

STATE OF NEW YORK

2122--A

2023-2024 Regular Sessions

IN SENATE

January 18, 2023

Introduced by Sens. GALLIVAN, BORRELLO, OBERACKER, ORTT, WEIK -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 relevant inheritable conditions.

16 The legislature finds that reproductive tissue banks have a duty to
17 collect and verify medical history information provided by donors on
18 donor self-reported medical histories and during the donor screening
19 processes and to keep detailed records of such for use by recipients and
20 donor-conceived persons, if any, prior to a procedure and in the future.

21 § 3. The public health law is amended by adding a new section 4369-a
22 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 § 4369-a. Donor-conceived person protection act. 1. For the purposes
2 of this section, the following terms shall have the following meanings:

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

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

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

17 (d) "Recipient" means a person who receives reproductive tissue from a
18 donor.

19 (e) "Donor-conceived person" means a person purposely conceived
20 through an assisted reproductive technology procedure or artificial
21 insemination via the donation of donor reproductive tissue.

22 (f) "Known donor" means a reproductive tissue donor whose identity is
23 known to the recipient.

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

33 3. A reproductive tissue bank donor shall:

34 (a) Provide the reproductive tissue bank information on their medical
35 history, both individual and family, including first-degree and second-
36 degree relatives, at the time of donation, including all available
37 information setting forth conditions or diseases believed to be heredi-
38 tary, and any drugs or medication being taken by the donor. The commis-
39 sioner may require through regulation any additional medical history
40 that may adversely affect the quality of reproductive tissue or impair
41 the recipient's and/or the donor-conceived person's health;

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

47 (c) Provide the reproductive tissue bank written consent authorizing
48 the reproductive tissue bank to obtain all relevant medical records held
49 by any such licensed medical professional or licensed health care prac-
50 titioner who are primarily responsible for the medical care of the donor
51 in the preceding five years. Such records shall be tailored to the
52 requirements of this section; and

53 (d) Provide written consent authorizing the release of medical infor-
54 mation by the reproductive tissue bank, to include a waiver of the
55 protection of medical history information pursuant to the Health Insur-
56 ance Portability and Accountability Act of 1996 and their implementing

1 regulations, to potential recipients and their physicians, as well as to
2 donor-conceived persons conceived with the donor's reproductive tissue.

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

5 (a) Provide a statement, signed by the donor, informing them of their
6 obligations contained within the provisions of subdivision three of this
7 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 providing them with donor reproduc-
12 tive tissue, and if applicable, donor-conceived persons conceived with
13 the donor's reproductive tissue upon request when such persons either:
14 (i) turn eighteen years of age; or (ii) earlier, upon consent of the
15 recipient parent or guardian, all relevant 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;

29 (e) Except in the case of known donors, redact any personal identify-
30 ing information contained in the donor's medical records released to a
31 recipient and/or donor-conceived persons conceived with the donor's
32 reproductive tissue, if any. Such information shall include the donor's
33 name, address, and any other information which would directly or indi-
34 rectly identify the donor. Redacted records shall be made available at
35 no charge to the recipient and/or donor-conceived persons conceived with
36 the donor's reproductive tissue upon request;

37 (f) Donor-conceived persons conceived outside of the state of New York
38 with reproductive tissue procured by a reproductive tissue bank located
39 within the state of New York shall have access to the donor's medical
40 records as allowed under this section.

41 (g) Reproductive tissue banks shall keep the donor's medical records
42 required pursuant to subdivision two of this section for at least twen-
43 ty-five years after the release of reproductive tissue for artificial
44 inseminations or assisted reproductive technology procedures known to
45 have resulted in a live birth.

46 (h) Should a donor-conceived person request disclosure of the relevant
47 medical information when either: (i) they turn eighteen years of age; or
48 (ii) earlier, upon consent of the recipient parent or guardian, the
49 reproductive tissue bank, to the extent practicable, shall require from
50 the reproductive tissue donor updated relevant medical records or writ-
51 ten consent to procure such records.

52 (i) No donor reproductive tissue procured by a reproductive tissue
53 bank located within the state of New York shall be sold or otherwise
54 shipped or transferred to a recipient, their medical professional or
55 health care practitioner or a reproductive tissue bank located in anoth-
56 er state unless the reproductive tissue is accompanied by a signed

certification from the medical director of the reproductive tissue bank from which the donor reproductive tissue was procured that the reproductive tissue bank complied with the medical verification requirements of this section.

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