

# STATE OF NEW YORK

860--A

2025-2026 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. ROSENTHAL, FORREST, SEAWRIGHT, BICHOTTE HERMELYN, CLARK, SIMON, JACKSON, MITAYNES, REYES, CRUZ, GONZALEZ-ROJAS, GALLAGHER, SHIMSKY, LEVENBERG, DAVILA, TAPIA, KELLES, SHRESTHA, HEVESI, R. CARROLL, OTIS, CUNNINGHAM, RAGA, BURDICK, DINOWITZ, WEPRIN, LAVINE, MEEKS, ROMERO, TAYLOR, SAYEGH, ZINERMAN, DE LOS SANTOS, LUNSFORD, SOLAGES, CHANDLER-WATERMAN, VALDEZ, SEPTIMO, KAY, PAULIN, HUNTER, HOOKS, KIM, MORENO, WRIGHT, SIMONE, RAJKUMAR, BURROUGHS, LEE, WOERNER -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to prohibiting drug, cannabis or alcohol testing of pregnant or postpartum individuals and newborns

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 "Maternal Health, Dignity and Consent act".

3 § 2. The public health law is amended by adding a new section 2509-b  
4 to read as follows:

5 § 2509-b. Drug, cannabis or alcohol testing for pregnant or postpartum  
6 individuals; prohibited. 1. For purposes of this section:

7 (a) "drug" shall mean a controlled substance as that term is defined  
8 in section thirty-three hundred six of this chapter.

9 (b) "cannabis" shall mean cannabis or concentrated cannabis as those  
10 terms are defined in section 222.00 of the penal law.

11 (c) "drug, cannabis or alcohol test" shall mean a test using a biolog-  
12 ical sample, including, but not limited to, urine or hair, for the pres-  
13 ence of drugs, cannabis or alcohol.

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

LBD00590-04-6

1 2. No health care professional licensed, certified, or authorized  
2 under title eight of the education law shall perform a drug, cannabis or  
3 alcohol test on a person who is pregnant or up to one year postpartum  
4 unless:

5 (a) the pregnant or postpartum individual gives prior written and oral  
6 informed consent specific to the drug, cannabis or alcohol test; and

7 (b) the performance of the drug, cannabis or alcohol test is within  
8 the scope of medical care being provided to the individual.

9 3. No health care professional licensed, certified or authorized under  
10 title eight of the education law shall perform a drug, cannabis or alco-  
11 hol test on a newborn unless:

12 (a) the individual authorized to consent for the newborn, as defined  
13 by subdivision two of section twenty-five hundred four of this title,  
14 gives prior written and oral informed consent specific to the drug,  
15 cannabis or alcohol test; and

16 (b) the performance of the drug, cannabis or alcohol test is within  
17 the scope of medical care being provided to the newborn.

18 4. Written and oral informed consent to a drug, cannabis or alcohol  
19 test shall occur at the time of testing, in language understandable to  
20 the pregnant or postpartum individual, or the individual authorized to  
21 consent for the newborn, under circumstances that provide such individ-  
22 ual sufficient opportunity to consider whether or not to authorize the  
23 drug, cannabis or alcohol test and minimize the possibility of coercion  
24 or undue influence, and shall consist of oral authorization and written  
25 authorization that is dated, signed and includes the following:

26 (a) a statement explaining that consenting to a drug, cannabis or  
27 alcohol test is voluntary and requires written and oral informed  
28 consent, except when conditions under subdivision five of this section  
29 are met;

30 (b) a statement that testing positive for drugs, cannabis or alcohol  
31 could have legal consequences, including, but not limited to, a report  
32 to a local child protective services agency, and that the individual may  
33 want to consult with legal counsel prior to or after consenting to a  
34 drug, cannabis or alcohol test;

35 (c) a statement explaining the extent of confidentiality of the test  
36 results;

37 (d) a statement of the medical purpose of the test; and

38 (e) a general description of the test.

39 5. Drug, cannabis or alcohol testing may be performed without consent  
40 of the patient or the individual authorized to consent for a newborn  
41 when, in the health care professional's judgment, an emergency exists  
42 and the patient or newborn is in immediate need of medical attention,  
43 and an attempt to secure consent would result in delay of treatment that  
44 could increase the risk to the patient's or newborn's life or health. In  
45 the case that drug, cannabis or alcohol testing is performed under these  
46 circumstances, the test results shall be discussed with the patient or  
47 the individual authorized to consent for the newborn, in language under-  
48 standable to the patient or individual authorized to consent for the  
49 newborn and shall consist of oral notification and written notification  
50 that is dated, signed and includes the following:

51 (a) a statement that testing positive for drugs, cannabis or alcohol  
52 could have legal consequences, including but not limited to a potential  
53 report to a local child protective services agency, and that the patient  
54 or individual authorized to consent for the newborn may want to consult  
55 with legal counsel;

1 (b) a statement in the medical record with a description of the emer-  
2 gency that necessitated unconsented drug, cannabis or alcohol testing;  
3 and

4 (c) a statement explaining the extent of confidentiality of the test  
5 results.

6 6. No health care professional licensed, certified, or authorized  
7 under title eight of the education law shall refuse to treat a patient  
8 who is pregnant or up to one year postpartum or a newborn because of the  
9 patient's or individual authorized to consent for the newborn's refusal  
10 to submit to a drug, cannabis or alcohol test.

11 7. Nothing in this section shall diminish any other requirement to  
12 obtain informed consent for a drug, cannabis or alcohol test or any  
13 other procedure.

14 § 3. This act shall take effect immediately.