

ASSEMBLY, No. 3735

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED FEBRUARY 22, 2024

Sponsored by:

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Assemblywoman ELLEN J. PARK

District 37 (Bergen)

SYNOPSIS

Establishes crime of fertility fraud.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/13/2024)

A3735 MURPHY, PARK

2

1 AN ACT concerning fertility fraud, amending N.J.S.2C:1-6, and
2 supplementing Title 2C 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. (New section) a. As used in this section:

8 “Assisted reproduction” means medical procedures to facilitate
9 human reproduction that involve human gametes or pre-embryos
10 including, but not limited to, artificial insemination, in vitro
11 fertilization, embryo transfers, and similar procedures.

12 “Gamete” means sperm or egg.

13 “Health care practitioner” means any individual who is licensed
14 or certified to provide health care services pursuant to Title 45 of
15 the Revised Statutes.

16 “Human reproductive material” means human gametes or pre-
17 embryos.

18 b. A person commits the crime of fertility fraud if the person is
19 a health care practitioner and knowingly performs an assisted
20 reproduction treatment on a patient that results in a pregnancy
21 using:

22 (1) the person’s own human reproductive material without the
23 written informed consent of the patient; or

24 (2) the human reproductive material of another person without
25 the written informed consent of the patient.

26 c. Fertility fraud is a crime of the third degree. In addition to
27 any other penalty imposed for a violation of this section, the court
28 shall order the permanent revocation of any license or certification
29 related to the provision of health care services held by the health
30 care practitioner.

31

32 2. N.J.S.2C:1-6 is amended to read as follows:

33 2C:1-6. Time Limitations. a. (1) A prosecution for any offense
34 set forth in N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:14-2 or sections
35 1 through 5 of P.L.2002, c.26 (C.2C:38-1 through C.2C:38-5) may
36 be commenced at any time.

37 (2) A prosecution for any offense set forth in N.J.S.2C:17-2,
38 section 9 of P.L.1970, c.39 (C.13:1E-9), section 20 of P.L.1989,
39 c.34 (C.13:1E-48.20), section 19 of P.L.1954, c.212 (C.26:2C-19),
40 section 10 of P.L.1984, c.173 (C.34:5A-41), or section 10 of
41 P.L.1977, c.74 (C.58:10A-10) may be commenced at any time.

42 b. Except as otherwise provided in this section, prosecutions
43 for other offenses are subject to the following periods of
44 limitations:

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 (1) A prosecution for a crime **【must】** shall be commenced
2 within five years after it is committed;
- 3 (2) A prosecution for a disorderly persons offense or petty
4 disorderly persons offense **【must】** shall be commenced within one
5 year after it is committed;
- 6 (3) A prosecution for any offense set forth in N.J.S.2C:27-2,
7 N.J.S.2C:27-4, N.J.S.2C:27-6, N.J.S.2C:27-7, N.J.S.2C:29-4,
8 N.J.S.2C:30-2, N.J.S.2C:30-3, or any attempt or conspiracy to
9 commit such an offense, **【must】** shall be commenced within seven
10 years after the commission of the offense;
- 11 (4) A prosecution for an offense set forth in N.J.S.2C:14-3 or
12 N.J.S.2C:24-4, when the victim at the time of the offense is below
13 the age of 18 years, **【must】** shall be commenced within five years
14 of the victim's attaining the age of 18 or within two years of the
15 discovery of the offense by the victim, whichever is later;
- 16 (5) (Deleted by amendment, P.L.2007, c.131); and
- 17 (6) A prosecution for an offense set forth in section 1 of
18 P.L. , c. (C.) (pending before the Legislature as this bill)
19 shall be commenced within 20 years of the commission of the
20 offense or within 10 years of the discovery of the offense by the
21 victim.
- 22 c. An offense is committed either when every element occurs
23 or, if a legislative purpose to prohibit a continuing course of
24 conduct plainly appears, at the time when the course of conduct or
25 the defendant's complicity therein is terminated. Time starts to run
26 on the day after the offense is committed, except that when the
27 prosecution is supported by physical evidence that identifies the
28 actor by means of DNA testing or fingerprint analysis, time does
29 not start to run until the State is in possession of both the physical
30 evidence and the DNA or fingerprint evidence necessary to
31 establish the identification of the actor by means of comparison to
32 the physical evidence.
- 33 d. A prosecution is commenced for a crime when an indictment
34 is found and for a nonindictable offense when a warrant or other
35 process is issued, provided that such warrant or process is executed
36 without unreasonable delay. Nothing contained in this section,
37 however, shall be deemed to prohibit the downgrading of an offense
38 at any time if the prosecution of the greater offense was commenced
39 within the statute of limitations applicable to the greater offense.
- 40 e. The period of limitation does not run during any time when a
41 prosecution against the accused for the same conduct is pending in
42 this State.
- 43 f. The limitations in this section shall not apply to any person
44 fleeing from justice.
- 45 g. Except as otherwise provided in this code, no civil action
46 shall be brought pursuant to this code more than five years after
47 such action accrues.
- 48 (cf: P.L.2007, c.131, s.1)

1 3. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 The bill establishes the crime of fertility fraud. Under the bill, a
7 person commits fertility fraud if the person is a health care practitioner
8 and knowingly performs an assisted reproduction treatment on a
9 patient that results in a pregnancy using the person's own human
10 reproductive material without the written informed consent of the
11 patient, or using the human reproductive material of another person
12 without the written informed consent of the patient.

13 Fertility fraud is a crime of the third degree. A crime of the third
14 degree is punishable by a term of imprisonment of three to five years,
15 a fine of up to \$15,000, or both.

16 The bill also requires the court to order the permanent revocation
17 of any license or certification related to the provision of health care
18 services that is held by the defendant.

19 Under the bill, a prosecution for fertility fraud is required to be
20 commenced within 20 years of the date the assisted reproduction
21 treatment was conducted, or within 10 years of the date that the victim
22 became aware that the crime occurred.