

NEW YORK'S LATE-TERM ABORTION EXPANSION: THE "REPRODUCTIVE HEALTH ACT" FACT SHEET

- Chapter 1 of New York's Laws of 2019, enacted on January 22, codified the "Reproductive Health Act." It took effect immediately. The language of the new law can be found in the 2019 [NY Senate bill 240](#).
- This law made abortion a "fundamental right" in our state. Legally, it is now virtually impossible to enact regulations or restrictions on abortion, as most other states have done. A large majority of states (37) require parental notification or consent prior to a [minor's abortion](#), and a large majority of states (35) restrict Medicaid taxpayer [funding of abortion](#). These types of laws are now effectively impossible in New York State.
- The law added a "health" exception to New York law, so that abortions are now legal in the final three months of a pregnancy to protect a patient's "life or health." Previously the law had allowed late-term abortions only to protect a patient's "life."

The US Supreme Court has defined "health" as including "all factors - physical, emotional, psychological, familial, and the woman's age - relevant to the well-being of the patient" ([410 U.S. 179 \(1973\) \[Doe vs. Bolton\]](#)). In practice, then, this means that any reason agreed to by a woman and her abortionist will satisfy the "health" exception.

- While some say that late-term abortions are rare, the most recent New York State Health Department [statistics](#) show that in 2016, 1,763 abortions were performed at 20 weeks of pregnancy or more.



- The new law also legalized abortion after 24 weeks of pregnancy if there is “an absence of fetal viability.” But the term “viability” is undefined in the law, leaving it up to the abortionist to decide if a baby is viable. Therefore, an unborn child with a developmental disability, even one that may be entirely treatable, can be deemed “not viable” and subject to an abortion.
- The new law removed protections (previous Section 4164 of NYS Public Health Law) that required immediate medical attention for any infant who might accidentally survive an abortion procedure, and that bestowed on these babies all the civil rights protections guaranteed to all born human beings. Now there is no certainty that a born-alive baby won’t be left to die untreated.
- The new law allows non-doctors to perform abortions; previously, a “duly licensed physician” was required. Now any “health care practitioner” who is “licensed, certified or authorized” and acting within their “scope of practice” may perform an abortion. State administrators (in the State Education Department, which regulates the professions) will decide who these practitioners can be and what types of abortions they may perform.
- The new law removed all criminal charges for unwanted abortions. As a result, there can no longer be a prosecution for a coerced abortion, or an intentional attack targeting an unborn child. In a domestic violence incident involving a pregnant woman, only the assault on the woman is a criminal act; there is no additional crime if the baby is harmed or killed. Research shows that domestic violence escalates during pregnancy. [21% of domestic violence incidents](#) against women in New York involve a pregnancy.

