

PROGRAM BILL # 16

S. _____
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

PUBHEALA
(Enacts the Reproductive Health and
Privacy Protection act)

Pub Heal. reproductive H & PP act

AN ACT

to amend the public health law, in
relation to enacting the Reproduc-
tive Health and Privacy Protection
Act and in relation to the revision
of existing provisions regarding
abortions; to amend the education
law, in relation to unauthorized
abortions; to amend the penal law,
the criminal procedure law, the
county law and the judiciary law, in
relation to abortion; to repeal
certain provisions of the education
law relating to the sale of contra-
ceptives; and to repeal certain

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal

s20 Adams	s22 Golden	s39 Larkin	s11 Padavan	s14 Smith
s55 Alesi	s33 Gonzalez	s01 LaValle	s21 Parker	s58 Stachowski
s42 Bonacic	s47 Griffo	s40 Leibell	s30 Perkins	s16 Stavisky
s46 Breslin	s06 Hannon	s52 Libous	s61 Rath	s35 Stewart-
s43 Bruno	s36 Hassell-	s45 Little	s56 Robach	Cousins
s25 Connor	Thompson	s15 Maltese	s13 Sabini	s60 Thompson
s50 DeFrancisco	s10 Huntley	s05 Marcellino	s41 Saland	s03 Trunzo
s32 Diaz	s07 Johnson, C.	s62 Maziarz	s19 Sampson	s49 Valesky
s17 Dilan	s04 Johnson, O.	s18 Montgomery	s23 Savino	s59 Volker
s29 Duane	s34 Klein	s38 Morahan	s31 Schneiderman	s53 Winner
s44 Farley	s26 Krueger	s54 Nozzolio	s28 Serrano	s48 Wright
s02 Planagan	s27 Kruger	s12 Onorato	s51 Seward	s57 Young
s08 Fuschillo	s24 Lanza	s37 Oppenheimer	s09 Skelos	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a010 Conte	a139 Hawley	a112 McDonald	a056 Robinson
a001 Alessi	a032 Cook	a148 Hayes	a019 McDonough	a067 Rosenthal
a021 Alfano	a107 Crouch	a083 Heastie	a104 McKenney	a012 Saladino
a084 Arroyo	a063 Cusick	a028 Hevesi	a017 McKevitt	a113 Sayward
a118 Aubertine	a045 Cymbrowitz	a048 Hikind	a102 Miller	a029 Scarborough
a035 Aubry	a138 DelMonte	a018 Hooper	a052 Millman	a016 Schimel
a136 Bacalles	a116 Destito	a144 Hoyt	a103 Molinaro	a140 Schimminger
a099 Bell	a086 Diaz, L.	a060 Hyer-Spencer	a132 Morelle	a145 Schroeder
a124 Barclay	a085 Diaz, R.	a042 Jacobs	a037 Nolan	a122 Scozzafava
a014 Barra	a081 Dinowitz	a095 Jaffee	a128 Oaks	a038 Seminero
a082 Benedetto	a114 Duprey	a057 Jeffries	a069 O'Donnell	a064 Silver
a079 Benjamin	a003 Eddington	a131 John	a137 O'Mara	a093 Spano
a073 Bing	a004 Englebright	a074 Kavanagh	a051 Ortiz	a121 Stirpe
a055 Boyland	a130 Errigo	a100 Kirwan	a150 Parment	a011 Sweeney
a008 Boyle	a072 Espallat	a129 Kolb	a088 Paulin	a110 Tedisco
a089 Bradley	a071 Farrell	a135 Koon	a141 Peoples	a002 Thiele
a044 Brennan	a005 Fields	a034 Lafayette	a039 Peralta	a061 Titone
a092 Brodsky	a123 Finch	a025 Lancman	a058 Perry	a031 Titus
a046 Brook-Krasny	a007 Fitzpatrick	a091 Latimer	a023 Pheffer	a062 Tobacco
a147 Burling	a143 Gabryszak	a013 Lavine	a068 Powell	a105 Tonko
a117 Butler	a090 Galef	a050 Lentol	a087 Pretlow	a054 Towns
a101 Cahill	a133 Gantt	a125 Lifton	a146 Quinn	a115 Townsend
a096 Calhoun	a036 Gianaris	a127 Lopez, P.	a097 Rabbitt	a015 Walker
a043 Camera	a149 Giglio	a053 Lopez, V.	a009 Raia	a041 Weinstein
a106 Canestrari	a066 Glick	a126 Lupardo	a006 Ramos	a020 Weisenberg
a026 Carrozza	a040 Gordon, D.	a111 Magee	a134 Reilich	a024 Weprin
a119 Christensen	a108 Gordon, T.	a120 Magnarelli	a109 Reilly	a070 Wright
a033 Clark	a075 Gottfried	a059 Maisel	a078 Rivera, J.	a022 Young
a142 Cole	a077 Greene	a030 Markey	a080 Rivera, N.	a065
a047 Colton	a098 Gunther	a027 Mayersohn	a076 Rivera, P.	a094

1) Single House Bill (introduced and printed separately in either or both
houses). Uni-Bill (introduced simultaneously in both houses and printed as one
bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed
copies of bill and 4 copies of memorandum in support (single house); or 4 signed
copies of bill and 8 copies of memorandum in support (uni-bill).

provisions of the penal law relating
to abortion

The People of the State of New
York, represented in Senate and
Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "Reproduc-
2 tive Health and Privacy Protection Act".

3 § 2. The public health law is amended by adding a new article 12 to
4 read as follows:

5 ARTICLE 12

6 REPRODUCTIVE HEALTH AND PRIVACY PROTECTION

7 Section 1200. Statement of policy.

8 1201. Authorized performance of abortions.

9 1202. State regulation.

10 1203. Definitions.

11 § 1200. Statement of policy. The legislature declares that every indi-
12 vidual has a fundamental right of privacy with respect to certain
13 personal reproductive decisions. Accordingly, it is the public policy
14 of the state of New York that:

15 1. Every individual has the fundamental right to choose or refuse
16 contraception;

17 2. Every female has the fundamental right to determine the course of
18 her pregnancy, which includes the right to bear a child or to terminate
19 a pregnancy (i) prior to fetal viability, or (ii) at any time if such
20 termination is necessary to protect the pregnant female's life or
21 health.

22 § 1201. Authorized performance of abortions. The performance of an
23 abortion by a qualified, licensed health care practitioner is author-
24 ized:

25 1. prior to fetal viability; and

26 2. at any time, if in the good faith medical judgment of the physi-
27 cian, such termination is necessary to protect the female's life or
28 health.

1 § 1202. State regulation. 1. The state shall not deny, regulate or
2 restrict the rights set forth in section twelve hundred of this article
3 by any law, ordinance, regulation or policy except by law, regulation or
4 policy that is narrowly tailored to serve a compelling state interest
5 and except as set forth in subdivision three of this section.

6 2. The state shall not discriminate against the exercise of the rights
7 set forth in section twelve hundred of this article in the regulation or
8 provision of benefits, facilities, services or information.

9 3. Nothing in this article shall prohibit the enforcement of generally
10 applicable statutes and regulations governing matters such as practi-
11 tioner licensing, pharmaceuticals and medical devices, and medical
12 procedures.

13 § 1203. Definitions. The following definitions shall apply for
14 purposes of this article:

15 1. "Abortion" means the termination of a pregnancy for purposes other
16 than producing a live birth, which includes but is not limited to a
17 termination using pharmacological agents. Abortion does not include the
18 termination of an ectopic pregnancy.

19 2. "Contraception" means any drug or device approved by the United
20 States food and drug administration for the purpose of preventing preg-
21 nancy.

22 3. "Pregnancy" means the human reproductive process, beginning with
23 the implantation of a fertilized egg.

24 4. "State" means the state of New York and every county, city, town,
25 municipal corporation, quasi-municipal corporation of the state, includ-
26 ing governmental and political subdivisions, agencies and instrumentali-
27 ties.

1 5. "Fetal viability" means the point in pregnancy when, in the good
2 faith medical judgment of a physician, in accordance with generally
3 accepted medical standards applied to the particular facts of the case
4 before that physician, there is a reasonable likelihood of the fetus's
5 sustained survival outside the uterus without the application of
6 extraordinary medical measures.

7 § 3. Subdivision 1 of section 4164 of the public health law, as added
8 by chapter 991 of the laws of 1974, is amended to read as follows:

9 1. [When an abortion is to be performed after the twelfth week of
10 pregnancy it shall be performed only in a hospital and only on an in-pa-
11 tient basis.] When an abortion is to be performed after [the twentieth
12 week of pregnancy,] fetal viability, as that term is defined by subdivi-
13 sion five of section twelve hundred three of this chapter, it shall be
14 performed by a physician in a facility which is licensed by the depart-
15 ment pursuant to article twenty-eight of this chapter and a physician
16 other than the physician performing the abortion shall be in attendance
17 to take control of and to provide immediate medical care for any live
18 birth that is the result of the abortion, provided, however, that an
19 abortion shall not be delayed for the purpose of securing such second
20 physician's attendance if, in the judgment of the physician performing
21 the abortion, such delay would pose a risk to the woman's life or
22 health. The commissioner of health is authorized to promulgate rules
23 and regulations to insure the health and safety of the mother and the
24 [viable child] live birth, in such instances.

25 § 4. Section 6530 of the education law is amended by adding a new
26 subdivision 16-a to read as follows:

27 16-a. Performing any abortion that is not authorized as set forth in
28 section twelve hundred one of the public health law;

1 § 5. Subdivision 8 of section 6811 of the education law is REPEALED.

2 § 6. Sections 125.40, 125.45, 125.50, 125.55 and 125.60 of the penal
3 law are REPEALED, and the article heading of article 125 of the penal
4 law is amended to read as follows:

5 HOMICIDE[, ABORTION] AND RELATED OFFENSES

6 § 7. Section 125.00 of the penal law is amended to read as follows:

7 § 125.00 Homicide defined.

8 Homicide means conduct which causes the death of a person [or an
9 unborn child with which a female has been pregnant for more than twen-
10 ty-four weeks] under circumstances constituting murder, manslaughter in
11 the first degree, manslaughter in the second degree, or criminally
12 negligent homicide[, abortion in the first degree or self-abortion in
13 the first degree].

14 § 8. Section 125.05 of the penal law, subdivision 3 as amended by
15 chapter 127 of the laws of 1970, is amended to read as follows:

16 § 125.05 Homicide[, abortion] and related offenses; [definitions of
17 terms] person defined.

18 [The following definitions are applicable to this article:

19 1. "Person,"] For the purposes of this article, the term "person,"
20 when referring to the victim of a homicide, means a human being who has
21 been born and is alive.

22 [2. "Abortional act" means an act committed upon or with respect to a
23 female, whether by another person or by the female herself, whether she
24 is pregnant or not, whether directly upon her body or by the administer-
25 ing, taking or prescription of drugs or in any other manner, with intent
26 to cause a miscarriage of such female.

27 3. "Justifiable abortional act." An abortional act is justifiable when
28 committed upon a female with her consent by a duly licensed physician

1 acting (a) under a reasonable belief that such is necessary to preserve
2 her life, or, (b) within twenty-four weeks from the commencement of her
3 pregnancy. A pregnant female's commission of an abortifacient act upon
4 herself is justifiable when she acts upon the advice of a duly licensed
5 physician (1) that such act is necessary to preserve her life, or, (2)
6 within twenty-four weeks from the commencement of her pregnancy. The
7 submission by a female to an abortifacient act is justifiable when she
8 believes that it is being committed by a duly licensed physician, acting
9 under a reasonable belief that such act is necessary to preserve her
10 life, or, within twenty-four weeks from the commencement of her pregnan-
11 cy.]

12 § 9. Section 125.15 of the penal law is amended to read as follows:

13 § 125.15 Manslaughter in the second degree.

14 A person is guilty of manslaughter in the second degree when:

15 1. He recklessly causes the death of another person; or

16 2. [He commits upon a female an abortifacient act which causes her death,
17 unless such abortifacient act is justifiable pursuant to subdivision three
18 of section 125.05; or

19 3.] He intentionally causes or aids another person to commit suicide.

20 Manslaughter in the second degree is a class C felony.

21 § 10. Section 125.20 of the penal law, subdivision 3 as amended and
22 subdivision 4 as added by chapter 477 of the laws of 1990, is amended to
23 read as follows:

24 § 125.20 Manslaughter in the first degree.

25 A person is guilty of manslaughter in the first degree when:

26 1. With intent to cause serious physical injury to another person, he
27 causes the death of such person or of a third person; or

1 2. With intent to cause the death of another person, he causes the
2 death of such person or of a third person under circumstances which do
3 not constitute murder because he acts under the influence of extreme
4 emotional disturbance, as defined in paragraph (a) of subdivision one of
5 section 125.25. The fact that homicide was committed under the influence
6 of extreme emotional disturbance constitutes a mitigating circumstance
7 reducing murder to manslaughter in the first degree and need not be
8 proved in any prosecution initiated under this subdivision; or

9 3. [He commits upon a female pregnant for more than twenty-four weeks
10 an abortifacient act which causes her death, unless such abortifacient act is
11 justifiable pursuant to subdivision three of section 125.05; or

12 4.] Being eighteen years old or more and with intent to cause physical
13 injury to a person less than eleven years old, the defendant recklessly
14 engages in conduct which creates a grave risk of serious physical injury
15 to such person and thereby causes the death of such person.

16 Manslaughter in the first degree is a class B felony.

17 § 11. Subdivision 10 of section 10.00 of the penal law, as amended by
18 chapter 791 of the laws of 1967, is amended to read as follows:

19 10. "Serious physical injury" means physical injury which creates a
20 substantial risk of death, or which causes death or serious and
21 protracted disfigurement, protracted impairment of health or protracted
22 loss or impairment of the function of any bodily organ, provided that
23 when a woman is pregnant, a termination of the pregnancy without consent
24 or authority shall constitute a serious physical injury to the woman.

25 § 12. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
26 procedure law, as amended by chapter 442 of the laws of 2006, is amended
27 to read as follows:

1 (b) Any of the following felonies: assault in the second degree as
2 defined in section 120.05 of the penal law, assault in the first degree
3 as defined in section 120.10 of the penal law, reckless endangerment in
4 the first degree as defined in section 120.25 of the penal law, promot-
5 ing a suicide attempt as defined in section 120.30 of the penal law,
6 criminally negligent homicide as defined in section 125.10 of the penal
7 law, manslaughter in the second degree as defined in section 125.15 of
8 the penal law, manslaughter in the first degree as defined in section
9 125.20 of the penal law, murder in the second degree as defined in
10 section 125.25 of the penal law, murder in the first degree as defined
11 in section 125.27 of the penal law, [abortion in the second degree as
12 defined in section 125.40 of the penal law, abortion in the first degree
13 as defined in section 125.45 of the penal law,] rape in the third degree
14 as defined in section 130.25 of the penal law, rape in the second degree
15 as defined in section 130.30 of the penal law, rape in the first degree
16 as defined in section 130.35 of the penal law, criminal sexual act in
17 the third degree as defined in section 130.40 of the penal law, criminal
18 sexual act in the second degree as defined in section 130.45 of the
19 penal law, criminal sexual act in the first degree as defined in section
20 130.50 of the penal law, sexual abuse in the first degree as defined in
21 section 130.65 of the penal law, unlawful imprisonment in the first
22 degree as defined in section 135.10 of the penal law, kidnapping in the
23 second degree as defined in section 135.20 of the penal law, kidnapping
24 in the first degree as defined in section 135.25 of the penal law,
25 custodial interference in the first degree as defined in section 135.50
26 of the penal law, coercion in the first degree as defined in section
27 135.65 of the penal law, criminal trespass in the first degree as
28 defined in section 140.17 of the penal law, burglary in the third degree

1 as defined in section 140.20 of the penal law, burglary in the second
2 degree as defined in section 140.25 of the penal law, burglary in the
3 first degree as defined in section 140.30 of the penal law, criminal
4 mischief in the third degree as defined in section 145.05 of the penal
5 law, criminal mischief in the second degree as defined in section 145.10
6 of the penal law, criminal mischief in the first degree as defined in
7 section 145.12 of the penal law, criminal tampering in the first degree
8 as defined in section 145.20 of the penal law, arson in the fourth
9 degree as defined in section 150.05 of the penal law, arson in the third
10 degree as defined in section 150.10 of the penal law, arson in the
11 second degree as defined in section 150.15 of the penal law, arson in
12 the first degree as defined in section 150.20 of the penal law, grand
13 larceny in the fourth degree as defined in section 155.30 of the penal
14 law, grand larceny in the third degree as defined in section 155.35 of
15 the penal law, grand larceny in the second degree as defined in section
16 155.40 of the penal law, grand larceny in the first degree as defined in
17 section 155.42 of the penal law, health care fraud in the fourth degree
18 as defined in section 177.10 of the penal law, health care fraud in the
19 third degree as defined in section 177.15 of the penal law, health care
20 fraud in the second degree as defined in section 177.20 of the penal
21 law, health care fraud in the first degree as defined in section 177.25
22 of the penal law, robbery in the third degree as defined in section
23 160.05 of the penal law, robbery in the second degree as defined in
24 section 160.10 of the penal law, robbery in the first degree as defined
25 in section 160.15 of the penal law, unlawful use of secret scientific
26 material as defined in section 165.07 of the penal law, criminal
27 possession of stolen property in the fourth degree as defined in section
28 165.45 of the penal law, criminal possession of stolen property in the

1 third degree as defined in section 165.50 of the penal law, criminal
2 possession of stolen property in the second degree as defined by section
3 165.52 of the penal law, criminal possession of stolen property in the
4 first degree as defined by section 165.54 of the penal law, trademark
5 counterfeiting in the first degree as defined in section 165.73 of the
6 penal law, forgery in the second degree as defined in section 170.10 of
7 the penal law, forgery in the first degree as defined in section 170.15
8 of the penal law, criminal possession of a forged instrument in the
9 second degree as defined in section 170.25 of the penal law, criminal
10 possession of a forged instrument in the first degree as defined in
11 section 170.30 of the penal law, criminal possession of forgery devices
12 as defined in section 170.40 of the penal law, falsifying business
13 records in the first degree as defined in section 175.10 of the penal
14 law, tampering with public records in the first degree as defined in
15 section 175.25 of the penal law, offering a false instrument for filing
16 in the first degree as defined in section 175.35 of the penal law, issu-
17 ing a false certificate as defined in section 175.40 of the penal law,
18 criminal diversion of prescription medications and prescriptions in the
19 second degree as defined in section 178.20 of the penal law, criminal
20 diversion of prescription medications and prescriptions in the first
21 degree as defined in section 178.25 of the penal law, escape in the
22 second degree as defined in section 205.10 of the penal law, escape in
23 the first degree as defined in section 205.15 of the penal law, abscond-
24 ing from temporary release in the first degree as defined in section
25 205.17 of the penal law, promoting prison contraband in the first degree
26 as defined in section 205.25 of the penal law, hindering prosecution in
27 the second degree as defined in section 205.60 of the penal law, hinder-
28 ing prosecution in the first degree as defined in section 205.65 of the

1 penal law, criminal possession of a weapon in the third degree as
2 defined in subdivisions two, three, four and five of section 265.02 of
3 the penal law, criminal possession of a weapon in the second degree as
4 defined in section 265.03 of the penal law, criminal possession of a
5 dangerous weapon in the first degree as defined in section 265.04 of the
6 penal law, manufacture, transport, disposition and defacement of weapons
7 and dangerous instruments and appliances defined as felonies in subdivi-
8 sions one, two, and three of section 265.10 of the penal law, sections
9 265.11, 265.12 and 265.13 of the penal law, or prohibited use of weapons
10 as defined in subdivision two of section 265.35 of the penal law, relat-
11 ing to firearms and other dangerous weapons;

12 § 13. Subdivision 1 of section 673 of the county law, as added by
13 chapter 545 of the laws of 1965, is amended to read as follows:

14 1. A coroner or medical examiner has jurisdiction and authority to
15 investigate the death of every person dying within his county, or whose
16 body is found within the county, which is or appears to be:

17 (a) A violent death, whether by criminal violence, suicide or casual-
18 ty;

19 (b) A death caused by unlawful act or criminal neglect;

20 (c) A death occurring in a suspicious, unusual or unexplained manner;

21 [(d) A death caused by suspected criminal abortion;]

22 (e) A death while unattended by a physician, so far as can be discov-
23 ered, or where no physician able to certify the cause of death as
24 provided in the public health law and in form as prescribed by the
25 commissioner of health can be found;

26 (f) A death of a person confined in a public institution other than a
27 hospital, infirmary or nursing home.

1 § 14. Section 4 of the judiciary law, as amended by chapter 264 of the
2 laws of 2003, is amended to read as follows:

3 § 4. Sittings of courts to be public. The sittings of every court
4 within this state shall be public, and every citizen may freely attend
5 the same, except that in all proceedings and trials in cases for
6 divorce, seduction, [abortion,] rape, assault with intent to commit
7 rape, criminal sexual act, bastardy or filiation, the court may, in its
8 discretion, exclude therefrom all persons who are not directly inter-
9 ested therein, excepting jurors, witnesses, and officers of the court.

10 § 15. This act shall take effect immediately.