



NEW YORK STATE SENATOR

Kristen Gonzalez

State Senator Kristen Gonzalez and Assemblywoman Nily Rozic Secure Critical Provisions Protecting Abortion Access in New York

KRISTEN GONZALEZ May 16, 2023

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Queens, NY—Today, New York State Senator Kristen Gonzalez (SD-59) and Assemblywoman Nily Rozic (AD-25) joined advocacy groups to celebrate the inclusion of their proposal, HMH Part U, in this year's final budget. The provisions in HMH Part U protect abortion access and safeguard health care privacy by:

- **Prohibiting electronic communications companies from cooperating with out-of-state warrants related to reproductive health care in New York when cooperating would reveal the identity and activities of a customer.**
- **Prohibiting geofencing around health care facilities for the purpose of advertising, building a consumer profile, or inferring medical treatment of a person located at that facility.**
- **Prohibiting law enforcement from purchasing or obtaining electronic health information without a warrant.**

After Roe v. Wade was overturned, states around the country began implementing laws to criminalize people for their reproductive health care choices. New York has taken many important steps to protect reproductive freedoms, but there are still key vulnerabilities in protecting the privacy of those who seek abortion care in New York.

Senator Kristen Gonzalez said, "I am thrilled that the final budget included Assemblymember Rozic's and my proposal to protect abortion access and safeguard our health care privacy. Someone coming to New York to receive needed reproductive health care should never have to worry that their information will be used to criminalize them in their home state. This legislation provides critical privacy protections so that everyone can access the abortion care that they need without the fear that their information will be used against them."

Assemblywoman Nily Rozic said, "As a young woman, reproductive health care is my health care. And like tens of millions of Americans, I've used apps to help manage my reproductive

health. It's unconscionable that information could be sold to the highest bidder or weaponized against us. Everyone should have the ability to access the abortion care they need without additional fear or concern about the protection of their personal reproductive health data."

New York Attorney General Letitia James said, "With ever increasing efforts to strip away abortion protections and bodily autonomy, it is vital that New York state step up to protect these basic rights. As Attorney General, I have worked to safeguard abortion access, ensured companies provide accurate information and access to safe and legal medications to New Yorkers, and have fought back against efforts in other states to rollback Americans' rights. I applaud the privacy protections included in this year's budget, and commend Senator Gonzalez and Assemblymember Rozic for their leadership in this essential fight. The actions we take in New York will serve as a shield for millions of Americans, and will hopefully inspire other states to step up and fight back against efforts to ban abortion and violate individuals' privacy."

"When someone comes to New York seeking out reproductive care, there shouldn't be any doubt that their information will remain private," said **Congresswoman Velázquez**. "With the inclusion of this provision in the final budget, we will be safeguarding abortion access in our state and ensuring that every patient has privacy protections. I applaud State Senator Kristen Gonzalez and Assemblymember Nily Rozic for securing these important measures in the final state budget."

"While Republicans in state legislatures across the country are using every tool in their toolkits to restrict access to abortion care and strip away our reproductive rights, New York is protecting access instead. I'm proud that our final budget contained three bills that will collectively safeguard healthcare privacy for patients and providers and protect people who come to New York to seek abortion care from out-of-state criminalization. I'm grateful to my

colleagues in the legislature, Assemblymember Rozic and Senator Gonzalez for their leadership on these bills, and I look forward to continuing the fight for reproductive justice in New York,” said **Assemblymember González-Rojas**.

Council Member Jennifer Gutiérrez said, “The passage of this bill is a powerful statement that New York will not stand idly by as abortion access comes under attack, as well as a critical victory for privacy and constitutional rights. As technology develops and expands on a daily basis into new spheres of modern life, including our personal health information, it is quite literally vital to ensure we have leaders like Senator Gonzalez in office, to ensure that people seeking health services are not at risk of being targeted by law enforcement, impacting access to health care. This bill sets clear legal boundaries to protect against unjust interference with health care, and that our bodies are not open for surveillance or scrutiny.”

“Our reproductive health care decisions are for ourselves and our health care providers to know. Infringing on and sharing private patient data and information is a deep affront to our bodily autonomy and safety. We applaud the inclusion of this important measure in the state budget, and all efforts to protect patients' reproductive health data. Today, we are one step closer to ensuring that New York is the abortion haven our communities deserve,” said **Wendy Stark, President and CEO, Planned Parenthood of Greater New York**.

“This provision of the budget will help ensure that New York does not facilitate invasive digital surveillance of pregnant people by out-of-state law enforcement,” said **Surveillance Technology Oversight Project Legal Fellow Nina Loshkajian**. “More and more abortion seekers, facing medieval laws criminalizing reproductive health care in their home states, are coming to New York to receive the care they need, and New York must do all it can to protect their privacy.”

“No one should ever worry that their private health information will be used against them,” said **Allie Bohm, Policy Counsel at the New York Civil Liberties Union**. “In the FY2024 budget, New York took important first steps to safeguard electronic health information for those seeking reproductive health care, as well those using apps and other electronic tools to track their physical activity or health status. There’s more New York must do to protect health privacy and to truly make New York an abortion access state, including passing the Reproductive Freedom and Equity Program this session.”

Many New Yorkers are unaware of the sheer volume of information being collected regarding their health care choices. For example, phone apps track and store users’ personal health data, and without strong protections, that data is at risk. Third parties buy and sell consumer health data which poses a particular threat to individuals coming from out of state to exercise their right to an abortion. By prohibiting electronic communication companies and apps from complying with out-of-state warrants related to accessing legal reproductive health care in-state, New York has strengthened the privacy protections of those coming here for their reproductive health care needs.

In addition, this budget bill bans all law enforcement from obtaining electronic health data without a warrant. This provision in HMR Part U is a first-in-nation limitation on law enforcement’s ability to purchase data and helps align New York’s laws with the spirit of the 4th Amendment.

Geofencing, which is when a virtual boundary is established around a geographic location, is often seen as a harmless way to advertise to consumers. In the case of those seeking reproductive health care, geofencing can be a significant intrusion into privacy including by sending them pro-life messages. Apps using geofences can sell the information they have obtained to law enforcement or to third-party companies, which can then be legally purchased by anyone. Anti-abortion groups have already used geofencing on smartphone

users to identify abortion patients. Importantly, because this geofencing provision extends to all health care facilities in the state, all New Yorkers will receive increased medical privacy protections.

Prior to the passage of HMM Part U, these data sets could have been sought by law enforcement and used as evidence in trials against women who come to New York for an abortion. With the passage of HMM Part U, geofencing around health care facilities is largely prohibited, and data sharing with out-of-state law enforcement to criminalize or penalize abortions will be reduced.

Gonzalez and Rozic have been longtime champions of reproductive health care and reproductive freedom. In November 2022, Rozic hosted a roundtable on reproductive health data privacy as Chair of the Consumer Protection Committee in the State Assembly.

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