

FY 2019 NEW YORK STATE EXECUTIVE BUDGET

**WOMEN'S AGENDA
ARTICLE VII LEGISLATION**

MEMORANDUM IN SUPPORT

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MEMORANDUM IN SUPPORT

A BUDGET BILL submitted by the Governor in
Accordance with Article VII of the Constitution

AN ACT to amend to amend the insurance law, the social services law, the education law and the public health law, in relation to requiring health insurance policies to include coverage of all FDA-approved contraceptive drugs, devices, and products, as well as voluntary sterilization procedures, contraceptive education and counseling, and related follow up services and prohibiting a health insurance policy from imposing any cost-sharing requirements or other restrictions or delays with respect to this coverage (Part A); 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 public health law relating to abortion; to repeal certain provisions of the education law relating to the sale of contraceptives; and to repeal certain provisions of the penal law relating to abortion (Part B); to amend the public health law, in relation to establishing a maternal mortality review board (Part C); to amend the education law, in relation to appointees to the state board for medicine (Part D); to amend the penal law and the criminal procedure law, in relation to the possession of weapons by domestic violence offenders; and to repeal section 530.14 of the criminal procedure law and section 842-a of the family court act relating thereto (Part E); to amend the penal law, in relation to establishing the new crimes of sexual extortion in the first, second and third degrees; to amend the family court act and the criminal procedure law, in relation to adding unlawful publication of sexual images and sexual extortion as crimes over which family courts and criminal courts have concurrent jurisdiction in certain circumstances; to amend the penal law, in relation to establishing the new crime of

unlawful publication of sexual images (Part F); to amend the public health law, in relation to extending the time of storage of forensic rape kits by hospitals; and repealing certain provisions of such law relating thereto (Part G); to amend the executive law, in relation to expanding the scope of unlawful discriminatory practices to include public educational institutions (Part H); to amend the state finance law, in relation to requiring contractors that do business with the state to annually report the number of sexual harassment violations (Subpart A); to amend the general business law, in relation to discrimination based upon sexual harassment (Subpart B); to amend the executive law and the public officers law, in relation to individual liability for sexual harassment (Subpart C); to amend the executive law and the general municipal law, in relation to the entering of confidential settlements (Subpart D); to amend the public officers law and the executive law, in relation to sexual harassment violations and establishing a unit to receive and investigate such claims (Subpart E); and to amend the executive law, the legislative law, the judiciary law, the general municipal law and the public authorities law, in relation to uniform standards for sexual harassment policies for all branches of state and local governments (Subpart F) (Part I); relating to the creation of computer science education standards (Part J); to amend the education law, in relation to the creation of the "Be Aware, Be Informed" awareness, prevention and education program (Part K); to amend the public health law, in relation to providing feminine hygiene products in public schools (Part L); and to amend the executive law, in relation to standards requiring assembly group A occupancies and mercantile group M occupancies to have diaper changing stations available for use by both male and female occupants (Part M)

PURPOSE:

This bill contains provisions needed to implement the Women’s Agenda portion of the FY 2019 Executive Budget.

This memorandum describes Parts A through M of the bill which are described wholly within the parts listed below.

Part A – Comprehensive Contraceptive Coverage Act.

Purpose:

This bill, the “Comprehensive Contraceptive Coverage Act,” would codify coverage of contraception, including emergency contraception, into New York State law.

Summary of Provisions and Statement in Support:

One of the greatest impediments to gender equality is the inability to make reproductive health decisions or decide when and if to become a parent. Contraception has been a critical tool for women to gain economic and social independence. The use, accessibility, and availability of contraception also reduces the rate of unintended pregnancy and abortion.

In 2017, Governor Cuomo fought to uphold the reproductive health protections of the Affordable Care Act, irrespective of federal action, by enacting regulations that, among other things, ensured access to cost-free contraception. This bill will codify access to contraception, including emergency contraception, into New York State law.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect January 1, 2019.

Part B – Codify *Roe v. Wade* into State Law to ensure that women can make personal healthcare decisions.

Purpose:

This bill would codify *Roe v. Wade* into State Law ensure that women can make personal healthcare decisions.

Summary of Provisions and Statement in Support:

There has never been a more critical time for protecting access to reproductive health services. New York has a proud history of being the progressive capital of the country and advancing the empowerment of women. This bill would remove the regulation of abortion from New York's penal code ensure the right of women to make personal health care decisions to protect their health in addition to their life and ensure that health care professionals can provide these crucial services without fear of criminal penalty.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect immediately.

Part C – Establish the Maternal Mortality Review Board to Save Lives.

Purpose:

This bill would establish the Maternal Mortality Review Board, which will review and assess the cause of death and factors leading to each death to reduce the risk of maternal mortality and morbidity in New York State.

Summary of Provisions and Statement in Support:

The Maternal Mortality Review Board builds upon the Governor's commitment to advance equality and promote opportunity in women and girls' health, safety, workplace, and family life. It would:

- Implement an enhanced multidisciplinary analysis to review each and every maternal death in New York State and work to develop recommendations to improve care and management.
- Develop recommendations to the Commissioner of Health on strategies to address Severe Maternal Morbidity (SMM) and racial disparities in maternal outcomes.
- Consist of fifteen multidisciplinary experts, all appointed by the Commissioner of Health.
- Be responsible for collecting and reviewing confidential information related to each maternal death and identify strategies for reducing the risk of maternal mortality. Such information would remain confidential. Based on its review, the

Board will make recommendations to the Commissioner on preventing Maternal Death.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget to achieve the Governor's commitment to women and girls' health and safety.

Effective Date:

This bill would take effect April 1, 2018.

Part D – Require the State Board of Medicine to include experts in women's health and reducing health disparities.

Purpose:

This bill would require the State Board of Medicine to include experts in women's health and experts in reducing health disparities.

Summary of Provisions and Statement in Support:

This bill would require that at least two of the physician appointees to the State Board of Medicine be experts in addressing women's health and reducing health disparities among demographic subgroups, respectively.

Despite encouraging trends, healthcare disparities by race and gender are still pervasive. Recent data indicates that women have poorer health outcomes than men. A 2016 study found that women are 50 percent more likely than men to be misdiagnosed following a heart attack. The issue is intensified by racial disparities – according to the CDC, for example, black mothers in the United States die at three to four times the rate of white mothers.

The State Board of Medicine is charged with licensing doctors in New York State. Requiring that at least two of the physician appointees be experts in Women's Health and reducing health disparities among demographic subgroups will promote positive health outcomes for all women in New York.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect immediately.

Part E – Remove Firearms from Domestic Abusers.

Purpose:

This bill would amend the penal law, the criminal procedure law, and the family court act in relation to the possession of both hand guns and long guns by domestic violence offenders.

Summary of Provisions and Statement in Support:

In nine of the 10 deadliest mass shootings in United States history, including Las Vegas and Sutherland Springs, the shooter had an existing record of committing violence against women, threatening violence against women, or harassing or disparaging women. In addition, when an abusive partner is permitted to access firearms, the risk that the other partner will be killed increases substantially. In 2016, firearms were used in 25 domestic homicides in New York.

Under current law, a judge is authorized to issue an order of protection in domestic violence cases after an individual is arrested. If the defendant has a firearms license, the order will result in the suspension of such license and the surrender of all firearms (hand guns and long guns). However, these orders are issued at the judge's discretion and may not occur in every domestic violence case. To ensure consistency, this bill would require that a judge order the defendant in all domestic violence cases to surrender all firearms and suspend any firearm licenses until the case is resolved.

This bill would also close a loophole created by a 2017 change in Federal policy. Whereas the issuance of an arrest warrant resulted in an individual being disqualified from purchasing a gun, the Federal government has now removed that provision except for situations where an individual with an arrest warrant is also traveling over state lines. This bill would ensure that any individual subject to certain arrest warrants would be prohibited from purchasing a firearm in New York State.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect on the thirtieth day after it has become a law.

Part F – End Sextortion and Revenge Porn.

Purpose:

This bill would criminalize the acts of sextortion and revenge porn.

Summary of Provisions and Statement in Support:

Advances in technology and social media have enabled new forms of sexual exploitation are not sufficiently addressed by existing state law. Sextortion is a type of exploitation that involves either coercion to extort sexual acts from a victim, or the use of sexual images or videos as a form of blackmail to force the victim to participate in sexual acts. Revenge porn is the non-consensual dissemination of sexually explicit images or videos intended to harm another.

This bill would prohibit the publication of sexual images with the intent to cause mental harm. It would also prohibit an individual from compelling or inducing another to engage in sexual acts by threats of physical, mental, emotional, or financial harm. Any individual convicted of such crimes would be required to register as a sex offender.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect immediately, provided however that sections two, three, and four of this act shall take effect on the first of November next succeeding the date on which it shall have become a law.

Part G – Extends the Storage Timeline for Forensic Rape Kits at Hospitals.

Purpose:

This bill would amend the public health law to extend the storage timeline for forensic rape kits at hospitals.

Summary of Provisions and Statement in Support:

The issue of collecting and storing sexual offense evidence, such as rape kits, continues to be a serious problem. In fact, New York has the nation's shortest sexual offense evidence storage mandate, requiring hospitals to store kits for a minimum of only 30 days before the evidence is discarded. This limits the ability of survivors to make decisions about their cases and access evidence for prosecution or other personal reasons.

This bill extends the length of time sexual offense evidence collection kits are preserved to at least five years, or when the victim turns 19, depending on which circumstance provides the longest length of time for the victim to collect the evidence. In addition, the legislation will mandate that a survivor be notified multiple times and no less than 30 days before evidence is destroyed. The bill will better reflect previous action taken to lift the statute of limitation on rape and the overwhelming evidence showing rape kits help

identify serial rapists and will protect the rights of sexual assault victims while maintaining their right to choose when to report the crime to law enforcement and ensures that their evidence be maintained with integrity until they choose to have the kit tested.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect immediately.

Part H – Extend Anti-discrimination Protections to Public Schools.

Purpose:

This bill would extend the Human Rights Law’s anti-discrimination provisions, which afford protection against discrimination, harassment, and bullying for members of protected groups, to public educational institutions.

Summary of Provisions and Statement in Support:

All New Yorkers must be able to attend school without fear of discrimination or harassment, and to the extent that students are harassed or bullied in school, remedies should be available to them under the New York State Human Rights Law.

For decades, the Division of Human Rights (DHR) accepted, investigated, and adjudicated discrimination complaints from attendees of both public and private secondary schools and universities. In 2012, a New York State Court of Appeals case, involving severe racial bullying of a young girl, held that the law did not cover public schools (including public universities) as the statutory language referencing “educational corporation” or “educational institution” did not indicate the scope of coverage. As a result, only students attending tax-exempt private, non-sectarian schools are currently covered by the Human Rights Law.

This bill would define educational institutions to include both public and private schools and ensure that all students are afforded protection against discrimination.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget as agency operations for DHR depend upon a clear definition of jurisdiction.

Effective Date:

This bill would take effect immediately.

Part I – Amending various laws to combat sexual harassment in the workplace.

Purpose:

This bill would amend various provisions of laws to combat sexual harassment in the workplace.

Summary of Provisions and Statement in Support:

This bill would enact a multi-facilitated proposal to target sexual harassment in the workplace, ensure accountability, and combat the culture of silence that victims face. These measures will ensure that all employees are provided with a safer work environment.

- Subpart A would require that any contractor that does business with the state to report on the number of sexual harassment violations and nondisclosure agreements executed by the contractor. The contractor must also report on its training practices related to sexual harassment prevention.
- Subpart B would prohibit an employer from requiring, as a condition of employment, an employee to sign a written contract restricting his or her ability to seek justice in any forum relating to unlawful discriminatory practices based on sexual harassment.
- Subpart C would prevent taxpayer funds from being used for settlements against individuals relating to sexual assault and harassment, and to ensure such individuals are held accountable for their conduct.
- Subpart D would prohibit public entities from entering into sexual harassment or assault settlements that include non-disclosure clauses, unless it is the express preference of the victim.
- Subpart E would establish a unit within the Joint Commission on Public Ethics to receive and investigate complaints of sexual harassment, and establish civil penalties for those found liable for such conduct.
- Subpart F would establish uniform standards for sexual harassment policies for all branches of state and local governments.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect immediately; provided, however, that the applicable effective date of Subparts A through F of this act shall be as specifically set forth in the last section of such Subparts.

Part J – Amends the unconsolidated laws to make changes necessary to implement new computer science education standards as part of the “Women’s Agenda for New York.”

Purpose:

This bill contains provisions necessary for implementation of new computer science standards as part of the “Women’s Agenda for New York”.

Summary of Provisions and Statement in Support:

New York has a long and proud legacy of leading the way to advance women’s rights. As part of the “Women’s Agenda for New York,” this bill would create new model computer science standards.

Under the provisions of this bill, the Governor would convene a working group to review, develop or adapt existing computer science frameworks and curriculum. The working group would deliver a report to the commissioner of education detailing their findings and model computer science standards to be implemented.

These standards would expand access to high-quality computer science education for all learners, but most importantly young women, helping to reduce the gender gap in one of the fastest growing job sectors.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill takes effect April 1, 2018.

Part K – Amends Education Law to make changes necessary to implement the “Be Aware, Be Informed” learning module.

Purpose:

This bill contains provisions necessary for implementation of "Be Aware, Be Informed" Learning Module as part of the “Women’s Agenda for New York”.

Summary of Provisions and Statement in Support:

New York has a long and proud legacy of leading the way to advance women's rights. This bill would implement new programs to benefit young women and promote equity in learning opportunities. Specifically, this bill would:

- Create the "Be Aware, Be Informed" Learning Module. The State Education Department, in consultation with the Department of Health, would create a K-12 curriculum on healthy relationships. Such curriculum would include the same definition of consent used in the successful Enough is Enough law to foment a common understanding for all students. Other topics would include age-appropriate information on confronting and avoiding sexual harassment and assault and teen dating violence, as well as medically accurate sexual health.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill takes effect April 1, 2018.

Part L – Amend the Public Health Law to require public schools serving students in grades 6 through 12 to provide free feminine hygiene products in restrooms.

Purpose:

This bill would require all public schools serving students in grades 6 through 12 to provide feminine hygiene products, free of charge, in restrooms.

Summary of Provisions and Statement in Support:

This proposal would require feminine hygiene products be made available, free of charge, in bathrooms of schools who educate students in grades 6 through 12.

Research has shown that many young women in New York lack access to feminine hygiene products, which are as necessary as toilet paper and soap, but hardly ever as available or free. This lack of access can compromise a student's health, productivity, and dignity. Decreasing stigma and increasing access to these products will help female students to succeed in school and have proven to increase attendance rates.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect July 1, 2018.

Part M – Ensures Equal Access to Diaper Changing Stations in Public Restrooms.

Purpose:

This bill would ensure that all new or substantially renovated buildings with publicly accessible restrooms provide safe and compliant changing tables.

Summary of Provisions and Statement in Support:

Not all publicly accessible restrooms are required to have changing tables, and when they are available, they are disproportionately located in women’s restrooms. As a result, parents and caregivers of young children often struggle to find a safe, sanitary place to change their child’s diaper.

This bill would require all new or substantially renovated buildings with publicly accessible restrooms to provide safe and compliant changing tables. This requirement would apply to businesses, including restaurants, stores and movie theaters, as well as state-operated facilities. At least one changing table must be accessible to both genders per publicly-accessible floor. Building owners or managers would also be required to post clear signs directing the public to the location of the nearest available changing table.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019 Executive Budget.

Effective Date:

This bill would take effect on January 1, 2019.

The provisions of this act shall take effect immediately, provided, however, that the applicable effective date of each part of this act shall be as specifically set forth in the last section of such part.