

CHAPTER 375

AN ACT concerning freedom of reproductive choice and supplementing Title 10 of the Revised Statutes, P.L.1997, c.192 (C.26:2S-1 et seq.), and Title 52 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.10:7-1 Findings and declarations.

1. The Legislature finds and declares that:

a. In cases such as *Right to Choose v. Byrne*, 91 N.J. 287 (1982) and *Planned Parenthood of Cent. N.J. v. Farmer*, 165 N.J. 609 (2000), the New Jersey Supreme Court has recognized that the right to reproductive choice is a fundamental right enshrined in the State Constitution, that this right is independent of the United States Constitution, and that Article I, paragraph 1 of the New Jersey Constitution is independent of, and protects reproductive autonomy to an extent that exceeds the protections established under, the United States Constitution.

b. The New Jersey Supreme Court has found that the right to reproductive choice includes the right to determine whether and when to bear children. In particular, the citizens of New Jersey may: access contraception, including emergency contraception; may not be denied public benefits based on the choice to have additional children; may choose to terminate a pregnancy; and may choose to carry a pregnancy to term.

c. Self-determination in reproductive choice is key to helping establish equality among the genders and to allowing all people of childbearing age to participate equally in the economic and social life of the United States and the State of New Jersey.

d. An unplanned pregnancy can disrupt educational and career plans, forcing the pregnant person to drop out of school, abandon pursuit of a college or advanced degree, accept lower-paying employment or employment with limited opportunities for advancement, or delay entrance into the workforce, which can have the effect of limiting the person's lifetime earnings and can prevent the person from following a chosen career path.

e. The right to choose whether and when to have children allows people to more effectively plan in a way that is compatible with the person's overall life goals. Although each person retains the right to exercise the freedom of reproductive choice regardless of the health and strength of the person's interpersonal relationships, where and how the person lives, or the person's income level and overall resources, the essence of the right to reproductive choice is that people have the ability to make reproductive choices in a manner commensurate with their own personal beliefs, life plan, and moral code.

f. Governmental restrictions on reproductive choice, by their very nature, impinge on the constitutional right to reproductive autonomy, particularly when they fail to confer any benefits to patients in the form of improved health or safety. Moreover, restrictions of this nature often have a disparate impact that is predominantly felt by persons who already experience barriers to health care access, including young people, people of color, people with disabilities, people with low income, people living in rural areas, immigrants, and people who are transgender or non-binary.

g. The Legislature is committed to ensuring that no barriers to reproductive freedom exist in the State. Individuals have the right to make their own decisions concerning reproduction, including the right to contraception, the right to terminate a pregnancy, and the right to carry a pregnancy to term, without government interference or fear of prosecution.

h. It is both reasonable and necessary for the State to enable, facilitate, support, and safeguard the provision of high-quality, comprehensive reproductive and sexual health care, including the full range of evidence-based information, counseling, and health care services,

to all individuals in the State, and to enable, facilitate, support, and safeguard the ability of such individuals to access affordable and timely reproductive health care services and to engage in autonomous reproductive decision-making, in consultation with health care professionals of their choosing, without fear of prosecution, discrimination, or unnecessary barriers to care. To achieve those ends, it shall be the policy of this State to:

(1) explicitly guarantee, to every individual, the fundamental right to reproductive autonomy, which includes the right to contraception, the right to terminate a pregnancy, and the right to carry a pregnancy to term;

(2) enable all qualified health care professionals to provide pregnancy termination services in the State;

(3) advance comprehensive insurance coverage for reproductive care, including primary reproductive health care services, services to terminate a pregnancy, long-acting contraceptives, and long-term supplies of hormonal contraceptives, that enables the citizens of New Jersey to fully exercise their freedom of reproductive choice while recognizing the rights of certain religious employers to request an exemption from such coverage; and

(4) ensure that all laws, rules, regulations, ordinances, resolutions, policies, standards, or parts thereof, that are currently in force or enacted in the future, conform to the provisions and the express or implied purposes of this act, and that any law, rule, regulation, ordinance, resolution, policy, standard, or part thereof that conflicts with the provisions of this act or its express or implied purposes is subject to invalidation.

C.10:7-2 Reproductive choice rights.

2. a. Every individual present in the State, including, but not limited to, an individual who is under State control or supervision, shall have the fundamental right to: choose or refuse contraception or sterilization; and choose whether to carry a pregnancy, to give birth, or to terminate a pregnancy. The New Jersey Constitution recognizes the fundamental nature of the right to reproductive choice, including the right to access contraception, to terminate a pregnancy, and to carry a pregnancy to term, shall not be abridged by any law, rule, regulation, ordinance, or order issued by any State, county, or local governmental authority. Any law, rule, regulation, ordinance, or order, in effect on or adopted after the effective date of this act, that is determined to have the effect of limiting the constitutional right to freedom of reproductive choice and that does not conform with the provisions and the express or implied purposes of this act, shall be deemed invalid and shall have no force or effect.

b. The provisions of this section shall be enforceable under the “New Jersey Civil Rights Act,” P.L.2004, c.143 (C.10:6-1 et seq.) or in any other manner provided by law.

C.26:2S-39 Health benefit plans, coverage for abortion, certain religious employers exempt.

3. a. Upon concluding a study and issuing a report to the Governor and the Legislature demonstrating that such a regulation is necessary, the Department of Banking and Insurance may, through regulation adopted pursuant to the “Administrative Procedure Act”, P.L.1968 c.410 (C.52:14B-1 et seq.), provide that health benefit plans delivered, issued, executed, or renewed in this State, provide coverage for abortion. If the department provides for coverage pursuant to this section, then the department shall also require carriers to grant, upon request of a religious employer, an exclusion under the contract for the coverage required if the required coverage conflicts with the religious employer’s bona fide religious beliefs and practices. A religious employer that obtains such an exclusion shall provide written notice thereof to covered persons and prospective covered persons, and the carrier shall provide notice to the Commissioner of Banking and Insurance in such form and manner as may be determined

by the commissioner. The provisions of this paragraph shall not be construed as authorizing a carrier to exclude coverage for care that is necessary to preserve the life or health of a subscriber. An exclusion from an insurance coverage mandate granted to a religious employer pursuant to this section shall not be considered a violation of section 2 of P.L.2021, c.375 (C.10:7-2).

b. For the purposes of this section, “religious employer” means an organization that is organized and operates as a nonprofit entity and is referred to in section 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code of 1986 (26 U.S.C. s.6033), as amended.

C.52:14-17.29hh SHBC, coverage for abortion, certain religious employers exemption.

4. A contract providing hospital or medical expense benefits purchased by the State Health Benefits Commission may provide coverage for abortion. A contract providing hospital or medical expense benefits purchased by the commission shall not exclude a provider from its network or otherwise restrict services from the provider solely on the basis that the provider is a religious employer, as defined in section 3 of P.L.2021, c.375 (C.26:2S-39), that refuses to provide abortion services.

C.52:14-17.46.6q School Employees’ Health Benefits Commission, coverage for abortion, certain religious employers exemption.

5. A contract providing hospital or medical expense benefits purchased by the School Employees’ Health Benefits Commission may provide coverage for abortion. A contract providing hospital or medical expense benefits purchased by the commission shall not exclude a provider from its network or otherwise restrict services from the provider solely on the basis that the provider is a religious employer, as defined in section 3 of P.L.2021, c.375 (C.26:2S-39), that refuses to provide abortion services.

6. This act shall take effect immediately.

Approved January 13, 2022.