



# NEW YORK STATE CATHOLIC CONFERENCE

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## MEMORANDUM OF OPPOSITION

**Re: S.5808, Stewart-Cousins  
The “Reproductive Health Act”  
In relation to abortion in New York State law**

The above-referenced legislation, introduced in the final days of the 2009 State Legislative Session as a Governor’s Program Bill (#41), would make radical changes to abortion law in New York State. An earlier version of this bill was developed and pushed forward by former Governor Eliot Spitzer as part of his platform in 2007.

The New York State Catholic Conference strongly opposes this legislation and urges that it not be considered.

**This legislation is being promoted as merely codifying *Roe vs. Wade* in New York law. It has been introduced two weeks prior to the end of the regular legislative session in an apparent attempt to bypass full and open debate. In fact, this bill does not simply “update” the law, but would usher in extreme and sweeping changes to abortion policy in New York State.**

- **The bill would establish a “fundamental right of privacy”** within New York State law, encompassing the right “to terminate a pregnancy.” This change does not simply “codify *Roe vs. Wade*” in New York law. It significantly diverges from the Supreme Court’s interpretation of *Roe* which rejected the view that a woman has a “fundamental” right to abortion. Instead, the Court said that states may regulate abortion, as long as those regulations do not place an “undue burden” on the right to an abortion. This bill says that abortion is fundamental and thus untouchable – no regulations on abortion, ever.
- **The bill would ensure that abortions, possibly even “partial-birth abortions,” are legal throughout all nine months of pregnancy** if they are deemed necessary to protect the life or “health” of the mother. The U.S. Supreme Court has 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*. This bill would repeal that law and permit all third-trimester abortions. This ignores the state’s legitimate interest in protecting the life of fully formed children in the womb, and ignores the will of a majority of New Yorkers who oppose late-term abortion. Moreover, even though federal law now prohibits one particular method of later-term abortion known as “partial-birth abortion,” that federal ban is limited in its reach, meaning this legislation could even permit partial-birth abortions in New York State.

- **The bill could undermine 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. While this bill contains limited conscience protection, that protection is ambiguous and inadequate and appears to be extended only to individual health providers who do not wish to “provide” abortions. The protection is not extended to hospitals or other institutions, nor to individuals who do not wish to be involved with abortion through counseling, referrals or insurance coverage. The legislation 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 from any agency or institution licensed or funded by the state.
- **The bill could be used to undermine the state’s maternity programs**, such as the Prenatal Care Assistance Program (PCAP). These beneficial programs, which are working well to reduce infant mortality, could be ruled “discriminatory” for favoring childbirth over abortion, if this bill were to become law.
- **The bill would repeal the requirement in current law that says only doctors can perform abortions.** While current law states that only a “duly licensed physician” may perform abortion, this bill would allow *any* “licensed health care practitioner” to perform the procedure prior to viability. This dangerous and extreme change clearly puts women's health at risk, and mirrors a national abortion strategy to permit non-doctors to perform abortions due to the declining number of physicians willing to do so.
- **Not only would the bill disallow any criminal penalties for abortion**, but it removes language from previous versions of the bill which allowed for medical misconduct charges against those who would perform unauthorized abortions. The current version allows for absolutely no actions against doctors or non-doctors (see above) who perform unauthorized abortions. This does not protect women’s health.

The “Reproductive Health Act” is uncompromising in its terms and extremely sweeping in scope. The bill goes against the increasingly pro-life sentiment in this country, as evidenced by the most recent Gallup poll (May 2009). The Gallup Organization found that for the first time in fifteen years, more Americans identify themselves as pro-life rather than pro-choice. The majority of Americans believe abortion should either be more strictly limited than current law or not permitted at all.

We strongly urge you to oppose this radical bill.