

**ASSEMBLY, No. 4363**

---

**STATE OF NEW JERSEY**

**220th LEGISLATURE**

---

INTRODUCED JUNE 20, 2022

**Sponsored by:**

**Assemblywoman SHANIQUE SPEIGHT**

**District 29 (Essex)**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**Assemblywoman BRITNEE N. TIMBERLAKE**

**District 34 (Essex and Passaic)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Co-Sponsored by:**

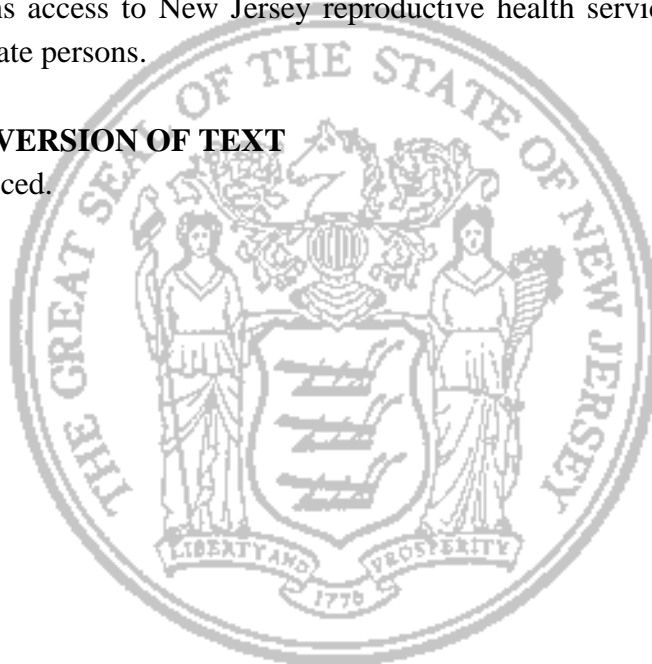
**Assemblywoman Park**

**SYNOPSIS**

Strengthens access to New Jersey reproductive health services for in-State and out-of-State persons.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 6/29/2022)

1 AN ACT concerning reproductive health care services and  
2 supplementing Title 2A of the New Jersey Statutes.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. a. As used in this act:

8 “Abortion” means any medical treatment intended to induce the  
9 termination of a pregnancy, except for the purpose of producing a  
10 live birth.

11 “Assisted reproductive technology” means procedures that use  
12 donor or nondonor eggs and sperm to create embryos outside the  
13 body including, but not limited to, in-vitro fertilization.

14 “In-vitro fertilization” (“IVF”) means the fertilization of a  
15 human egg and sperm outside the body.

16 “Person” includes an individual, partnership, association, limited  
17 liability company, or corporation.

18 “Reproductive health care services” includes all medical,  
19 surgical, counseling, and referral services relating to the human  
20 reproductive system including, but not limited to, services relating  
21 to pregnancy; assisted reproductive technology, including but not  
22 limited to IVF; contraception; and abortion.

23

24 2. a. Except as otherwise provided by law, in any civil action or  
25 proceeding preliminary thereto or in any legislative or  
26 administrative proceeding, a covered entity, as set forth in the  
27 medical privacy and security rules pursuant to Parts 160 and 164 of  
28 Title 45 of the Code of Federal Regulations, established pursuant to  
29 the "Health Insurance Portability and Accountability Act of 1996,"  
30 Pub.L.104-191, shall not disclose:

31 (1) any communication made to the covered entity, or any  
32 information obtained by the covered entity from a patient or the  
33 conservator, guardian, or other authorized legal representative of a  
34 patient relating to reproductive health care services that are  
35 permitted under the laws of this State; or

36 (2) any information obtained by personal examination of a  
37 patient relating to reproductive health care services that are  
38 permitted under the laws of this State, unless the patient or that  
39 patient's conservator, guardian, or other authorized legal  
40 representative explicitly consents in writing to the disclosure. A  
41 covered entity shall inform the patient or the patient's conservator,  
42 guardian, or other authorized legal representative of the patient's  
43 right to withhold written consent.

44 b. Written consent of the patient or the patient's conservator,  
45 guardian, or other authorized legal representative shall not be  
46 required for the disclosure of any communication or information:

47 (1) pursuant to the laws of this State or the Rules of Court;

1 (2) by a covered entity against whom a claim has been made, or  
2 there is a reasonable belief will be made, in an action or proceeding,  
3 to the covered entity's attorney or professional liability insurer or  
4 insurer's agent for use in the defense of the action or proceeding;

5 (3) to the Department of Health for records of a patient of a  
6 covered entity in connection with an investigation of a complaint, if  
7 the records are related to the complaint; or

8 (4) if child abuse, abuse of an elderly individual, abuse of an  
9 individual who is incapacitated, or abuse of an individual with a  
10 physical or mental disability is known or in good faith suspected.

11 c. Nothing in this section shall be construed to impede the  
12 lawful

13 sharing of medical records as permitted by State or federal law or  
14 the

15 Rules of Court, except in the case of a subpoena commanding the  
16 production, copying, or inspection of medical records relating to  
17 reproductive health care services.

18  
19 3. a. Notwithstanding the provisions of any other law, a court  
20 shall not issue a subpoena requested by any court of the United  
21 States or of any other state or government if the subpoena relates to  
22 reproductive health care services, as defined in section 1 of this act,  
23 that are permitted under the laws of this State, unless the subpoena  
24 relates to:

25 (1) an out-of-State action founded in tort, contract, or statute, for  
26 which a similar claim would exist under the laws of this State,  
27 brought by a patient or the patient's authorized legal representative,  
28 for damages suffered by the patient or damages derived from an  
29 individual's loss of consortium of the patient; or

30 (2) an out-of-State action founded in contract, and for which a  
31 similar claim would exist under the laws of this State, brought or  
32 sought to be enforced by a party with a contractual relationship with  
33 the person that is the subject of the subpoena requested by another  
34 state.

35 b. A court shall not issue a summons in a case where  
36 prosecution is pending, or where a grand jury investigation has  
37 commenced or is about to commence, for a criminal violation of a  
38 law of another state involving providing, receiving, or assisting  
39 with reproductive health care services that are legal in this State,  
40 unless the acts forming the basis of the prosecution or investigation  
41 also would constitute an offense in this State.

42  
43 4. A public entity of this State or employee, appointee, officer,  
44 official, or any other person acting on behalf of a public entity shall  
45 not provide any information or expend or use time, money,  
46 facilities, property, equipment, personnel, or other resources in  
47 furtherance of any interstate investigation or proceeding seeking to  
48 impose civil or criminal liability upon a person or entity for:

1 a. providing, seeking, receiving, or inquiring about reproductive  
2 health care services that are legal in this State; or

3 b. assisting any person or entity providing, seeking, receiving, or  
4 responding to an inquiry about reproductive health care services  
5 that are legal in this State.

6 This section shall not apply to any investigation or proceeding  
7 where the conduct subject to potential liability under the  
8 investigation or proceeding would be subject to liability under the  
9 laws of this State if committed in this State.

10  
11 5. This act shall take effect immediately.

12  
13  
14 STATEMENT

15  
16 This bill strengthens access to reproductive health care for New  
17 Jersey residents and residents of other states who to travel to New  
18 Jersey to obtain reproductive health care in the State. The bill is  
19 intended to make New Jersey a “sanctuary state” for persons  
20 seeking reproductive health care services including, but not limited  
21 to, abortion.

22 DEFINITIONS

23 The bill defines “abortion” as any medical treatment intended to  
24 induce the termination of a pregnancy, except for the purpose of  
25 producing a live birth. “Assisted reproductive technology” is  
26 defined as procedures that use donor or nondonor eggs and sperm to  
27 create embryos outside the body including, but not limited to, in-  
28 vitro fertilization. “In-vitro fertilization” (“IVF”) is defined as the  
29 fertilization of a human egg and sperm outside the human body.

30 CONFIDENTIAL HEALTH COMMUNICATIONS

31 The bill provides that a communication to a health care provider,  
32 information obtained by the health care provider by a patient or the  
33 patient’s legal representative, or information obtained from an  
34 examination of a patient relating to reproductive health care  
35 services is not to be disclosed unless the patient or the patient’s  
36 authorized legal representative explicitly consents to the disclosure  
37 in writing. A provider would be required to inform the patient or the  
38 patient’s representative of the patient’s right to withhold written  
39 consent.

40 Written consent would not be required for the disclosure if it is:  
41 pursuant to State law or the Rules of Court; by a health care  
42 provider to the provider’s attorney or liability insurer for use in  
43 defense of an action or proceeding; to the Department of Health in  
44 connection with an investigation of child abuse, or abuse of a  
45 person who is elderly, incapacitated, or has a physical or mental  
46 disability. The bill also specifies that it is not to be construed to  
47 impede the lawful sharing of medical records as permitted by State  
48 or federal law or the Rules of Court, except in the case of a

1 subpoena commanding the production, copying, or inspection of  
2 medical records relating to reproductive health care services.

3 CERTAIN SUBPOENAS BARRED

4 The bill bars a court from issuing a subpoena requested by any  
5 court of the United States or of any other state or government if the  
6 subpoena relates to reproductive health care services that are  
7 permitted under the laws of this State, unless the subpoena relates to  
8 an out-of-State action founded in tort, contract, or statute, for which  
9 a similar claim would exist under the laws of this State, brought by  
10 a patient or the patient's authorized legal representative, for  
11 damages suffered by the patient or damages derived from an  
12 individual's loss of consortium of the patient; or an out-of-State  
13 action founded in contract, and for which a similar claim would  
14 exist under the laws of this State, brought or sought to be enforced  
15 by a party with a contractual relationship with the person that is the  
16 subject of the subpoena.

17 The bill also bars a court from issuing a summons in a case  
18 where prosecution is pending, or where a grand jury investigation  
19 has commenced or is about to commence, for a criminal violation of  
20 a law of another state involving providing, receiving, or assisting  
21 with reproductive health care services unless the acts forming the  
22 basis of the prosecution or investigation also would constitute an  
23 offense in this State.

24 NON-COOPERATION BY PUBLIC ENTITY

25 Under the bill, a public entity of this State or employee,  
26 appointee, officer, official, or any other person acting on behalf of a  
27 public entity may not provide any information or expend or use  
28 time, money, facilities, property, equipment, personnel, or other  
29 resources in furtherance of any interstate investigation or  
30 proceeding seeking to impose civil or criminal liability upon a  
31 person or entity for providing, seeking, receiving, or inquiring  
32 about, reproductive health care services that are legal in this State,  
33 or assisting any person or entity providing, seeking, receiving, or  
34 responding to an inquiry about reproductive health care services.

35 The provisions of the bill would not apply to any investigation or  
36 proceeding where the conduct subject to potential liability also  
37 would be subject to liability under the laws of this State if  
38 committed in this State.

39 SPONSOR'S INTENT

40 It is the intent of the sponsor that New Jersey be a sanctuary state  
41 for persons who seek abortions if the United States Supreme Court  
42 overturns Roe v. Wade, 410 U.S. 133 (1973). The sponsor also  
43 intends for New Jersey to be a sanctuary state for persons seeking  
44 assisted reproductive technology such as IVF, where eggs and  
45 sperm are fertilized outside the body. This process can create  
46 embryos that do not result in viable pregnancies. The sponsor is  
47 concerned that the anti-abortion states defining life as beginning  
48 "at conception" may ban or restrict technologies such as IVF. These

1 procedures are used by women who wish to become pregnant but  
2 are unable to conceive because of medical reasons, such as  
3 endometriosis and other disorders that limit fertility.

4 The sponsor wishes to note that prior to the Roe v. Wade  
5 decision, the estimated number of illegal abortions in the 1950s and  
6 1960s ranged from 200,000 to 1.2 million per year, and that a large  
7 number of these abortions were self-induced. Because abortion was  
8 illegal before Roe, many abortions were not reported and precise  
9 statistics are not available.

10 However, in 1930, abortion was listed as the official cause of  
11 death for almost 2,700 women, representing nearly one-fifth of the  
12 maternal deaths recorded in that year. The death toll declined over  
13 the next several decades, most likely due to the introduction of  
14 antibiotics in the 1940s. By 1965, the official number of deaths due  
15 to illegal abortion had fallen to just under 200; the actual number  
16 was likely much higher.

17 Prior to Roe v. Wade, there were clear racial disparities in the  
18 deaths of women due to illegal abortion. In the early 1960s, for  
19 example, one in four childbirth-related deaths among white women  
20 in New York City was due to abortion. By comparison, abortion  
21 accounted for one in two childbirth-related deaths among nonwhite  
22 women in the city.