

STATE OF NEW YORK

845--A

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. SALAZAR, BROUK, ADDABBO, BRISPORT, CLEARE, COMRIE, COONEY, FERNANDEZ, GONZALEZ, GOUNARDES, HARCKHAM, HINCHEY, JACKSON, KRUEGER, LIU, MAY, MYRIE, PARKER, RAMOS, RIVERA, SEPULVEDA, SERRANO, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Women's Issues -- recommitted to the Committee on Women's Issues in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Alcoholism and Substance Use Disorders -- 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.

14 2. No health care professional licensed, certified, or authorized
15 under title eight of the education law shall perform a drug, cannabis or

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

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1 alcohol test on a person who is pregnant or up to one year postpartum
2 unless:

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

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

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

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

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

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

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

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

33 (c) a statement explaining the extent of confidentiality of the test
34 results;

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

36 (e) a general description of the test.

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

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

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

1 (c) a statement explaining the extent of confidentiality of the test
2 results.

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

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

11 § 3. This act shall take effect immediately.