

ASSEMBLY, No. 4656

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 25, 2024

Sponsored by:
Assemblywoman SHANIQUE SPEIGHT
District 29 (Essex and Hudson)

SYNOPSIS

Secures protections for patients and providers accessing and providing legally protected health care activities; establishes right of residents to legally protected health care services, which are restricted in other states.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning reproductive rights, and amending,
2 supplementing, and repealing various parts of the statutory law.

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

6
7 1. (New section) The Legislature finds and declares that:

8 a. All citizens of this State, and those who travel to this State for
9 health care services, deserve the ability to safely access health care
10 facilities in this State and the critical reproductive health and gender-
11 affirming care services that they provide.

12 b. Since the United States Supreme Court overturned Roe v.
13 Wade in 2022, 21 states and counting have banned or severely
14 restricted access to abortion. In response to that decision, picketing
15 at reproductive health care facilities increased by 21 percent and
16 obstructions to these facilities increased by 538 percent nationwide.
17 In New Jersey, there has been an approximately 30 percent increase
18 in out-of-state patients, many of whom came to New Jersey because
19 reproductive health care services are illegal in their home state.

20 c. In 2023, there were 23 reported violent incidents and threats
21 made to health care facilities providing gender-affirming health care.
22 Fourteen states, including New Jersey, offer protections to people
23 who provide, seek, or assist those seeking gender-affirming health
24 care. People seeking and providing this care deserve to be safe and
25 protected.

26 d. In 2024, the Alabama Supreme Court in LePage v. Mobile
27 Infirmity Clinic, P.C. (Docket No. SC-2022-0515, SC-2022-0579)
28 ruled that embryos are “extrauterine children,” finding that that the
29 state’s “‘Wrongful Death of A Minor Act’ applies on its face to all
30 unborn children, without limitation.” The holding, and the legal
31 analysis on which the decision was based, could impact any person
32 in a state which recognizes the individual rights of fetuses created
33 through in vitro fertilization (IVF) and any person who is seeking or
34 providing IVF.

35 e. New Jersey has long been a state that supports, and provides
36 protections for the reproductive freedoms and health care choices of
37 its citizens, including the right to make the choice of whether to start
38 or expand a family through in vitro fertilization (IVF).

39 f. New Jersey, through this act, will codify critical protections
40 to those seeking and providing reproductive and gender-affirming
41 health care. Further, this act is intended to ensure that anti-abortion
42 and anti-LGBTQ+ persons cannot harm patients or providers.

43
44 2. (New section) As used in P.L. , c. (C.) (pending
45 before the Legislature as this bill):

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 “Driveway” means an entry from a public street to a public or
2 private parking area used by a reproductive or gender-affirming
3 health care services facility;

4 “Entrance” means a door to a reproductive or gender-affirming
5 health care services facility that directly abuts the public sidewalk;
6 provided, however, that if the door does not directly abut the public
7 sidewalk, the “entrance” shall be the point at which the public
8 sidewalk intersects with a pathway leading to the door;

9 “Gathering” means two or more individuals; and

10 “Gender-affirming health care services” means all supplies, care,
11 and services of a medical, behavioral health, mental health, surgical,
12 psychiatric, therapeutic, diagnostic, preventative, rehabilitative, or
13 supportive nature, including medication, relating to the treatment of
14 gender dysphoria and gender incongruence. “Gender-affirming
15 health care services” does not include sexual orientation change
16 efforts as defined by section 2 of P.L.2013, c.150 (C.45:1-55).

17 “Impede” means to obstruct, block, detain or render passage
18 impossible, unsafe or unreasonably difficult.

19 “Intimidate” means to place a person in reasonable apprehension
20 of bodily harm to themselves or to another.

21 “Legally protected health care activity” means providing, seeking,
22 receiving, assisting with, or inquiring about reproductive health care
23 services or gender-affirming health care services that are lawful in
24 this State, regardless of the patient’s location.

25 “Physical obstruction” means rendering ingress to or egress from
26 a reproductive or gender-affirming health care services facility
27 impassable to another person, or rendering passage to or from a
28 reproductive health care services facility unreasonably difficult or
29 hazardous to another person;

30 “Reproductive health care services” includes all medical, surgical,
31 counseling, or referral services relating to the human reproductive
32 system, including, but not limited to, services relating to pregnancy,
33 contraception, managing infertility, or the termination of a
34 pregnancy;

35 “Reproductive or gender-affirming health care services facility”
36 includes a hospital, clinic, office, or other site that provides, refers,
37 or seeks to provide reproductive or gender-affirming health care
38 services and includes the building or structure in which the facility is
39 located and the driveway of such building or structure; and

40 “Social media” means an electronic service or account, or
41 electronic content, including, but not limited to, videos or still
42 photographs, blogs, video blogs, podcasts, instant and text messages,
43 email, online services or accounts, or internet website profiles or
44 locations.

45

46 3. Section 9 of P.L.1978, c.73 (C.45:1-22) is amended to read as
47 follows:

1 9. In addition or as an alternative, as the case may be, to
2 revoking, suspending or refusing to renew any license, registration
3 or certificate issued by it, a board may, after affording an opportunity
4 to be heard:

5 a. Issue a letter of warning, reprimand, or censure with regard to
6 any act, conduct or practice which in the judgment of the board upon
7 consideration of all relevant facts and circumstances does not warrant
8 the initiation of formal action;

9 b. Assess civil penalties in accordance with this act;

10 c. Order that any person violating any provision of an act or
11 regulation administered by such board to cease and desist from future
12 violations thereof or to take such affirmative corrective action as may
13 be necessary with regard to any act or practice found unlawful by the
14 board;

15 d. Order any person found to have violated any provision of an
16 act or regulation administered by such board to restore to any person
17 aggrieved by an unlawful act or practice, any moneys or property,
18 real or personal, acquired by means of such act or practice; provided,
19 however, no board shall order restoration in a dollar amount greater
20 than those moneys received by a licensee or his agent or any other
21 person violating the act or regulation administered by the board;

22 e. Order any person, as a condition for continued, reinstated or
23 renewed licensure, to secure medical or such other professional
24 treatment as may be necessary to properly discharge licensee
25 functions;

26 f. Order any person, as a condition for continued, reinstated or
27 renewed licensure, to submit to any medical or diagnostic testing and
28 monitoring or psychological evaluation which may be required to
29 evaluate whether continued practice may jeopardize the safety and
30 welfare of the public;

31 g. Order any person, as a condition for continued, reinstated or
32 renewed licensure, to submit to an assessment of skills to determine
33 whether the licensee can continue to practice with reasonable skill
34 and safety, and to take and successfully complete educational
35 training determined by the board to be necessary;

36 h. Order any person, as a condition for continued, reinstated or
37 renewed licensure, to submit to an assessment of skills to determine
38 whether the licensee can continue to practice with reasonable skill
39 and safety, and to submit to any supervision, monitoring or limitation
40 on practice determined by the board to be necessary.

41 A board may, upon a duly verified application of the Attorney
42 General that either provides proof of a conviction of a court of
43 competent jurisdiction for a crime or offense involving moral
44 turpitude or relating adversely to the regulated profession or
45 occupation, or alleges an act or practice violating any provision of an
46 act or regulation administered by such board, enter a temporary order
47 suspending or limiting any license issued by the board pending
48 plenary hearing on an administrative complaint; provided, however,

1 no such temporary order shall be entered unless the application made
2 to the board palpably demonstrates a clear and imminent danger to
3 the public health, safety and welfare and notice of such application is
4 given to the licensee affected by such order. If, upon review of the
5 Attorney General's application, the board determines that, although
6 no palpable demonstration of a clear and imminent danger has been
7 made, the licensee's continued unrestricted practice pending plenary
8 hearing may pose a risk to the public health, safety and welfare, the
9 board may order the licensee to submit to medical or diagnostic
10 testing and monitoring, or psychological evaluation, or an assessment
11 of skills to determine whether the licensee can continue to practice
12 with reasonable skill and safety.

13 In any administrative proceeding commenced on a complaint
14 alleging a violation of an act or regulation administered by a board,
15 such board may issue subpoenas to compel the attendance of
16 witnesses or the production of books, records, or documents at the
17 hearing on the complaint.

18 A board shall not impose any additional or alternative penalties
19 pursuant to this section on the holder of a certificate, registration, or
20 license based solely on the holder providing, authorizing,
21 participating, referring to, or assisting with any health care, medical
22 service, or procedure related to an abortion or gender-affirming
23 health care services for a person who resides in a jurisdiction where
24 the provision, authorization, participation, referral, or assistance is
25 illegal, if it would not be a basis for additional or alternative penalties
26 in this State.

27 (cf: P.L.2001, c.307, s.2)

28

29 4. Section 1 of P.L.2022, c.50 (C.2A:160-14.1) is amended to
30 read as follows:

31 1. Notwithstanding the provisions of N.J.S.2A:160-14, the
32 Governor shall not surrender, on demand of the executive authority
33 of any other state, any person who:

34 a. is found in this State;

35 b. was not in the state whose executive authority is making the
36 demand at the time of the commission of the alleged crime and has
37 not fled therefrom; and

38 c. is charged in the state whose executive authority is making
39 the demand with providing, receiving, assisting in providing or
40 receiving, providing material support for, or traveling to obtain
41 **【reproductive health care services that are】** legally protected health
42 care activity that is permitted under the laws of this State, including
43 on any theory of vicarious, joint, several or conspiracy liability.

44 As used in this section **【,】**:

45 “Gender-affirming health care services” means all supplies, care,
46 and services of a medical, behavioral health, mental health, surgical,
47 psychiatric, therapeutic, diagnostic, preventative, rehabilitative, or
48 supportive nature, including medication, relating to the treatment of

1 gender dysphoria and gender incongruence. “Gender-affirming
2 health care services” does not include sexual orientation change
3 efforts as defined by section 2 of P.L.2013, c.150 (C.45:1-55).

4 “Legally protected health care activity” means providing, seeking,
5 receiving, assisting with, or inquiring about reproductive health care
6 services or gender-affirming health care services that are lawful in
7 this State, regardless of the patient’s location.

8 **“[reproductive] Reproductive** health care services" means all
9 medical, surgical, counseling, or referral services relating to the
10 human reproductive system including, but not limited to, services
11 relating to pregnancy, contraception, managing infertility, or
12 termination of a pregnancy.

13 (cf: P.L.2022, c.50, s.1)

14
15 5. Section 1 of P.L.2022, c.51 (C.2A:84A-22.18) is amended to
16 read as follows:

17 1. As used in sections 1 and 2 of P.L.2022, c.51 (C.2A:84A-
18 22.18 and C.2A:84A-22.19):

19 “Gender-affirming health care services” means all supplies, care,
20 and services of a medical, behavioral health, mental health, surgical,
21 psychiatric, therapeutic, diagnostic, preventative, rehabilitative, or
22 supportive nature, including medication, relating to the treatment of
23 gender dysphoria and gender incongruence. “Gender-affirming
24 health care services” does not include sexual orientation change
25 efforts as defined by section 2 of P.L.2013, c.150 (C.45:1-55).

26 “Legally protected health care activity” means providing, seeking,
27 receiving, assisting with, or inquiring about reproductive health care
28 services or gender-affirming health care services that are lawful in
29 this State, regardless of the patient’s location.

30 "Person" includes an individual, partnership, association, limited
31 liability company, or corporation.

32 "Reproductive health care services" means all medical, surgical,
33 counseling, or referral services relating to the human reproductive
34 system including, but not limited to, services relating to pregnancy,
35 contraception, managing infertility, or termination of a pregnancy.

36 a. Except as provided in sections 3 through 7 of P.L.1968, c.185
37 (C.2A:84A-22.3 through 2A:84A-22.7), section 1 of P.L.1970, c. 313
38 (C.2A:84A-22.8), section 29 of P.L.1968, c.401 (C.45:8B-29), and
39 subsection b. of this section, in any civil action or proceeding
40 preliminary thereto or in any probate, legislative or administrative
41 proceeding, a covered entity, as set forth in the medical privacy and
42 security rules pursuant to Parts 160 and 164 of Subchapter C of
43 Subtitle A of Title 45 of the Code of Federal Regulations, established
44 pursuant to the "Health Insurance Portability and Accountability Act
45 of 1996," Pub.L.104-191, shall not disclose, unless the patient or that
46 patient's conservator, guardian, or other authorized legal
47 representative explicitly consents in writing to the disclosure:

1 (1) any communication made to the covered entity, or any
2 information obtained by the covered entity from, a patient or the
3 conservator, guardian, or other authorized legal representative of a
4 patient relating to **【reproductive health care services that are】** a legally protected health care activity that is permitted under the laws
5 of this State; or

6
7 (2) any information obtained by personal examination of a patient
8 relating to **【reproductive health care services that are】** a legally
9 protected health care activity that is permitted under the laws of this
10 State.

11 A covered entity shall inform the patient or the patient's
12 conservator, guardian, or other authorized legal representative of the
13 patient's right to withhold such written consent at or before the time
14 **【reproductive health care services are】** a legally protected health care
15 activity is rendered or at such time as the patient discloses any
16 information relating to **【reproductive health care services that have**
17 **been】** a legally protected health care activity that was previously
18 rendered.

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

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

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

27 (3) to the Commissioner of Health, Human Services, or Banking
28 and Insurance, or any professional licensing board operating under
29 the authority of the Division of Consumer Affairs in the Department
30 of Law and Public Safety for records of a patient of a covered entity
31 in connection with an investigation of a complaint, if the records are
32 related to the complaint; or

33 (4) if child abuse, abuse of an elderly individual, abuse of an
34 individual who is incapacitated, or abuse of an individual with a
35 physical or mental disability is known or in good faith suspected. For
36 the purposes of this paragraph, the provision of or material support
37 for **【reproductive health care services that are】** a legally protected
38 health care activity that is permitted under the laws of this State shall
39 not constitute abuse.

40 Nothing in this subsection shall be construed to conflict with or
41 displace any requirements or conditions for disclosure set forth under
42 45 C.F.R. ss.160.203 and 164.514.

43 c. Nothing in this section shall be construed to impede the lawful
44 sharing of medical records as permitted by State or federal law or the
45 Rules of Court.

46 (cf: P.L.2022, c.51, s.1)

1 6. Section 2 of P.L.2022, c.51 (C.2A:84A-22.19) is amended to
2 read as follows:

3 2. A public entity of this State or employee, appointee, officer
4 or official or any other person acting on behalf of a public entity shall
5 not provide any information or expend or use time, money, facilities,
6 property, equipment, personnel or other resources in furtherance of
7 any interstate investigation or proceeding seeking to impose civil or
8 criminal liability upon a person or entity for:

9 (1) the provision, receipt, or seeking of, or inquiring or responding
10 to an inquiry about, **reproductive health care services** a legally
11 protected health care activity, as defined in section 1 of P.L.2022,
12 c.51 (C.2A:84A-22.18), that **are** is legal in this State; or

13 (2) assisting, advising, aiding, abetting, facilitating, soliciting, or
14 conspiring with any person or entity providing, receiving, seeking, or
15 inquiring or responding to an inquiry about, **reproductive health**
16 **care services** a legally protected health care activity, as defined in
17 section 1 of P.L.2022, c.51 (C.2A:84A-22.18), that are legal in this
18 State.

19 This section shall not apply to any investigation or proceeding
20 when the conduct subject to potential liability under the investigation
21 or proceeding would be subject to liability under the laws of this State
22 if committed in this State. This section shall not apply if it is
23 necessary for the agency or person to engage in conduct otherwise
24 prohibited by this section in order to comply with a valid order issued
25 by a court with jurisdiction over the agency or person, or to comply
26 with applicable provisions of State or federal law.

27 (cf: P.L.2022, c.51, s.2)
28

29 7. (New section) a. A law of another state that authorized a
30 person or government entity to bring a prosecution, civil action, or
31 any other legal action to deter, prevent, sanction, or punish any
32 person engaging, aiding, or assisting in providing or prescribing any
33 legally protected health care activity is against the public policy of
34 this State.

35 b. A law described in subsection a. of this section shall not be
36 applied to any matter, case, or controversy heard in a State court or
37 in an administrative tribunal of this State.

38 c. The provisions of this section shall not apply to an action
39 founded in tort, contract, or statute under the laws of this State, or an
40 action founded in tort, contract, or statute under the laws of another
41 state and for which a similar claim would exist under the laws of this
42 State including, but not limited to, an alleged act of malpractice or
43 negligence by a person in the person's profession or occupation.
44

45 8. (New section) a. A person is guilty of interference with
46 reproductive or gender-affirming health care services if the person
47 purposely or knowingly:

1 (1) inflicts or attempts to inflict bodily injury on another person,
2 with purpose to unlawfully restrict another's access to or receipt or
3 provision of reproductive or gender-affirming health care services or
4 to intimidate the person from becoming or remaining a reproductive
5 or gender-affirming health care services patient, provider, volunteer,
6 or assistant, if the conduct would cause a reasonable person to be
7 intimidated;

8 (2) physically obstructs any person seeking to enter into or exit
9 from a reproductive or gender-affirming health care services facility,
10 with purpose to unlawfully restrict another's access to or receipt or
11 provision of reproductive or gender affirming health care services or
12 to intimidate the person from becoming or remaining a reproductive
13 or gender-affirming health care services patient, provider, volunteer,
14 or assistant, if the conduct would cause a reasonable person to be
15 intimidated;

16 (3) intimidates, threatens, or coerces, or attempts to intimidate,
17 threaten or coerce, any person or entity because that person or entity
18 is a reproductive or gender-affirming health care services patient,
19 provider, volunteer, or assistant, or in order to intimidate a person or
20 entity, or a class of persons or entities, from becoming or remaining
21 a reproductive or gender affirming health care services patient,
22 provider, volunteer, or assistant;

23 (4) damages, defaces or destroys the property of a person, entity,
24 or facility, or attempts to do so, because the person, entity, or facility
25 is a reproductive or gender-affirming health care services patient,
26 provider, assistant, volunteer, or facility;

27 (5) videotapes, films, photographs, or records by electronic
28 means, within 100 feet of the entrance to, or within, a reproductive
29 or gender-affirming health care services facility, a reproductive or
30 gender affirming health care services patient, provider, volunteer, or
31 assistant without that person's consent, with purpose to intimidate
32 the person from becoming or remaining a reproductive or gender-
33 affirming health care services patient, provider, volunteer, or
34 assistant, if the conduct would cause a reasonable person to be
35 intimidated;

36 (6) discloses or distributes, in any manner or forum including, but
37 not limited to, internet websites and social media, a videotape, film,
38 photograph, or recording the person knows or reasonably should
39 know was obtained in violation of paragraph (5) of this subsection,
40 with purpose to intimidate the person from becoming or remaining a
41 reproductive or gender-affirming health care services patient,
42 provider, volunteer, or assistant, if the conduct would cause a
43 reasonable person to be intimidated.

44 b. (1) Interference with reproductive or gender-affirming health
45 care services is a crime of the fourth degree, except that interference
46 with reproductive or gender-affirming health care services is a crime
47 of the second degree if the victim suffers significant bodily injury or

1 serious bodily injury, and a crime of the third degree if the victim
2 suffers bodily injury.

3 (2) Interference with reproductive or gender-affirming health
4 care services is a disorderly persons offense if the act would cause a
5 reasonable person to suffer: (a) damage to the victim's business or
6 personal reputation; (b) financial harm; or (c) pain and suffering,
7 mental anguish, or emotional harm.

8 c. Nothing in this section shall be construed to preclude, or limit
9 in any way, prosecution and conviction for any other offense
10 including, but not limited to, prosecution and conviction for assault,
11 N.J.S.2C:12-1, terroristic threats, N.J.S.2C:12-3, stalking, section 1
12 of P.L.1992, c.209 (C.2C:12-10), criminal coercion, N.J.S.2C:13-5,
13 or criminal trespass, N.J.S.2C:18-3.

14

15 9. (New section) a. Any law enforcement officer may order the
16 immediate dispersal of a gathering that substantially impedes access
17 to or departure from an entrance or driveway to a reproductive or
18 gender-affirming health care services facility during the business
19 hours of the facility.

20 (1) A dispersal order issued pursuant to this subsection shall
21 include the following statements:

22 (a) the gathering has substantially impeded access to or departure
23 from the facility;

24 (b) each member of the gathering shall, under the penalty of arrest
25 and prosecution, immediately disperse and cease to stand or be
26 located within at least 25 feet of an entrance or a driveway to the
27 facility; and

28 (c) the order shall remain in place for eight hours or until the
29 close of business of the facility on the day the order is issued,
30 whichever is sooner.

31 (2) A dispersal order shall not issue under this subsection unless
32 the 25-foot boundary identified in paragraph (1) of this subsection is
33 clearly marked.

34 b. Failure to comply with a dispersal order issued pursuant to
35 this section shall be a disorderly persons offense.

36

37 10. (New section) a. A person who, in violation of section 8 of
38 P.L. , c. (C.) (pending before the Legislature as this bill),
39 commits an act of interference with another person's reproductive or
40 gender-affirming health care services shall be liable to that aggrieved
41 person, who may bring a civil action in the Superior Court.

42 b. The court may award:

43 (1) injunctive relief;

44 (2) compensatory damages, but in an amount not less than
45 liquidated damages computed at the rate of \$1,000 for each violation
46 of P.L. , c. (C.) (pending before the Legislature as this bill);

47 (3) punitive damages upon proof of willful or reckless disregard
48 of the law;

1 (4) reasonable attorney's fees and other litigation costs reasonably
2 incurred; and

3 (5) any other preliminary and equitable relief as the court
4 determines to be appropriate.

5 c. A conviction of a violation of section 8 of
6 P.L. , c. (C.) (pending before the Legislature as this bill)
7 shall not be a prerequisite for a civil action brought pursuant to this
8 section.

9 d. A court may, in its discretion, permit a person aggrieved by a
10 violation of section 8 of P.L. , c. (C.) (pending before the
11 Legislature as this bill) to use a pseudonym in a civil action brought
12 pursuant to the provisions of this section when reasonably required
13 to safeguard the health, safety, or privacy of the person.
14

15 11. (New section) a. The Attorney General may bring a civil
16 action to enjoin, on a temporary, preliminary, or permanent basis, a
17 violation of section 8 or 9 of P.L. , c. (C.) (pending before
18 the Legislature as this bill); for compensatory damages to persons
19 aggrieved by the violation; and for the assessment of a civil penalty
20 against each actor who violates section 8 or 9 of P.L. , c. (C.)
21 (pending before the Legislature as this bill).

22 b. The civil penalty imposed on each actor shall not exceed
23 \$10,000 for a first violation, and shall not exceed \$25,000 for any
24 other subsequent violation.

25 c. In imposing civil penalties pursuant to this section, the court
26 shall consider a prior violation of the federal Freedom of Access to
27 Clinic Entrances Act of 1994, 18 U.S.C. s.248, or a prior violation of
28 a statute of another jurisdiction that would constitute a violation of
29 the federal Freedom of Access to Clinic Entrances Act of 1994, 18
30 U.S.C. s.248, to be a prior violation of section 8 of
31 P.L. , c. (C.) (pending before the Legislature as this bill).
32

33 12. The following sections are repealed:

34 a. Sections 1 through 3 of P.L.1997, c.262 (C.2A:65A-5 through
35 C.2A:65A-7);

36 b. Section 3 through 13 of P.L.1999, c.145 (C.9:17A-1.1 through
37 C.9:17A-1.12);

38 c. Section 1 of P.L.1975, c.26 (C.30:4D-6.1).
39

40 13. (New section) The Commissioners of Health and Human
41 Services shall adopt rules and regulations, pursuant to the
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
43 seq.) as may be necessary to implement the provisions of P.L. , c.
44 (C.) (pending before the Legislature as this bill).
45 Notwithstanding any provision of the "Administrative Procedure
46 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the
47 commissioners are authorized to adopt immediately, upon filing with
48 the Office of Administrative Law, rules and regulations necessary to

1 implement P.L. , c. (C.) (pending before the Legislature as
2 this bill). The rules and regulations adopted pursuant to this section
3 shall be effective for a period not to exceed 18 months following the
4 date of filing and may thereafter be amended, adopted, or readopted
5 by the commissioners in accordance with the requirements of
6 P.L.1968, c.410 (C.52:14B-1 et seq.).
7

8 14. (New section) a. P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall be liberally construed to effect the
10 purpose thereof.

11 b. The provisions of P.L. , c. (C.) (pending before the
12 Legislature as this bill) shall be severable, and if any of its provisions
13 shall be held to be unconstitutional or otherwise invalid, the decision
14 of court shall not affect the validity of any of the remaining
15 provisions of this act.
16

17 15. Section 2 of P.L.2021, c.375 (C.10:7-2) is amended to read as
18 follows:

19 2. a. Every individual present in the State, including, but not
20 limited to, an individual who is under State control or supervision,
21 shall have the fundamental right to: choose or refuse contraception
22 or sterilization; **and** choose whether to carry a pregnancy, to give
23 birth, or to terminate a pregnancy; and choose whether to use assisted
24 reproductive technology, including, but not limited to in vitro
25 fertilization.

26 The New Jersey Constitution recognizes the fundamental nature
27 of the right to reproductive choice, including the right to access
28 contraception, to terminate a pregnancy, and to carry a pregnancy to
29 term, shall not be abridged by any law, rule, regulation, ordinance, or
30 order issued by any State, county, or local governmental authority.
31 Any law, rule, regulation, ordinance, or order, in effect on or adopted
32 after the effective date of this act, that is determined to have the effect
33 of limiting the constitutional right to freedom of reproductive choice
34 and that does not conform with the provisions and the express or
35 implied purposes of this act, shall be deemed invalid and shall have
36 no force or effect.

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

40 (cf: P.L.2021, c.375, s.2)
41

42 16. Section 10 of P.L.2018, c.62 (C.26:6B-10) is amended to read
43 as follows:

44 10. a. A medical examiner shall conduct a medicolegal
45 investigation of a death in this State, as determined to be necessary
46 to establish identity and the cause and manner of death, and to resolve
47 any issues or potential issues of public health and of legal concern,

- 1 in accordance with rules and regulations adopted by the Chief State
2 Medical Examiner, in any of the following instances:
- 3 (1) death where criminal violence appears to have taken place,
4 regardless of the time interval between the incident and death, and
5 regardless of whether the violence appears to have been the
6 immediate cause of death, or a contributory factor thereto;
 - 7 (2) death by accident or unintentional injury, regardless of the
8 time interval between the incident and death, and regardless of
9 whether the injury appears to have been the immediate cause of
10 death~~[,]~~ or a contributory factor thereto;
 - 11 (3) death under suspicious or unusual circumstances;
 - 12 (4) death from causes that might constitute a threat to public
13 health or safety;
 - 14 (5) death not caused by readily recognizable diseases, disability,
15 or infirmity;
 - 16 (6) sudden death when the decedent was in apparent good health;
 - 17 (7) suicide;
 - 18 (8) death of a child under 18 years of age from any cause;
 - 19 (9) sudden or unexpected death of an infant or child under three
20 years of age ~~or a fetal death occurring without medical attendance~~;
 - 21 (10) death where suspicion of abuse of a child, family or
22 household member, or elderly or disabled person exists;
 - 23 (11) death within 24 hours of admission to a hospital or a nursing
24 home;
 - 25 (12) death in custody, in a jail or correctional facility, or in a State
26 or county psychiatric hospital, State developmental center, or other
27 public or private institution or facility for persons with mental illness,
28 developmental disabilities, or brain injury;
 - 29 (13) death related to occupational illness or injury;
 - 30 (14) death due to thermal, chemical, electrical, or radiation injury;
 - 31 (15) death due to toxins, poisons, medicinal or recreational drugs,
32 or a combination thereof;
 - 33 (16) known or suspected non-natural death;
 - 34 (17) any person found dead under unexplained circumstances;
 - 35 (18) the discovery of skeletal remains;
 - 36 (19) death for which investigation is in the public interest; or
 - 37 (20) **[a]** death occurring under such other circumstances as
38 prescribed by regulation of the Chief State Medical Examiner.
- 39 b. For a death that occurs, or appears to have occurred, for any
40 of the reasons specified in subsection a. of this section:
- 41 (1) It shall be the duty of any member of the general public having
42 knowledge of the death to notify immediately the local law
43 enforcement agency of the known facts concerning the time, place,
44 manner, and circumstances of that death;
 - 45 (2) It shall be the duty of any attending physician, licensed nurse,
46 hospital administrator, law enforcement officer, Department of
47 Children and Families staff member, or funeral director to notify
48 immediately the county or intercounty medical examiner of the

1 known facts concerning the time, place, manner, and circumstances
2 of that death; and

3 (3) A person who willfully neglects or refuses to report the
4 death~~[,]~~ or who, without an order from the office of the county or
5 intercounty medical examiner or the Office of the Chief State
6 Medical Examiner, willfully touches, removes, or disturbs the
7 decedent's body or touches, removes, or disturbs the clothing upon or
8 near the body, is guilty of a crime of the fourth degree.

9 c. In addition to the rules and regulations adopted by the Chief
10 State Medical Examiner establishing uniform procedures for
11 conducting medicolegal death investigations, the procedures
12 concerning the death investigation process as set forth in this
13 subsection shall be followed by the persons specified herein.

14 (1) Upon the death of a person from any of the causes specified
15 in subsection a. of this section, it shall be the duty of the physician in
16 attendance, a law enforcement officer having knowledge of the death,
17 the funeral director, or any other person present, to immediately
18 notify the county or intercounty medical examiner and the county
19 prosecutor of the county in which the death occurred of the known
20 facts concerning the time, place, manner, and circumstances of that
21 death. Upon receipt of that notification, the county or intercounty
22 medical examiner, ~~or~~ an assistant county or intercounty medical
23 examiner, or a medicolegal death investigator shall immediately
24 proceed to the place where the dead body is located and take charge
25 of the body. A medicolegal death investigator who engages in the
26 investigation of deaths pursuant to this subsection shall obtain
27 certification from the American Board of Medicolegal Death
28 Investigators within three years after the effective date of ~~this act~~
29 P.L.2018, c.62 (C.26:6B-1 et al.), or within three years after the
30 person first takes action under this paragraph, whichever is later.

31 (2) In cases of apparent homicide or suicide, or in cases of
32 accidental death, the cause of which is obscure, the scene of the event
33 shall not be disturbed until the medical examiner or medicolegal
34 death investigator in charge provides authorization to do so.

35 (3) (a) The medical examiner or medicolegal death investigator,
36 as the case may be, shall: fully investigate the essential facts
37 concerning the medical causes of death and take the names and
38 addresses of as many witnesses thereto as may be practicable to
39 obtain; before leaving the premises, reduce those facts, as the medical
40 examiner may deem necessary, to writing; file those facts in the
41 office of the county or intercounty medical examiner; and make the
42 facts available to the county prosecutor and the Chief State Medical
43 Examiner at their request.

44 (b) The law enforcement officer present at the investigation, or
45 the medical examiner or medicolegal death investigator if no officer
46 is present, shall, in the absence of the next-of-kin of the deceased
47 person: take possession of all property of value found on the
48 decedent; ~~make~~ include an exact inventory thereof ~~on his~~ in the

1 medical examiner's or medicolegal death investigator's official
2 report; and deliver the property to the law enforcement agency for
3 the municipality in which the death occurred, which shall surrender
4 the property to the person entitled to its custody or possession.

5 (c) The medical examiner or medicolegal death investigator, as
6 the case may be, shall take possession of any objects or articles that,
7 in **[his]** the opinion of the medical examiner or medicolegal death
8 investigator, may be useful in establishing the cause or manner of
9 death, or which constitute evidence of criminal behavior, and, after
10 cataloging each item, shall deliver them to the county prosecutor.

11 (4) The Chief State Medical Examiner, Deputy Chief State
12 Medical Examiner, county or intercounty medical examiner, assistant
13 county or intercounty medical examiner, or medicolegal death
14 investigator, as the case may be, shall consult with law enforcement
15 officers and agencies, county prosecutors, public health agencies,
16 **[or]** and other appropriate entities in matters within their expertise,
17 when conducting a medicolegal death investigation. The medical
18 examiner, assistant medical examiner, or medicolegal death
19 investigator, as the case may be, shall be provided with an
20 Originating Agency Identification Number**[,]** and access to the
21 State's motor vehicle registries and fingerprint registries**[,]** for the
22 purposes of identifying the remains of a deceased individual under
23 this section.

24 (5) If the cause of death is established within a reasonable degree
25 of medical certainty and no autopsy is deemed necessary, the county
26 or intercounty medical examiner, assistant county or intercounty
27 medical examiner, or medicolegal death investigator, as the case may
28 be, shall reduce the findings to writing and promptly make a full
29 report thereof to the Chief State Medical Examiner and to the county
30 prosecutor in a format to be prescribed by the Chief State Medical
31 Examiner for that purpose.

32 (6) If, in the opinion of the county or intercounty medical
33 examiner, the Chief State Medical Examiner, an assignment judge of
34 the Superior Court, the county prosecutor, the Attorney General, or
35 the commissioner, an autopsy is deemed necessary, the autopsy shall
36 be performed by:

37 (a) the county or intercounty medical examiner or assistant
38 county or intercounty medical examiner, provided that the individual
39 performing the autopsy is under the supervision of a pathologist
40 certified by the American Board of Pathology or the American
41 Osteopathic Board of Pathology;

42 (b) the Chief State Medical Examiner, at his or her discretion, or
43 the Deputy Chief State Medical Examiner; or

44 (c) such competent forensic pathologists as may be authorized by
45 the Chief State Medical Examiner.

46 (7) If, in any case in which the suspected cause of death of a child
47 under one year of age is sudden infant death syndrome**[,]** or the death

1 of a child **[is]** between one and three years of age **[and the death]** is
2 sudden and unexpected, and an investigation has been conducted in
3 accordance with the provisions of this section, and **[a]** the child's
4 parent or legal guardian **[of the child]** requests an autopsy, an
5 autopsy shall be performed by: (a) the county or intercounty medical
6 examiner or assistant county or intercounty medical examiner,
7 provided that the individual performing the autopsy is under the
8 supervision of a pathologist certified by the American Board of
9 Pathology or the American Osteopathic Board of Pathology; or (b)
10 the Chief State Medical Examiner, at his or her discretion, or the
11 Deputy Chief State Medical Examiner.

12 (a) The medical examiner performing the autopsy shall file a
13 detailed description of the findings and conclusions of the autopsy
14 with the Office of the Chief State Medical Examiner, **[and with]** the
15 appropriate county or intercounty medical examiner office, and the
16 county prosecutor.

17 (b) Upon the request of a parent or legal guardian of the child, a
18 pediatric pathologist, if available, shall assist in the performance of
19 the autopsy under the direction of a forensic pathologist. The Chief
20 State Medical Examiner or county or intercounty medical examiner
21 shall notify the parent or legal guardian of the child that **[they]** the
22 parent or guardian may request that a pediatric pathologist assist in
23 the performance of the autopsy. The medical examiner shall include
24 any findings and conclusions by the pathologist from the autopsy
25 with the information filed with the Office of the Chief State Medical
26 Examiner, **[and with]** the appropriate county or intercounty medical
27 examiner office and the county prosecutor, pursuant to subparagraph
28 (a) of this paragraph. The Chief State Medical Examiner or the
29 county or intercounty medical examiner shall make available a copy
30 of these findings and conclusions to the closest surviving relative of
31 the decedent within 120 days of the receipt of a request therefor,
32 unless the death is under active investigation by a law enforcement
33 agency.

34 (c) The medical examiner **[with]** having jurisdiction **[for]** over
35 the investigation shall make the preliminary findings and conclusions
36 of the autopsy available to the child's parent or legal guardian and the
37 department within 48 hours after the medical examiner is notified of
38 the death of the child. The medical examiner shall provide his or her
39 findings and conclusions for each reported case to the department
40 upon completion of the investigation.

41 (8) Notwithstanding the provisions of **[this act]** P.L.2018, c.62
42 (C.26:6B-1 et al.) to the contrary, a county or intercounty medical
43 examiner may request the Chief State Medical Examiner **[or]** ,
44 Deputy Chief State Medical Examiner, or other person authorized
45 and designated by the Chief State Medical Examiner~~[.]~~ to conduct
46 an examination or perform an autopsy whenever it is deemed
47 necessary or desirable.

(9) In the case of the death of a resident of a long-term care facility licensed by the Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a State psychiatric hospital operated by the Department of Health and listed in R.S.30:1-7, a county psychiatric hospital, a facility for persons with developmental disabilities as defined in section 3 of P.L.1977, c.82 (C.30:6D-3), or a facility for persons with traumatic brain injury as defined in 42 U.S.C. s.280b-1c that is operated by or under contract with the Department of Human Services, the psychiatric hospital or facility, as the case may be, shall, in addition to notifying the next-of-kin of the resident's death, so notify the county or intercounty medical examiner and provide that individual with contact information for the resident's next-of-kin. The county or intercounty medical examiner~~[],~~ or assistant county or intercounty medical examiner ~~on his behalf~~, shall make every practicable effort to contact the resident's next-of-kin to offer that person the opportunity to provide the medical examiner with information that the person deems relevant to: the circumstances of the resident's death; and whether there is a need to perform a dissection or autopsy of the decedent.

d. Upon the request of a decedent's legal representative, or upon the request of the person who, pursuant to section 22 of P.L.2003, c.261 (C.45:27-22), is in control of the decedent's funeral, the Chief State Medical Examiner shall provide the legal representative or person in control of the funeral with all available documentation related to the decedent's autopsy and the medical investigation of the decedent's death.

(cf: P.L.2018, c.62, s.10)

17. (New section) Consistent with the fundamental right established pursuant section 2 of P.L.2021, c.375 (C.10:7-2), a fertilized egg, embryo, or fetus shall not have independent rights under the laws of this State.

18. This act shall take effect immediately.

STATEMENT

This bill establishes certain protections for individuals seeking abortion or gender-affirming health care services, as well as certain protections for professionals who provided abortion-related health care services.

CRIME: INTERFERENCE WITH REPRODUCTIVE OR GENDER-AFFIRMING HEALTH SERVICES

This bill creates the new crime of “interference with reproductive or gender-affirming health services.”

1 A person is guilty of the crime if the person purposely or
2 knowingly, with the purpose to unlawfully restrict another's access
3 to or receipt or provision of reproductive or gender-affirming health
4 care services or to intimidate the person from becoming or remaining
5 a reproductive or gender-affirming health care services patient,
6 provider, volunteer or assistant:

7 (1) inflicts or attempts to inflict bodily injury;

8 (2) obstructs any person seeking to enter into or exit from a
9 reproductive or gender-affirming health care services facility;

10 (3) intimidates, threatens, or coerces, or attempts to intimidate,
11 threaten, or coerce, any person or entity because that person or entity
12 is a reproductive or gender-affirming health care services patient,
13 provider, volunteer, or assistant;

14 (4) damages, defaces, or destroys the property of a person, entity,
15 or facility, or attempts to do so, because the person, entity, or facility
16 is a reproductive or gender-affirming health care service patient,
17 provider, assistant, volunteer, or facility;

18 (5) videotapes, films, photographs, or records by electronic
19 means, within 100 feet of the entrance to a reproductive or gender-
20 affirming health care services facility, a patient, provider, volunteer,
21 or assistant without that person's consent; or

22 (6) discloses or distributes a videotape, film, photograph, or
23 recording of the person.

24 Interference with reproductive or gender-affirming health care
25 services is a crime of the fourth degree, but is a crime of the second
26 degree if the victim suffers significant or serious bodily injury.
27 Further, interference with reproductive or gender-affirming health
28 care services is a disorderly persons offense if the act would cause a
29 reasonable person to suffer: (1) damage to the victim's business or
30 personal reputation; (2) financial harm; or (3) pain and suffering,
31 mental anguish, or emotional harm.

32 A crime of the fourth degree is punishable by up to 18 months
33 imprisonment, a fine of up to \$10,000, or both. A crime of the second
34 degree is punishable by five to ten years imprisonment, a fine of up
35 to \$150,000, or both. A disorderly persons offense is a punishable
36 by up to six months imprisonment, a fine of up to \$1,000, or both.

37
38 CIVIL ACTION: INTERFERENCE WITH REPRODUCTIVE OR GENDER-
39 AFFIRMING HEALTH SERVICES

40 The bill also authorizes a person to bring a civil action against a
41 person who unlawfully interferes with another person's reproductive
42 or gender-affirming health care services.

43 Under the bill, a court may award:

44 (1) injunctive relief;

45 (2) compensatory damages in an amount not less than liquidated
46 damages computed at the rate of \$1,000 for each violation;

47 (3) punitive damages upon proof of willful or reckless disregard
48 of the law;

- 1 (4) reasonable attorney's fees and other litigation costs; and
2 (5) any other preliminary and equitable relief as the court
3 determines to be appropriate.

4 Under the bill, the Attorney General may bring a civil action to
5 enjoin a violation of the law, for compensatory damages, and for the
6 assessment of a civil penalty against each person who violates the
7 law. The civil penalty imposed on each actor will be up to, but not
8 exceed, \$10,000 for a first violation, and \$25,000 for any subsequent
9 violation.

10

11 DISPERSAL OF GATHERINGS

12 The bill authorized any law enforcement officer to order the
13 immediate dispersal of a gathering that substantially impedes access
14 to or departure from an entrance or driveway to a reproductive or
15 gender-affirming health care facility during the business hours of the
16 facility.

17 Failure to comply with an order to disperse issued by the Attorney
18 General or a law enforcement officer is a disorderly persons offense.
19 A disorderly persons offense is punishable by a term of imprisonment
20 of up to six months, a fine of up to \$1,000, or both.

21

22 LICENSING BOARDS

23 The bill prohibits a board from imposing any additional or
24 alternative penalties, in accordance with N.J.S.A.34:1-22, on the
25 holder of a certificate, registration, or license based solely on the
26 holder providing, authorizing, participating, referring to, or assisting
27 with any health care, medical service, or procedure related to an
28 abortion for a person who resides in a jurisdiction where the
29 provision, authorization, participation, referral, or assistance is
30 illegal.

31

32 APPLICABILITY OF LAWS OF OTHER STATES

33 The bill establishes that a law of another state that authorized a
34 person or government entity to bring a prosecution, civil action, or
35 any other legal action to deter, prevent, sanction, or punish any
36 person engaging, aiding, or assisting in providing or prescribing any
37 legally protected health care activity is against the public policy of
38 this State. Further, such laws of another state are prohibited from
39 being applied to any matter, case, or controversy heard in a State
40 court or in an administrative tribunal of this State.

41 The prohibition does not apply to an action founded in tort,
42 contract, or statute under the laws of this State, or an action founded
43 in tort, contract, or statute under the similar laws of another state.
44 This includes, but is not limited to, an alleged act of malpractice or
45 negligence by a person in the person's profession or occupation.

1 PROTECTION OF PATIENT INFORMATION

2 This bill updates P.L.2022, c.51 to provide a definition of “legally
3 protected health care activity” and “gender-affirming health care
4 services.” P.L.2022, c.51 provides certain protections with respect
5 to the disclosure of patient information relating to reproductive
6 health care services, as well as protecting access to health care,
7 medical services, and procedures related to an abortion for persons
8 who come to this State from jurisdictions in which these actions are
9 illegal.

10 The bill provides that in any civil action or other proceeding
11 preliminary thereto, a medical provider or other covered entity, as
12 described under federal law concerning medical privacy and security,
13 is barred from disclosing the following communications or
14 information, unless the patient or patient’s conservator, guardian, or
15 other authorized legal representative explicitly consented in writing
16 to the disclosure:

17 (1) any communication made to the covered entity, or any
18 information obtained by the covered entity from, a patient or the
19 conservator, guardian, or other authorized legal representative of a
20 patient relating to legally protected health care activity; or

21 (2) any information obtained by personal examination of a patient
22 relating to legally protected health care activity that is permitted
23 under the laws of this State.

24 Additionally, under the bill, a public entity of this State or
25 employee, appointee, officer or official or any other person acting on
26 behalf of a public entity would be prohibited from providing any
27 information, or expending or using time, money, facilities, property,
28 equipment, personnel or other resources in furtherance of any
29 interstate investigation or proceeding seeking to impose civil or
30 criminal liability upon a person or entity for:

31 (1) the provision, receipt, or seeking of, or inquiring or responding
32 to an inquiry about legally protected health care activity that is legal
33 in this State; or

34 (2) assisting, advising, aiding, abetting, facilitating, soliciting, or
35 conspiring with any person or entity providing, receiving, seeking, or
36 inquiring or responding to an inquiry about legally protected health
37 care activity that is legal in this State.

38

39 EXTRADITION

40 This bill updates N.J.S.A.2A:160-14.1 to prevent a person from
41 being extradited to another state under certain circumstances related
42 to “legally protected health care activity.” Under current law,
43 N.J.S.A.2A:160-14.1 prevents extradition as it relates to
44 “reproductive health care services.” Under the bill, “Legally
45 protected health care activity” is defined as activity providing,
46 seeking, receiving, assisting with, or inquiring about reproductive

1 health care services or gender-affirming health care services that are
2 lawful in this State, regardless of the patient's location.

3 Relatedly, the bill also defines "gender-affirming health care
4 services" to mean all supplies, care, and services of a medical,
5 behavioral health, mental health, surgical, psychiatric, therapeutic,
6 diagnostic, preventative, rehabilitative, or supportive nature,
7 including medication, relating to the treatment of gender dysphoria
8 and gender incongruence. "Gender-affirming health care services"
9 does not include sexual orientation change efforts as defined by
10 N.J.S.A.45:1-55.

11 12 IN VITRO FERTILIZATION PROTECTIONS

13 This bill strengthens reproductive health care freedom in New
14 Jersey by specifying that: every individual present in this State,
15 including, but not limited to, an individual who is under State control
16 or supervision, shall have the fundamental right to choose whether to
17 use assisted reproductive technology (ART), including, but not
18 limited to in vitro fertilization (IVF); and a fertilized egg, embryo, or
19 fetus shall not have independent rights under any of the laws of the
20 State.

21 22 MEDICOLEGAL INVESTIGATIONS

23 This bill removes the requirement that a medical examiner conduct
24 a medicolegal investigation of a death in the State related to a fetal
25 death occurring without medical attendance. This provisions seeks
26 to ensure that a woman who has a miscarriage or fetal complications
27 is not investigated or the fetal death criminalized.

28 29 REPEALERS

30 The bill repeals the following statutes, which have either been
31 obviated by court decision or would be obviated by this bill:

32 (1) N.J.S.A.2A:65A-5 through N.J.S.A.2A:65A-7 (banned partial
33 birth abortions);

34 (2) N.J.S.A.9:17A-1.1 through N.J.S.A.9:17A-1.12 (required
35 parental notification for minors' abortion);

36 (3) N.J.S.A.30:4D-6.1 (barred Medicaid payment for abortion
37 except where necessary to save the woman's life).