWRIGHT, GLICK, DICKENS, BURDICK, DAVILA, DINOWITZ -- read once and referred to the Committee on Codes

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 "reproduc-
2 tive health care facilities and religious worship access act".

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

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;
21 advance medical privacy and the well-being of patients seeking reproduc-
22 tive health care services at facilities; protect the exercise of reli-
23 gious freedom at places of religious worship and the well-being of those

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

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1 exercising their freedom of religion at places of religious worship; and
2 safeguard private property.

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

5 § 240.70 Criminal interference with health care services or religious
6 worship in the second degree.

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

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

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

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

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

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

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

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

52 (h) in any manner or forum, including, but not limited to, internet
53 websites and social media, he or she intentionally discloses or distrib-
54 utes a videotape, film, photograph, or recording knowing it was obtained
55 in violation of paragraph (g) of this subdivision with the specific
56 intent to intimidate the person from becoming or remaining a reproduc-

tive health care services patient, person assisting the reproductive health care services patient, provider, or assistant, and thereby causes the person to be intimidated; or

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

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

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

2. A parent or legal guardian of a minor shall not be subject to prosecution for conduct otherwise prohibited by ~~[paragraph (a) or (b) of]~~ subdivision one of this section which is directed exclusively at such minor.

3. For purposes of this section:

(a) the term "health care facility" means a hospital, clinic, physician's office or other facility that provides reproductive health services, and includes the building or structure in which the facility is located;

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

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

~~[(e)]~~ (d) the term "intimidates" means to place a person in reasonable apprehension of physical injury to himself or herself or to another person;

~~[(d)]~~ (e) the term "personal information" means information that identifies, relates to, describes, or is capable of being associated with a reproductive health care services patient, person assisting the reproductive health care services patient, provider, or assistant, including, but not limited to, their name, signature, social security number, physical characteristics or description, address, telephone number, passport number, driver's license or state identification card number, license plate number, employment, employment history, and financial information;

(f) the term "physical obstruction" means rendering impassable ingress to or egress from a facility that provides reproductive health services or to or from a place of religious worship, or rendering passage to or from such a facility or place of religious worship unreasonably difficult 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 such a facility or owner of a building in which such facility is located or any employee or volunteer working for such a facility, as a result of acts by such defendant of criminal interference with health care

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

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

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