

Title 10.  
Chapter 7. (New)  
Freedom of  
Reproductive  
Choice  
§§1,2  
C.10:7-1 and  
10:7-2  
§3  
C.26:2S-39  
§4  
C.52:14-17.29hh  
§5  
C.52:14-17.46.6q

(CORRECTED COPY)

P.L. 2021, CHAPTER 375, *approved January 13, 2022*  
Senate, No. 49

1 AN ACT concerning freedom of reproductive choice and  
2 supplementing Title 10 of the Revised Statutes, P.L.1997, c.192  
3 (C.26:2S-1 et seq.), and Title 52 of the Revised Statutes.  
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*  
7

8 1. The Legislature finds and declares that:

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

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

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

29 d. An unplanned pregnancy can disrupt educational and career  
30 plans, forcing the pregnant person to drop out of school, abandon  
31 pursuit of a college or advanced degree, accept lower-paying

1 employment or employment with limited opportunities for  
2 advancement, or delay entrance into the workforce, which can have  
3 the effect of limiting the person's lifetime earnings and can prevent  
4 the person from following a chosen career path.

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

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

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

30 h. It is both reasonable and necessary for the State to enable,  
31 facilitate, support, and safeguard the provision of high-quality,  
32 comprehensive reproductive and sexual health care, including the full  
33 range of evidence-based information, counseling, and health care  
34 services, to all individuals in the State, and to enable, facilitate,  
35 support, and safeguard the ability of such individuals to access  
36 affordable and timely reproductive health care services and to engage  
37 in autonomous reproductive decision-making, in consultation with  
38 health care professionals of their choosing, without fear of  
39 prosecution, discrimination, or unnecessary barriers to care. To  
40 achieve those ends, it shall be the policy of this State to:

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

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

47 (3) advance comprehensive insurance coverage for reproductive  
48 care, including primary reproductive health care services, services to

1 terminate a pregnancy, long-acting contraceptives, and long-term  
2 supplies of hormonal contraceptives, that enables the citizens of New  
3 Jersey to fully exercise their freedom of reproductive choice while  
4 recognizing the rights of certain religious employers to request an  
5 exemption from such coverage; and

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

13  
14 2. a. Every individual present in the State, including, but not  
15 limited to, an individual who is under State control or supervision,  
16 shall have the fundamental right to: choose or refuse contraception  
17 or sterilization; and choose whether to carry a pregnancy, to give  
18 birth, or to terminate a pregnancy. The New Jersey Constitution  
19 recognizes the fundamental nature of the right to reproductive choice,  
20 including the right to access contraception, to terminate a pregnancy,  
21 and to carry a pregnancy to term, shall not be abridged by any law,  
22 rule, regulation, ordinance, or order issued by any State, county, or  
23 local governmental authority. Any law, rule, regulation, ordinance,  
24 or order, in effect on or adopted after the effective date of this act,  
25 that is determined to have the effect of limiting the constitutional  
26 right to freedom of reproductive choice and that does not conform  
27 with the provisions and the express or implied purposes of this act,  
28 shall be deemed invalid and shall have no force or effect.

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

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

1 paragraph shall not be construed as authorizing a carrier to exclude  
2 coverage for care that is necessary to preserve the life or health of a  
3 subscriber. An exclusion from an insurance coverage mandate  
4 granted to a religious employer pursuant to this section shall not be  
5 considered a violation of section 2 of P.L. , c. (C. ) (pending  
6 before the Legislature as this bill).

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

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12 4. A contract-providing hospital or medical expense benefits  
13 purchased by the State Health Benefits Commission may provide  
14 coverage for abortion. A contract-providing hospital or medical  
15 expense benefits purchased by the commission shall not exclude a  
16 provider from its network or otherwise restrict services from the  
17 provider solely on the basis that the provider is a religious employer,  
18 as defined in section 3 of P.L. , c. (C. ) (pending before the  
19 Legislature as this bill), that refuses to provide abortion services.

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21 5. A contract-providing hospital or medical expense benefits  
22 purchased by the School Employees’ Health Benefits Commission  
23 may provide coverage for abortion. A contract-providing hospital or  
24 medical expense benefits purchased by the commission shall not  
25 exclude a provider from its network or otherwise restrict services  
26 from the provider solely on the basis that the provider is a religious  
27 employer, as defined in section 3 of P.L. , c. (C. ) (pending  
28 before the Legislature as this bill), that refuses to provide abortion  
29 services.

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31 6. This act shall take effect immediately.

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#### STATEMENT

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36 This bill establishes certain requirements related to the right to  
37 reproductive choice in New Jersey.

38 Specifically, the bill codifies the constitutional right, which has  
39 been recognized by the New Jersey Supreme Court, to freedom of  
40 reproductive choice, including the right to access contraception, to  
41 terminate a pregnancy, and to carry a pregnancy to term. Any law,  
42 rule, regulation, ordinance, or order that has the effect of abridging  
43 the constitutional right to freedom of reproductive choice, including  
44 a law, rule, regulation, ordinance, or order in effect on, or adopted  
45 after, the effective date of the bill, will be deemed invalid and will  
46 have no force or effect. The bill specifically provides that every  
47 individual present in the State, including, but not limited to, an  
48 individual who is under State control or supervision, has the

1 fundamental right to choose or refuse contraception or sterilization;  
2 and to choose whether to carry a pregnancy, to give birth, or to  
3 terminate a pregnancy.

4 The bill additionally provides that, after concluding a study and  
5 issuing a report to the Governor and the Legislature demonstrating  
6 the need that such a regulation is necessary, the Department of  
7 Banking and Insurance may adopt regulations providing that health  
8 benefit plans delivered, issued, executed, or renewed in this State,  
9 require coverage for abortion. If the department adopts a regulation  
10 establishing this coverage requirement, the department will also be  
11 required to mandate that carriers grant, upon request of a religious  
12 employer, an exclusion under the contract for the required coverage  
13 if the coverage conflicts with the religious employer's bona fide  
14 religious beliefs and practices. A religious employer that obtains  
15 such an exclusion will be required to provide written notice thereof  
16 to covered persons and prospective covered persons, and the carrier  
17 will additionally be required to provide notice to the Commissioner  
18 of Banking and Insurance in such form and manner as may be  
19 determined by the commissioner. Nothing in this requirement is to  
20 be construed as authorizing a carrier to exclude coverage for care that  
21 is necessary to preserve the life or health of a subscriber. An  
22 insurance exclusion authorized by the department will not constitute  
23 a violation of the provisions of the bill invalidating laws determined  
24 to have the effect of abridging or limiting the constitutional right to  
25 freedom of reproductive choice.

26 The bill provides that a contract providing hospital or medical  
27 expense benefits purchased by the State Health Benefits Commission  
28 or the School Employees' Health Benefits Commission may provide  
29 coverage for abortion. A contract providing hospital or medical  
30 expense benefits purchased by either commission may not exclude a  
31 provider from its network or otherwise restrict services from the  
32 provider solely on the basis that the provider is a religious employer  
33 that refuses to provide abortion services.

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Codifies constitutional right to freedom of reproductive choice.