

ASSEMBLY, No. 550

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman ROBERT AUTH
District 39 (Bergen and Passaic)

Co-Sponsored by:

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SYNOPSIS

Establishes civil immunity for damages arising out of birth injury or congenital defect for physicians providing prenatal care under certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning civil immunity for physicians providing
2 prenatal care and supplementing Title 2A of the New Jersey
3 Statutes.

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

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8 1. A physician who provides prenatal care to a pregnant woman
9 shall be immune from civil liability for damages resulting from the
10 woman giving birth to a child having a birth injury or congenital
11 defect, provided that all of the following requirements are met:

12 a. the skill and care provided in the course of prenatal
13 treatment is that ordinarily required and exercised by those in the
14 medical profession;

15 b. the woman, of her own volition, did not receive prenatal care
16 from the physician during the final eight weeks of her pregnancy;

17 c. the physician advised the woman of the importance and
18 benefits of receiving regular, ongoing prenatal care through the end
19 of the pregnancy; and

20 d. either:

21 (1) the signs, symptoms, or other indicia of the birth injury or
22 congenital defect were not reasonably detectable in the ordinary
23 course of the prenatal care the woman received from the physician
24 up to the date of her last prenatal care visit with the physician; or

25 (2) the physician detected signs, symptoms, or other indicia of a
26 potential birth injury or congenital defect and, based on the best
27 available information, advised the woman as to:

28 (a) the likelihood that the fetus would be born with a birth
29 injury or congenital defect;

30 (b) the nature and consequences of the potential birth injury or
31 congenital defect; and

32 (c) options with regard to medically significant prenatal and
33 post-birth intervention, testing, or treatment appropriate to the
34 medical condition of both the woman and the fetus or child,
35 including the risks and benefits associated with each option, but not
36 including experimental treatments not yet accepted by the medical
37 establishment.

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39 2. This act shall take effect immediately, and shall apply to any
40 birth which occurs on or after the effective date.

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STATEMENT

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45 This bill establishes civil immunity for damages arising out of a
46 child being born with a birth injury or congenital defect for
47 physicians who provide prenatal care to the mother, provided that
48 certain conditions are met.

1 For civil immunity to apply, the bill would require that the skill
2 and care provided in the course of prenatal treatment is that
3 ordinarily required and exercised by those in the medical
4 profession; the woman, of her own volition, did not receive prenatal
5 care from the physician during the final eight weeks of her
6 pregnancy; the physician advised the woman of the importance and
7 benefits of receiving regular, ongoing prenatal care through the end
8 of the pregnancy; and either: (1) the signs, symptoms, or other
9 indicia of the birth injury or congenital defect were not reasonably
10 detectable in the ordinary course of the prenatal care the woman
11 received from the physician up to the date of her last prenatal care
12 visit with the physician; or (2) the physician detected signs,
13 symptoms, or other indicia of the potential birth injury or congenital
14 defect and, based on the best available information, advised the
15 woman as to:

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- 17 • the likelihood that the fetus would be born with a birth
18 injury or congenital defect;
- 19 • the nature and consequences of the potential birth injury or
20 congenital defect; and
- 21 • options with regard to medically significant prenatal and
22 post-birth intervention, testing, or treatment appropriate to
23 the medical condition of both the woman and the fetus or
24 child, including the risks and benefits associated with each
25 option, but not including experimental treatments not yet
26 accepted by the medical establishment.

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28 This bill would take effect immediately and would apply to any
29 birth occurring on or after the effective date.