

A10372-A Rules (Lavine) Same as S 9077-A KRUEGER

Criminal Procedure Law

TITLE. ...Relates to legal protections for abortion service providers

05/13/22 referred to codes

05/29/22 amend and recommit to codes

05/29/22 print number 10372a

05/31/22 reported referred to rules

05/31/22 reported

05/31/22 rules report cal.507

05/31/22 substituted by s9077a

S09077 KRUEGER AMEND=A

05/06/22 REFERRED TO CODES

05/28/22 AMEND AND RECOMMIT TO CODES

05/28/22 PRINT NUMBER 9077A

05/31/22 COMMITTEE DISCHARGED AND COMMITTED TO RULES

05/31/22 ORDERED TO THIRD READING CAL.1623

05/31/22 PASSED SENATE

05/31/22 DELIVERED TO ASSEMBLY

05/31/22 referred to codes

05/31/22 substituted for a10372a

05/31/22 ordered to third reading rules cal.507

05/31/22 passed assembly

05/31/22 returned to senate

RULES COM (Request of Lavine, Wallace, Steck, Gottfried, Sillitti, Fahy, L. Rosenthal, O'Donnell, Jacobson, McMahon, Griffin, Dinowitz, Otis, Weprin, Carroll, Glick, Barrett, Seawright)

Add §570.17, amd §140.10, CP L; add §837-w, Exec L; amd §§3119 & 3102, CPLR

Provides certain legal protections for abortion service providers including protection from extradition, arrest and legal proceedings in other states relating to abortions legally performed in this state.

STATE OF NEW YORK

10372--A

IN ASSEMBLY

May 13, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Lavine, Wallace, Steck, Gottfried, Sillitti, Fahy, L. Rosenthal) -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, the executive law and the civil practice law and rules, in relation to protection of abortion service providers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The criminal procedure law is amended by adding a new
2 section 570.17 to read as follows:

3 § 570.17 Extradition of abortion providers.

4 No demand for the extradition of a person charged with providing an
5 abortion shall be recognized by the governor unless the executive
6 authority of the demanding state shall allege in writing that the
7 accused was present in the demanding state at the time of the commission
8 of the alleged crime, and that thereafter he, she or they fled from that
9 state.

10 § 2. Section 140.10 of the criminal procedure law is amended by adding
11 a new subdivision 3-a to read as follows:

12 3-a. A police officer may not arrest any person for performing or
13 aiding in the performance of an abortion within this state, or in
14 procuring an abortion in this state, if the abortion is performed in
15 accordance with the provisions of article twenty-five-A of the public
16 health law or any other applicable law of this state.

17 § 3. The executive law is amended by adding a new section 837-w to
18 read as follows:

19 § 837-w. Cooperation with certain out-of-state investigations. No
20 state or local law enforcement agency shall cooperate with or provide
21 information to any individual or out-of-state agency or department
22 regarding the provision of a lawful abortion performed in this state.
23 Nothing in this section shall prohibit the investigation of any criminal
24 activity in this state which may involve the performance of an abortion.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD15704-02-2

A. 10372--A

2

1 provided that no information relating to any medical procedure performed
2 on a specific individual may be shared with an out-of-state agency or
3 any other individual. Nothing in this section shall prohibit compliance
4 with a valid, court-issued subpoena or warrant.

5 § 4. Section 3119 of the civil practice law and rules is amended by
6 adding a new subdivision (g) to read as follows:

7 (g) Out-of-state abortion proceedings. Notwithstanding any other
8 provisions of this section or any other law, no court or county clerk
9 shall issue a subpoena under this section in connection with an out-of-
10 state proceeding relating to any abortion services or procedures which
11 were legally performed in this state, unless such out-of-state proceed-
12 ing (1) sounds in tort or contract, or is based on statute, (2) is
13 actionable, in an equivalent or similar manner, under the laws of this
14 state, and (3) was brought by the patient who received reproductive
15 healthcare, or the patient's legal representative.

16 § 5. Subdivision (e) of section 3102 of the civil practice law and
17 rules, as amended by chapter 29 of the laws of 2010, is amended to read
18 as follows:

19 (e) Action pending in another jurisdiction. Except as provided in
20 section three thousand one hundred nineteen of this article, when under
21 any mandate, writ or commission issued out of any court of record in any
22 other state, territory, district or foreign jurisdiction, or whenever
23 upon notice or agreement, it is required to take the testimony of a
24 witness in the state, he or she may be compelled to appear and testify
25 in the same manner and by the same process as may be employed for the
26 purpose of taking testimony in actions pending in the state. The supreme
27 court or a county court shall make any appropriate order in aid of
28 taking such a deposition; provided that no order may be issued under
29 this section in connection with an out-of-state proceeding relating to
30 any abortion services or procedures which were legally performed in this
31 state, unless such out-of-state proceeding (1) sounds in tort or
32 contract, or is based on statute, (2) is actionable, in an equivalent or
33 similar manner, under the laws of this state, and (3) was brought by the
34 patient who received reproductive healthcare, or the patient's legal
35 representative.

36 § 6. Severability. If any provision of this act, or any application of
37 any provision of this act, is held to be invalid, that shall not affect
38 the validity or effectiveness of any other provision of this act, any
39 other application of any provision of this act, or any other provision
40 of any law or code amended by this act.

41 § 7. This act shall take effect immediately.

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A10372AREVISE 5/31/22

SPONSOR: Rules (Lavine)

TITLE OF BILL:

An act to amend the criminal procedure law, the executive law and the civil practice law and rules, in relation to protection of abortion service providers

PURPOSE:

This legislation would provide judicial protections to abortion providers in New York.

SUMMARY OF PROVISIONS:

Section 1: The criminal procedure law is amended by adding a new section 570.17 to provide an exception for extradition by the Governor.

Section 2: Section 140.10 of the criminal procedure law is amended by adding a new subdivision 3-a. A police officer may not arrest any person for performing or aiding in the performance of an abortion within this state, or in procuring an abortion in this state, if the abortion is performed in accordance with article 25a of the public health law or any other applicable law of this state.

Section 3: The executive law is amended by adding a new section 837-w titled Cooperation with certain out-of-state investigations. No state or local law enforcement agency shall cooperate with or provide information to any, individual or out-of-state agency or department regarding the provision of a lawful abortion performed in this state

Section 4-5: Section 3119 and Section 3102 of the civil practice law and rules is amended by adding a new subdivision (g) to prohibit courts and county clerks from issuing subpoenas in connection with out-of-state abortion proceedings which were legally performed in this state.

Section 6: Severability

Section 7: Effective Date

JUSTIFICATION:

The U.S. Supreme Court is expected to decide by June whether to overturn its 1973 Roe v. Wade decision legalizing abortion. Currently, 16 states have abortion bans in statute. Texas enforces its bans via civil lawsuits, empowering private citizens to sue anyone who has helped "aid or abet" the provision of an abortion after six weeks. Missouri introduced this version but has the enforcement go beyond its states borders

and is attempting to impose their policy preferences on other states, to stop their citizens from getting abortions anywhere at all. While the country awaits the U.S. Supreme Court decision, other states have attempted to pass laws mirroring the enforcement method in the Texas law. The federal government has so far failed to act decisively on this issue, leaving it up to states that support reproductive health care to determine the future of abortion law and access.

This bill provides additional judicial protections to abortion providers located in the State by:

Creating a statutory exception for the extradition of abortion providers. The Constitution's extradition clause does not cover extradition of people who did not "flee justice", meaning a state is not constitutionally required to extradite an Illinois provider who never leaves Illinois. Nonetheless, some states have provisions in their own extradition laws that obligate the state to extradite accused criminals, even if they have never been in the other state and thus have not fled. An abortion-supportive state seeking to fully protect its providers could exempt them from provisions related to extradition so that the provider could perform abortions in their home state to out-of-state patients without fear of being extradited.

Prohibiting courts from cooperating with out-of-state civil and criminal cases that stem from abortions that took place legally within their borders. Most states have enacted some form of the Uniform Interstate Depositions and Discovery Act which simplifies the process for litigants to take depositions and engage in discovery with people from another state. New York could protect their providers from anti-abortion state investigations by passing a law exempting abortion providers from the interstate discovery and interstate witness subpoena laws.

Providing judicial protections by prohibiting law enforcement from cooperating with anti-abortion states' investigations regarding abortions that took place legally.

As states across the country roll back abortion rights and access, New York continues to pass progressive policies that expand access to reproductive care. This bill is another tool to help New York thwart interstate investigations to combat state policies that attempt to ban abortions and punish providers beyond their borders.

LEGISLATIVE HISTORY:

New Bill

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

The act shall take effect immediately.