

New Jersey Shield Law Fact Sheet

AUGUST 2024

New Jersey’s shield laws provide protections against out-of-state investigations and prosecutions and professional discipline related to reproductive health care. New Jersey’s shield laws also provide protections for the privacy of medical information related to reproductive health care. Currently, an Executive Order provides New Jersey’s only shield laws for gender-affirming care, offering protections against out-of-state investigations and prosecutions and professional discipline related to gender-affirming care. New Jersey’s shield laws do not contain protections against civil liability or adverse consequences for professional liability insurance related to reproductive or gender-affirming health care.

PROTECTION AGAINST OUT-OF-STATE INVESTIGATIONS AND PROSECUTIONS

Protection Barring State Agency/Employee Assistance

A state entity or a person acting on its behalf may not provide any information or use any resources in furtherance of any interstate investigation or proceeding seeking to impose civil or criminal liability upon a person or entity for providing, receiving, seeking, inquiring about, or assisting in reproductive health care services legal in New Jersey.¹ Additionally, Executive Order No. 326, issued in April 2023, provides that no Executive Branch department or agency or person acting on their behalf may provide any information or expend resources in furtherance of an investigation that seeks to impose civil or criminal liability or professional sanctions upon a person for providing, receiving, inquiring about, or assisting in gender-affirming health care services.²

¹ Chapter 51, 2022 N.J. Laws (N.J. 2022) (N.J. Stat. § 2A:84A-22.19).

² N.J. Executive Order No. 326 (April 4, 2023), available at: <https://www.nj.gov/infobank/eo/056murphy/pdf/EO-326.pdf>. The Executive Order also provides that—except as necessary to comply with a valid court order or to comply with state or federal law—no Executive Branch department or agency or person acting on their behalf may comply with a subpoena issued by another state seeking information solely because a person provided, received, assisted, sought, or inquired about gender-affirming health care services.

Protection against Extradition and Arrests

The Governor may not surrender to another state any person charged with providing, receiving, assisting, providing material support for, or traveling to obtain reproductive health care services permitted under New Jersey law if the person was not in the state demanding surrender at the time of the alleged crime and has not fled from that state.³ Additionally Executive Order No. 326 provides that a person in New Jersey will not be surrendered to another state if they are charged with providing, receiving, seeking, traveling to obtain, or assisting in gender-affirming health care services permitted under New Jersey law, and they were not present in the state requesting their surrender at the time of the commission of the alleged crime.⁴

PROTECTION FROM PROFESSIONAL DISCIPLINE

Protection against Adverse Actions related to Providers' Licenses and Other Board Discipline

A board may not refuse to admit a person to an examination and may not suspend, revoke, or refuse to renew any certificate, registration, or license based solely on the person's provision, authorization, participation, referral for, or assistance in any health care service related to an abortion for a person who resides in a state where the act is illegal, if the act is lawful in New Jersey.⁵ Executive Order No. 326 provides these same protections related to gender-affirming care.⁶

PRIVACY OF MEDICAL INFORMATION AND OTHER DATA RELATED TO ABORTION AND GENDER-AFFIRMING CARE

Protection Against Disclosure of Medical Information

Health plans, health care clearinghouses, and health care providers may not disclose any information communicated by a patient or their representative or obtained from personal examination of a patient relating to reproductive health care services that are permitted under New Jersey law.⁷

³ Chapter 50, 2022 N.J. Laws (N.J. 2022) (N.J. Stat. § 2A:160-14.1).

⁴ N.J. Executive Order No. 326 (April 4, 2023), available at: <https://www.nj.gov/infobank/eo/056murphy/pdf/EO-326.pdf>.

⁵ Chapter 51, 2022 N.J. Laws (N.J. 2022) (N.J. Stat. § 45:1-21).

⁶ N.J. Executive Order No. 326 (April 4, 2023), available at: <https://www.nj.gov/infobank/eo/056murphy/pdf/EO-326.pdf>.

⁷ Chapter 51, 2022 N.J. Laws (N.J. 2022) (N.J. Stat. § 2A:84A-22.18).

ABOUT THE CENTER ON REPRODUCTIVE HEALTH, LAW, AND POLICY (CRHLP)

CRHLP is a nationwide think tank and research center created to meet the current national crisis in access to abortion while working towards long-term solutions to advance reproductive justice. CRHLP conducts analysis and research for legal, policy, and narrative change and serves as a trusted hub for convening and engaging academics, advocates, health care providers, policy makers, and community members to reimagine the landscape of reproductive health law and policy. CRHLP also trains the reproductive law and policy leaders of tomorrow. CRHLP is committed to the highest standards of independent inquiry, academic excellence, and rigor. Research findings and conclusions are never altered to accommodate other interests, including those of funders, other organizations, or government bodies and officials.

For more information

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To receive pro bono legal assistance on questions related to the shield laws or other reproductive rights or justice issues, email: larj@law.ucla.edu