

SENATE, No. 3112

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED NOVEMBER 5, 2020

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Requires obstetrical providers to perform domestic violence screenings and all health care professionals to take certain actions to prevent perpetrator of domestic violence from obtaining copies of victim's medical record.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/16/2020)

1 **AN ACT** concerning domestic violence screenings and the
2 disclosure of a victim’s medical records to the perpetrator of the
3 domestic violence, and supplementing Title 52 of the Revised
4 Statutes.

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

8
9 1. As used in this act:

10 “Domestic violence” means the same as that term is defined by
11 section 3 of P.L.1991, c.261 (C.2C:25:19) and section 1 of
12 P.L.2003, c.41 (C.17:29B-16).

13 “Health care professional” means a person who is licensed or
14 otherwise authorized, pursuant to Title 45 of the Revised Statutes,
15 to provide health care services in the State, including, but not
16 limited to, a physician, nurse, or physician assistant.

17 “Obstetrical provider” means a licensed
18 obstetrician/gynecologist, a certified midwife, or a certified nurse
19 midwife.

20 “Victim of domestic violence” means the same as that term is
21 defined by section 3 of P.L.1991, c.261 (C.2C:25-19).

22
23 2. a. An obstetrical provider in the State shall:

24 (1) as part of each routine patient visit, conduct a screening to
25 determine whether the patient is or may be a victim of domestic
26 violence; and

27 (2) document, in the patient’s medical record, the findings from
28 each domestic violence screening and any specific evidence
29 supporting the findings.

30 b. A domestic violence screening conducted pursuant to this
31 section shall be performed in a private area, where only the
32 obstetrical provider and the patient are present.

33 c. If an obstetrical provider finds, based on a screening
34 performed pursuant to this section, that a patient is or may be a
35 victim of domestic violence, the obstetrical provider shall:

36 (1) advise the patient, during the same visit, of the resources and
37 services that are available in the State and region to assist and
38 protect victims of domestic violence; and

39 (2) provide the patient with referrals to other appropriate health
40 care providers, as deemed by the obstetrical provider to be
41 necessary to help the patient fully address the physical or mental
42 consequences of the domestic violence.

43 d. The Department of Children and Families, in consultation
44 with the Department of Health, shall develop, distribute to
45 obstetrical providers in the State, and update on at least a biennial
46 basis:

47 (1) a screening tool or sample screening questionnaire, which
48 reflects the most up-to-date standards for domestic violence

1 screening, and which shall be used by obstetrical providers in
2 conducting the domestic violence screenings required by this
3 section; and

4 (2) a list identifying all of the resources and services that are
5 available in the State, and in each region of the State, to assist and
6 protect victims of domestic violence.

7
8 3. An obstetrical provider who finds, pursuant to section 2 of
9 this act, that a patient is or may be a victim of domestic violence,
10 and any other health care professional who notes, in a patient's
11 medical record, any evidence or findings of domestic violence,
12 shall, during the same visit in which the domestic violence is
13 documented, require the patient to reapprove the list of persons who
14 are authorized to obtain a copy of the patient's medical record in
15 accordance with the provisions of the "Health Insurance Portability
16 and Accountability Act," Pub.L.104-191, and the federal health
17 privacy rule set forth at 45 CFR Parts 160 and 164. If the alleged
18 perpetrator of the domestic violence was previously authorized by
19 the patient to obtain a copy of the patient's medical record, the
20 obstetrical provider or other health care professional documenting
21 the domestic violence shall encourage the patient to remove the
22 alleged perpetrator from the list of persons who are authorized to
23 receive copies of the medical record going forward.

24
25 4. The Commissioner of Children and Families and the
26 Commissioner of Health, in consultation with each other, shall
27 adopt rules and regulations, pursuant to the "Administrative
28 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as may be
29 necessary to implement the provisions of this act.

30
31 5. This act shall take effect on the first day of the fourth month
32 next following the date of enactment, except that the Commissioner
33 of Children and Families and the Commissioner of Health, acting in
34 consultation with each other, shall take anticipatory administrative
35 action in advance of the effective date as may be necessary to
36 implement the provisions of this act.

37 38 39 STATEMENT

40
41 This bill would require obstetrical providers in the State,
42 including obstetrician/gynecologists, certified midwives, and
43 certified nurse midwives, to perform regular domestic violence
44 screenings as part of each routine patient visit and document the
45 findings from each screening in the patient's medical record. The
46 bill would additionally require any obstetrical providers or other
47 health care professionals who document evidence or findings of
48 domestic violence in a patient's medical record to encourage the

1 patient to take appropriate action to prevent the disclosure of the
2 patient's medical record to the perpetrator of the domestic violence.

3 A domestic violence screening performed under the bill is to be
4 conducted in a private area, in which only the obstetrical provider
5 and the patient are present. If the obstetrical provider determines,
6 based on the screening, that a patient is or may be a victim of
7 domestic violence, the obstetrical provider will be required to:

8 1) advise the patient, during the same visit, of the resources and
9 services that are available in the State and region to assist and
10 protect victims of domestic violence; and

11 2) provide the patient with referrals to other appropriate health
12 care providers, as deemed by the obstetrical provider to be
13 necessary to help the patient fully address the physical or mental
14 consequences of the domestic violence.

15 The Department of Children and Families, in consultation with
16 the Department of Health, will be required to develop, distribute to
17 obstetrical providers in the State, and update on at least a biennial
18 basis: 1) a screening tool or sample screening questionnaire, which
19 reflects the most up-to-date standards for domestic violence
20 screening, and which is to be used by obstetrical providers in
21 conducting the domestic violence screenings required by the bill;
22 and 2) a list identifying all of the resources and services that are
23 available in the State, and in each region of the State, to assist and
24 protect victims of domestic violence.

25 Whenever an obstetrical provider finds, pursuant to a domestic
26 violence screening, that a patient is or may be a victim of domestic
27 violence, and whenever any other health care professional
28 documents, in a patient's medical record, any evidence or findings
29 of domestic violence, the obstetrical provider or other health care
30 professional will be required, during the same visit in which the
31 domestic violence is documented, to have the patient reapprove the
32 list of persons who are authorized to obtain a copy of the patient's
33 medical record in accordance with the provisions of the "Health
34 Insurance Portability and Accountability Act" (HIPAA), Pub.L.104-
35 191, and the federal health privacy rule set forth at 45 CFR Parts
36 160 and 164. If the alleged perpetrator of the domestic violence
37 was previously authorized by the patient to obtain a copy of the
38 patient's medical record, the obstetrical provider or other health
39 care professional documenting the domestic violence will be
40 required to encourage the patient to remove the alleged perpetrator
41 from the list of persons who are authorized to receive copies of the
42 medical record going forward.