

# 2016 LEGISLATIVE AGENDA NYS Catholic Conference



## UNBORN VICTIMS OF VIOLENCE ACT

### *Summary*

This legislation would prohibit the assault or homicide of an unborn child during the commission of a crime against the mother.

### *Conference Position*

The Catholic Conference supports this measure and seeks its enactment into law.

### *Rationale*

The 2003 California murders of Laci Peterson and her unborn son Conner put the media spotlight on crimes against pregnant women and their unborn children like never before. Domestic violence against pregnant women and the babies they love is an all-too-common occurrence. In April 2003, District attorneys in the State of California were able to bring two charges of murder against Scott Peterson, Laci's husband, because California has an "Unborn Victims of Violence" law.

Tragically, New York State does not. Under New York's outdated Penal Law, one has to be "born and alive" in order to be the victim of assault or homicide. Even viable unborn children don't qualify as "persons" under the law (see Section 125.05 Penal Law). The need for correction of the law can be plainly seen by continuous New York media accounts of brutal violence against pregnant women and their unborn children. For example:

In April 2014, Vanessa Milligan, age 19 and just days away from her due date with daughter Alina, was brutally strangled and set on fire in upstate Troy, New York. Prosecutors called it a "travesty" that the most the killer may be charged with in connection with the death of the unborn child is illegal abortion.

In March 2014, 33-year-old Mia Jones, seven months pregnant with her daughter Kennedy, was savagely attacked in Crown Heights by her ex-boyfriend, in his attempt to kill her child. As he mercilessly beat Mia, he repeatedly urged an abortion and told Mia she would not have his baby. No charges may be brought for the death of the child.

In the past 15 years, a medical and scientific revolution has taken place in obstetrics and fetology. Today, three- and four-dimensional ultrasounds, fetal heart monitoring, and other advances leave no doubt that the unborn child is the "second patient." The "born alive rule" was a product of available medical knowledge during the 16<sup>th</sup> and 17<sup>th</sup> centuries. It should be eliminated.

Thirty-seven states have now enacted an Unborn Victims of Violence law, and no fetal homicide statute has ever been successfully challenged in court.

On April 1, 2004, President George W. Bush signed into law a federal Unborn Victims of Violence Act, also called Laci and Conner's Law. The federal law only applies to federal crimes or crimes committed on federal property. As a consequence, the need continues for an Unborn Victims of Violence Act in New York State to cover non-federal crimes committed in New York State.

This legislation has nothing to do with abortion and, in fact, specifically excludes abortion from the list of acts to which it would apply. The bill applies solely to wrongful acts of outside parties who harm or kill an unborn child, often a child who is very much wanted by the mother. While *Roe v. Wade* currently protects a woman's right of "choice," it does not protect, much less confer on an assailant, a third-party right to destroy an unborn child.