



# NEW YORK STATE CATHOLIC CONFERENCE

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EXECUTIVE DIRECTOR

## MEMORANDUM OF OPPOSITION

**Re: Governor's Program Bill # 16 (S.5829)  
In relation to abortion in New York State law**

The above-referenced legislation, called the "Reproductive Health and Privacy Protection" act, has been submitted by Governor Eliot Spitzer. The New York State Catholic Conference strongly opposes this legislation and urges that it not be considered by the New York State Legislature.

- **The bill seeks to establish a "fundamental right of privacy"** within New York State law, encompassing the right to "choose or refuse contraception" and the right to "bear a child or to terminate a pregnancy," as if both "choices" were equally valid and worthy of support. As a "fundamental right," the state would have to take proactive steps to guarantee that abortion is available and protected.
- **The bill seeks to ensure that abortions are legal throughout all nine months of pregnancy** if they are deemed necessary to protect the life or "health" of the mother. Courts have interpreted the term "health" so broadly as to include social, economic and emotional distress factors, rendering the term meaningless.

Current state law says abortions are legal in New York through 24 weeks of pregnancy (Article 125 Penal Law), but outlawed after that unless they are necessary to save a woman's *life*. Because of flawed court decisions like *Roe v. Wade*, this law cannot be enforced, so abortion is already legal in New York through the third trimester of pregnancy for reasons of life or "health." The Governor's plan ignores the state's legitimate interest in protecting the life of fully formed children in the womb, and seeks statutory protection of third-trimester abortions.

- **The bill would allow post-viability abortions to be performed on an out-patient basis in clinics**, endangering both women and unborn children. Moreover, the bill would not allow for the type of support facilities necessary to assist a baby who might be born alive in the course of an abortion.
  - **The bill would remove New York's abortion-related laws from the criminal code** and place them in the public health law, leaving regulation of abortion solely up to the medical profession. The elimination of all references to the homicide laws is part and parcel of a national abortion advocacy campaign that seeks to deny that abortion is the killing of a human being.
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- **The bill seeks to make abortion virtually immune from any state regulation** or restriction. Reasonable regulations such as parental notification for abortions performed on minor children, informed consent for pregnant women regarding the risks and alternatives to the procedure, and restrictions on taxpayer funding would not be permissible under the Governor's plan.

Yet all such regulations are completely permissible under *Roe v Wade* and subsequent U.S. Supreme Court decisions, and a majority of states have enacted them. Thirty-five states require parental involvement in a child's abortion decision, 32 states require counseling before an abortion is performed, and 32 states restrict Medicaid funding of abortion.

- **The bill would repeal the requirement in current law that says only doctors can perform abortions.** The Governor's bill would allow *any* "health care practitioner" to perform the procedure prior to viability: a dentist, nurse, podiatrist, social worker, physician assistant, chiropractor, midwife, even an optometrist. Current law states that only a "duly licensed physician" may perform the procedure. This dangerous and extreme change clearly puts women's health at risk, and mirrors a national abortion strategy to expand the scope of various health care practitioners to specifically include abortion.
- **The bill seeks to eliminate conscience protection in current law** by requiring every institution licensed or funded by the state – including religious hospitals, agencies and schools – to support abortion, provide coverage for abortion, or to permit abortions. The Governor's bill declares that "the state shall not discriminate" against the exercise of the fundamental right to abortion in the "provision of benefits, facilities, services or information." It opens the door for state regulators, such as the State Health Department or State Insurance Department, to mandate support for abortion.
- **The bill seeks to suppress all efforts to enact an "Unborn Victims of Violence Act"** by refusing to recognize the unborn child as a second victim of the crime in cases of assault against pregnant women. The Governor's bill would specifically label such crimes as causing "serious physical injury to the woman," refusing even to acknowledge the unborn, viewing him only as an appendage of his mother's body. Moreover, the crime of "serious physical injury to the woman" would only apply if the child died as a result of the incident -- with no criminal penalty applied if an attacker caused serious but non-fatal injuries to the child.

The Governor's bill is uncompromising in its terms and extremely sweeping in scope. It goes against the increasingly pro-life sentiment in this country, as evidenced by the March 2007 CBS News/New York Times public opinion poll which found 64% of Americans -- and 70% of young Americans -- believing abortion should either be more strictly limited or not permitted at all.

We strongly urge you to oppose this radical bill.