



New York State Catholic Conference

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MEMORANDUM OF OPPOSITION

**Re: S.240 Krueger, Stewart-Cousins / A.21 Glick, Heastie
In relation to abortion expansion**

This legislation was recently introduced and is being fast-tracked for legislative votes. Despite how it is framed by proponents, this bill is not a simple update of New York's laws. It is an extreme expansion of current state abortion policy. The New York State Catholic Conference **opposes** this bill, and urges you to vote in the negative.

It's a late-term abortion expansion.

The primary objective of this legislation is to expand late-term abortion. 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. This bill would repeal the Penal Law references to abortion and insert a "health" exception into the newly-written Public Health Law. Such a "health" exception has been broadly interpreted by the courts (*Doe vs. Bolton* 410 US 179, 1973) to include age, economic, social and emotional factors. As a result, this bill will allow abortion for any of these reasons at any time during a pregnancy, including into the ninth month.

Thankfully, New York's induced abortion numbers have been steadily decreasing, from 118,381 reported in 2008 to 86,627 reported in 2015, according to the most recent vital statistics compiled by the NYS Department of Health. But New York still has the highest abortion rate of any state in the country, with *double* the national average, and almost 2,000 of these abortions are at 20 weeks gestation or greater.

We believe New York policy should move in the opposite direction of this legislation and aim to *decrease* the incidence of late-term abortion.

It empowers non-doctors to perform abortions.

Current New York State statutes and regulations are clear in requiring that only licensed physicians may perform abortions in New York. No federal law has ever given permission to non-doctors to perform abortions. This legislation is very specific in reversing these protections, by stating that any health care practitioner authorized under Title Eight of the Education Law may perform an abortion. Practitioners certified under Title Eight include nurse practitioners, physician assistants, midwives, as well as other non-physicians. This bill would allow the Education Department to authorize any of these non-doctors to do both chemical and surgical abortions.

We believe that empowering lesser-trained and less-experienced non-physicians to perform abortions is hazardous for women and infants.

It eliminates protections for pregnant women and their unborn children.

Moving abortion from the Penal Law to the Public Health Law is a major policy shift that removes accountability for those who would harm unborn children *outside the context of medical termination of pregnancy*. The crime of “abortion” is the only place in New York law that allows for additional criminal charges for violent attacks against pregnant women that are intended to -- and result in -- harm to the unborn children.

This legislation would remove current Penal Law protections for pregnant women in cases of coerced or unwanted abortion (Penal Law Sections 125.05, 125.40 and 125.45). Repealing these laws -- and proposing no penalties whatsoever for violation of the proposed new law -- does a grave disservice to pregnant women, the very-much-wanted children they carry, and any possibility of justice for them when crimes are committed against them.

Such attacks occur with some frequency in cases of domestic violence. Just last month a Gansevoort, New York, man was arrested after aggressively pushing his fists into the belly of a 26-week pregnant woman and attempting to cause her miscarriage. In addition to the misdemeanor of reckless endangerment, he was rightly charged with abortion in the second degree, a felony. That charge would be removed from our statutes under this bill.

It could compel participation in abortion.

Section 2 of this bill [proposed new Public Health Law Section 2599-aa (2)] would ordain abortion as a “fundamental right,” and declare that that state may not “discriminate, deny or interfere with” this right. The right to abortion could thus supersede even the right of conscience. We are concerned that doctors and other health providers may be compelled to perform abortions or risk losing their license to practice. Likewise, we are troubled that medical facilities, even religious ones, could be forced to allow abortions on site or risk fines, penalties, loss of funding/operational certificates or other punishment.

It jeopardizes live-born children.

Currently, NYS Public Health Law Section 4164 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. Shockingly, this legislation repeals these protections. The right to abortion should never extend so far as to justify the denial of fundamental civil rights and protections to born, living, breathing human children.

Conclusion

As outlined above, we believe this legislation would only increase the tragedy of abortion in our state. We strongly urge you to **oppose** this legislation when it comes before you for a vote.