

STATE OF NEW YORK

2122

2023-2024 Regular Sessions

IN SENATE

January 18, 2023

Introduced by Sens. GALLIVAN, BORRELLO, ORTT -- read twice and ordered printed, and when printed to be committed 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.

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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.