



New York State Catholic Conference

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Testimony
of the
New York State Catholic Conference
regarding the
FY 2019 NYS Executive Budget
Women's Agenda Article VII Legislation
S.7511/A.9511

Hearing Room B
Legislative Office Building
Albany, N.Y.

February 12, 2018

Senator Young, Assembly Member Weinstein, and distinguished members of the Senate Finance and Assembly Ways and Means Committees:

This legislation seeks to enact a multi-faceted new “women’s agenda” which contains Parts A through M. We comment here on Part B of this legislation which the Executive states will “codify *Roe v. Wade* into state law to ensure that women can make personal healthcare decisions.” The Executive further states that enactment of Part B “is necessary to implement the FY 2019 Executive Budget.”

We disagree with the Executive’s analysis and strongly oppose Part B of this legislation. We find it to be a dangerous and unnecessary expansion of late-term abortion, and a leap into legalized infanticide. It should not be part of a budget proposal and it should not become law. We strongly urge you to oppose it.

Part B of this legislation is not a simple update of New York’s laws or codification of a court ruling. It would strip all mention of abortion from our state’s statutes, resulting in the following consequences.

It would expand late-term abortion.

The primary objective of Part B of this legislation is to increase the availability of abortion in the third trimester of pregnancy. Current state law says abortions are legal in New York through 24 weeks of pregnancy, but outlawed after that unless they are necessary to save a woman’s life (Penal Law Section 125.00). This bill would repeal all Penal Law references to abortion. This would completely *decriminalize* abortion under our state law, resulting in a policy where abortion would not be illegal for any reason at any time during a pregnancy. To repeat, this bill will allow abortion for any reason, at any time, and by any means during a pregnancy, including into the ninth month right up until the moment of birth. This goes far beyond a “codification” of *Roe vs. Wade*.

It would empower non-doctors to perform abortions.

The current New York State criminal code (Penal Law Section 125.05[3]) is clear in requiring that only a “duly licensed physician” may perform abortions in New York. By repealing this section of law, this legislation would strip this protection from women, and hand policy-making authority to determine who may perform abortions to the State Education Department and State Department of Health. It is likely that practitioners with less training and less experience -- such as nurse practitioners, physician assistants, nurse mid-wives, as well as a broad range of other non-physicians -- will be empowered to do both chemical and surgical abortions. Indeed, by removing the Penal Law penalties for non-doctors performing abortions, this legislation essentially invites unqualified abortionists and disbarred doctors to come into New York to establish their “practice.” This is not good for women’s health.

It would eliminate protections for pregnant women against coerced abortion or intentional assaults on their unborn child.

Stripping abortion from New York's Penal Law would remove accountability for those who would harm unborn children through coerced or unwanted abortion. The crime of "abortion" is the only place in New York law that allows for an additional criminal charge for a violent attack against a pregnant woman which results in the loss of her unborn child. Incidents of domestic violence increase when a woman is pregnant and her male partner does not wish to be a father. Such cases occur with some frequency in New York State.

This legislation would remove this current Penal law protection for pregnant women in cases of involuntary abortion (Penal Law Sections 125.05, 125.40 and 125.45). This does a grave disservice to pregnant women, the very-much-wanted unborn children they may carry, and any possibility of justice for them when crimes are committed against them. While we believe that our law should provide for a separate charge of assault or homicide for the harm inflicted on the infant in such cases, at a *minimum* the law should remain as it is to allow an additional charge of illegal abortion.

It would legalize infanticide.

Shockingly, this legislation repeals Public Health Law Section 4164, part of which gives full legal protection to any child who might (mistakenly) be born alive as the result of an abortion. It also requires a second doctor to be available during a late-term abortion to help give medical care to any such child. It is difficult to imagine the motivation of the Executive in removing these protections, which have been upheld as constitutional.

In 2013 America saw the face of late-term abortion during the trial of former Philadelphia abortionist Kermit Gosnell, who was convicted of numerous crimes, including murdering one mother and three infants born alive during attempted abortion procedures. The grand jury report on Gosnell states that "he regularly and illegally delivered live, viable babies in the third trimester of pregnancy, and then murdered these newborns by severing their spinal cords with scissors."

In addition, there have been documented cases of babies born alive during attempted abortions who were left to die of neglect. The intersection of late-term abortions, the potential for live births, and the recent revelations of the transfer of fetal tissues or whole cadavers from clinics to researchers raise grave concerns.

Removing this protection from our statute will send a New York "welcome" signal to other late-term abortionists, who, like Kermit Gosnell, are often notorious for disregarding the health and safety of women and children. While states like Pennsylvania continue to have strong restrictions on late-term abortions and actually enforce these laws, the enactment of this legislation would encourage such practitioners to set up shop in New York, to the detriment of women and children.

Ironically, as this legislation seeks to remove protections in law for born-alive abortion survivors, Congress is moving in the opposite direction. On January 19, 2018 the US House of Representatives passed the “Born-Alive Abortion Survivors Protection Act” (HR 4712) to provide penalties for medical personnel who do not provide medical care to infants born alive following an abortion. We supported this measure, and we support the retention of Public Health Law Section 4164, because the right to abortion does not extend so far as to justify the denial of fundamental civil rights and legal protections to born, living human children. That is infanticide.

It will increase the state’s abortion rate.

As outlined above, we believe that Part B of this legislation would have dangerous consequences for women and infants. New York’s abortion numbers have been steadily decreasing, from 93,299 reported induced abortions in 2014 to 86,627 in 2015, according to the most recent report of the NYS Department of Health. We believe this misguided legislation would reverse this encouraging trend and only increase the tragedy of abortion in the Empire State.

Moreover, we do not believe that the issues of abortion and infanticide -- which have nothing to do with government finances -- belong within the construct of a state budget. While some of the “women’s agenda’ Article VII legislative proposals may have merit, they deserve to be voted on as individual policies/bills, as has been done in the past by the legislature on important women’s concerns such as human trafficking and pregnancy discrimination. We urge you to oppose S.7511/A.9511 unless Part B is completely stripped from the bill.

Thank you for your attention to these critical concerns.