

2A: 65 A-1 to 65H-4

November 21, 1974

LEGISLATIVE HISTORY OF R.S. 2A: 65A-1 to 2A:65A-4
(Prohibits person or hospital to be required to perform abortions)

L. 1974, Chapter 111 - S503

Prohibits any person or health care facility to be required to perform or assist in the performance of an abortion or sterilization, refusal to perform an abortion shall not constitute grounds for liability or disciplinary action.

Pre-filed - McGahn, Russo

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- January 8 - Judiciary Com.
- March 25 - Reported, 2nd reading.
- April 25 - Amended.
- April 25 - 2nd reading, amended.
- April 25 - Passed Sen. under emerg. res., amend.
- April 29 - Received in Assembly.
- April 29 - Institutions, Health & Welfare Com,
- May 9 - Judiciary, Law, Public Safety & Defense Com.
- May 13 - Institutions, Health & Welfare Committee.
- May 16 - Referred to Conference Com.
- May 16 - Reported, 2nd reading.
- July 29 - Passed in Assembly
- October 2 - Approved, Chapter 111.
- No statement on bill.

Previous Bill: S2213 (Copy enclosed)- 1973
 April 2 - Introduced by McGahn, Bate.
 April 2 - Judiciary Com.

Similar Bills: (Copies enclosed)

A1543 - Prescribes what is a justifiable abortion, permits (1974) physicians, medical personnel and private institutions to refuse to perform an abortion without penalty.

April 16 - Introduced by Hawkins.
 April 16 - Institutions, Health & Welfare Com.
 May 13 - Judiciary, Law, Public Safety & Defense

A1294 - Permits a hospital or other health care institution (1974) or facility, or any person connected therein, to refuse to perform or participate in an abortion, grants immunity from civil or criminal liability, or from employment discrimination.

March 18 - Introduced by Bate, Sinsimer, Chinnici, Shelton.
 March 18 - Institution, Health & Welfare Com.
 (1974)

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No hearings or reports located.

Newspaper articles: (Copies enclosed)

"Abortion Bill OK'd After Debate," Camden Courier Post, April 25, 1974.

"Abortion Refusal Bill Passes Senate," Trenton Evening Times, April 26, 1974

"Assembly Sprint: Panels hustle to free abort bills for a vote," Newark Star Ledger, May 15, 1974.

"State Abortion Bill Cleared Despite Women's Objection," Atlantic City Press, May 17, 1974.

"Anti-Abortion bills emerge, only to go into Conference," Jersey Journal, May 17, 1974.

"Group to Lobby for Legalized Abortion," Trenton Evening Times, June 11, 1974.

"Abortion opponents gain ground," Bergen Record, June 14, 1974.

"Woodson hesitates on release of abortion 'conscience' bill," Jersey Journal, June 14, 1974.

"Abortion 'conscience bill' passes," Newark Star Ledger, July 30, 1974.

"Hospitals free to bar abortions under new law," Newark Star Ledger, October 3, 1974.

For other clippings see vertical file - "New Jersey - Abortion".

MS/ks

[OFFICIAL COPY REPRINT]
SENATE, No. 503

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1974 SESSION

By Senator McGAHN

AN ACT relating to certain rights and liabilities with respect to
abortion services and sterilization procedures.

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

1 1. No person shall be required to perform or assist in the per-
2 formance of an abortion or sterilization***[** and no hospital or
3 other**]**.*

1 *2. No hospital or other* health care facility shall be required to
2 provide ***[such]*** *abortion or sterilization** services or pro-
3 cedures. ***[**The refusal to perform, assist in the performance of,
4 or provide abortion services or sterilization procedures shall not
5 constitute grounds for civil or criminal liability, disciplinary action
6 or discriminatory treatment.**]***

1 *3. *The refusal to perform, assist in the performance of, or pro-*
2 *vide abortion services or sterilization procedures shall not con-*
3 *stitute grounds for civil or criminal liability, disciplinary action or*
4 *discriminatory treatment.**

1 *4. *If any part of this act shall be invalid, such holding shall not*
2 *affect the validity of the remaining parts of this act. If a part of*
3 *this act is invalid in one or more of its applications, the remaining*
4 *parts of this act shall remain in effect in all valid applications that*
5 *are severable from the invalid application.**

1 ***[2.]*** *5.* This act shall take effect immediately.

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

SENATE, No. 503

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1974 SESSION

By Senator McGAHN

AN ACT relating to certain rights and liabilities with respect to
abortion services and sterilization procedures.

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

1 1. No person shall be required to perform or assist in the per-
2 formance of an abortion or sterilization, and no hospital or other
3 health care facility shall be required to provide such services or
4 procedures. The refusal to perform, assist in the performance of,
5 or provide abortion services or sterilization procedures shall not
6 constitute grounds for civil or criminal liability, disciplinary action
7 or discriminatory treatment.

1 2. This act shall take effect immediately.

SENATE AMENDMENTS TO
SENATE, No. 503

STATE OF NEW JERSEY

ADOPTED APRIL 25, 1974

Amend page 1, section 1, line 2, after "sterilization", omit remainder of line.

Amend page 1, section 1, line 3, before "health", insert "2. No hospital or other".

Amend page 1, section 1, line 3, after "provide", omit "such", insert "abortion or sterilization".

Amend page 1, section 1, line 4, after "procedures.", omit remainder of section, and insert new sections as follows:

"3. The refusal to perform, assist in the performance of, or provide abortion services or sterilization procedures shall not constitute grounds for civil or criminal liability, disciplinary action or discriminatory treatment.

4. If any part of this act shall be invalid, such holding shall not affect the validity of the remaining parts of this act. If a part of this act is invalid in one or more of its applications, the remaining parts of this act shall remain in effect in all valid applications that are severable from the invalid application."

Amend page 1, section 2, line 1, omit "2.", insert "5."

SENATE, No. 2213

STATE OF NEW JERSEY

INTRODUCED APRIL 2, 1973

By Senator McGAHN

Referred to Committee on Judiciary

AN ACT relating to certain rights and liabilities with respect to
abortion services and sterilization procedures.

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

1 1. No person shall be required to perform or assist in the per-
2 formance of an abortion or sterilization, and no hospital or other
3 health care facility shall be required to provide such services or
4 procedures. The refusal to perform, assist in the performance of,
5 or provide abortion services or sterilization procedures shall not
6 constitute grounds for civil or criminal liability, disciplinary action
7 or discriminatory treatment.

1 2. This act shall take effect immediately.

ASSEMBLY, No. 1543

STATE OF NEW JERSEY

INTRODUCED APRIL 16, 1974

By Assemblyman HAWKINS

Referred to Committee on Institutions, Health and Welfare

AN ACT concerning abortion and supplementing chapter 87 of Title 2A of the New Jersey Statutes, and repealing N. J. S. 2A:170-76.

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

1 1. An act to cause or procure the miscarriage of a pregnant
2 woman is justifiable when it is committed with her consent by a
3 duly licensed physician acting:

4 a. Within 12 weeks from the commencement of her pregnancy;

5 b. Within 24 weeks from the commencement of her pregnancy
6 and the act is performed in a health care facility or hospital licensed
7 by this State; or

8 c. Under a reasonable belief that such is necessary to preserve
9 her life or health and the act is performed in a hospital licensed
10 by this State.

11 A pregnant female's commission of an act to cause or procure
12 a miscarriage upon herself is justifiable when she acts upon the
13 advice of a duly licensed physician that such act is necessary to
14 preserve her life or health, or when the act is committed within
15 24 weeks from the commencement of her pregnancy. The sub-
16 mission by a female to an act to cause or procure her miscarriage
17 is justifiable when she believes that it is being committed by a
18 duly licensed physician who is acting under a reasonable belief
19 that such act is necessary to preserve her life or health, or who is
20 committing the act within 24 weeks from the commencement of her
21 pregnancy.

1 2. In determining whether to cause or procure the miscarriage
2 of a pregnant woman, the physician shall consider all the factors
3 relevant to the well-being of the patient, including her physical,
4 emotional and psychological condition, her familial situation and
5 her age.

1 3. No person shall be required to perform or assist in the per-
2 formance of an abortion and no private hospital or other private
3 health care facility shall be required to provide such services or
4 procedures. Said refusal to perform, assist in the performance
5 of, or provide abortion services or procedures shall not constitute
6 grounds for civil or criminal liability, disciplinary action or dis-
7 criminatory treatment.

1 4. N. J. S. 2A:170-76 is repealed.

1 5. This act shall take effect immediately.

STATEMENT

In the present New Jersey law, N. J. S. 2A:87-1, it is a high misdemeanor to perform or solicit an abortion if it is done "maliciously or without lawful justification." This statute was held unconstitutionally vague and a violation of physicians' rights under the Fourteenth Amendment (*YMCA of Princeton v. Kugler*, C. A., 463 F. 2d 203 [1972]).

This bill would prescribe what is a justifiable abortion and would allow physicians, medical personnel, and private institutions to refuse to perform an abortion without penalty.

ASSEMBLY, No. 1294

STATE OF NEW JERSEY

INTRODUCED MARCH 18, 1974

By Assemblymen BATE, SINSIMER, CHINNICI, SHELTON,
HICKS and PELLECCIA

Referred to Committee on Institutions, Health and Welfare

AN ACT to permit a hospital, or other health care institution or facility or any person connected therewith to refuse to allow, perform or participate in an abortion; to grant immunity from civil or criminal liability and to prevent employment discrimination.

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

1 1. Whenever a person shall choose to exercise a right of indi-
2 vidual conscience by declaring in writing an objection to abortion
3 on moral, ethical or religious grounds, said person may refuse
4 to perform or participate in medical procedures which result in
5 an abortion. The refusal of any person to perform or participate
6 in these medical procedures shall not be a basis for civil or criminal
7 liability or damages for such refusal, or for any disciplinary or
8 any other recriminatory action against such person.

1 2. Any hospital, or other health care institution, or facility may
2 elect to refuse to allow abortions to be performed on its premises.
3 Such refusal by any hospital or other health care institution, or
4 facility shall be with immunity from civil or criminal liability or
5 penalty and said immunity shall extend individually or collectively
6 to any administrative officer, hospital employee and or agent, or
7 member of a hospital governing board.

1 3. The failure or refusal of any such corporations, unincorpo-
2 rated associations or individuals to perform or to permit the per-
3 formance of these medical procedures shall not be the basis for
4 any disciplinary or recrimatory action against said corporations,
5 unincorporated associations or individuals.

1 4. A physician who informs a patient that he refuses to give
2 advice concerning, or participate in an abortion shall not be liable

3 to the hospital, or other health care institution, or facility, or the
4 patient for the refusal.

1 5. A civil action for negligence or malpractice, or any discipli-
2 nary or discriminatory action may not be maintained against a
3 person refusing to give advice concerning or to participate in an
4 abortion based on the refusal.

1 6. A hospital, or other health care institution, or facility which
2 elects to refuse to allow abortions to be performed on its premises
3 shall not discriminate against its staff members or other employees
4 nor deny staff privileges or employment to a person for the sole
5 reason that that person previously participated in or expressed
6 a willingness to participate in a termination of pregnancy.

1 7. Nothing in this act shall prevent any hospital, or other health
2 care institution, or facility whose policy it is to offer abortion ser-
3 vices, as permitted by law, from doing so, provided that individual
4 employee conscience declarations are respected in providing said
5 services.

1 8. This act shall take effect immediately.

STATEMENT

This bill gives immunity from civil suit or criminal prosecution to hospitals, health care institutions, physicians, and medical personnel who refuse to give a patient advice concerning an abortion or who refuse to allow abortions on their premises, or to participate in an abortion. It also seeks to prevent employment discrimination against any person because of that person's attitude or behavior in relation to abortions.