

# STATE OF NEW YORK

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2122--A

2023-2024 Regular Sessions

## IN SENATE

January 18, 2023

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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.

LBD00575-04-3

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.