



Written by [Raven Clabough](#) on January 14, 2021

Class Action Lawsuit Filed Against NY Governor, Other State Officials Over Reproductive Health Act

A class action [lawsuit](#) has been filed against New York's Democratic Governor Andrew Cuomo and other state officials over the state's controversial Reproductive Health Act (RHA), passed in January 2019, citing the laws "devastating" impact on domestic violence and other constitutional concerns.

Plaintiffs in the lawsuit include victims of domestic abuse, who are being represented by the Women's Alliance Against Violence, an initiative of the Thomas More Society that challenges laws that are harmful to women and children. According to the lawsuit, the RHA virtually incentivizes domestic violence as there is no criminal penalties for the death of an unborn child who dies when the mother is abused or threatened.



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The RHA changed the definition of a "person" under New York criminal law to exclude all unborn children, including those who are capable of surviving outside of the womb without medical intervention. The change means an unborn child can no longer be considered a victim of homicide.

"This new definition is devastating because a criminal assailant can no longer be separately charged for the death of an unborn child, the RHA escalates the threat of harm to women and unborn children and incentivizes deadly violence against women," said Christen E. Civiletto, one of the attorneys on the lawsuit, in a statement to the Daily Wire.

"New York has stripped women and their families of their ability to pursue justice for those deaths," he added. "That's outrageous. In fact, it is contrary to the stated policy of the RHA itself: to affirm the 'fundamental right [of women] to choose to carry the pregnancy to term, to give birth to a child.'"

The complaint asks the court to acknowledge the First Amendment rights for women whose unborn children are killed by criminal acts.

According to recent [data](#) published by New York State's Division of Criminal Justice Services, domestic violence against women in New York has increased. The Thomas More Society also notes there have been multiple lethal attacks against pregnant women in New York since the passage of the RHA, one of which had been captured on [surveillance video](#).

"Violence against women and girls, including pregnancy violence, is a human rights violation of epic proportions. We should be enacting, rather than repealing or amending, laws created to deter violence and save human lives. How can we speak of progressivism and feminist ideals yet turn a blind eye to laws that escalate violence against women in the name of 'choice'?" challenges attorney Michele



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Sterlace, executive director of Feminists Choosing Life of New York. Sterlace, who holds a law degree from the Straus Institute at Pepperdine University School of Law, also serves as counsel to the Women's Alliance Against Violence.

Sadly, critics of the RHA predicted the law's devastating effect on domestic violence victims.

"By completely gutting abortion from New York's criminal law, the RHA removes the state's only prosecutorial tool for holding violent abusers accountable for the death of wanted unborn children," Sterlace [warned](#) in an opinion piece published in the *Albany Times Union* just before the law was passed. "Studies show that domestic violence escalates during pregnancy. New York's version of a fetal homicide law lies within the abortion provisions of its penal law, which the RHA repeals."

In addition to the harm the law would have on victims of domestic violence, the RHA has long been criticized for expanding abortion rights to include abortions up to birth, decriminalizing abortion in the penal code, and repealing protections for children born alive following failed late-term abortions.

"The RHA represents a willful and tragic exaggeration of abortion rights," said attorney Teresa S. Collett, who also serves as counsel for the plaintiffs. "The new law converted a woman's liberty interest in terminating her pre-viable pregnancy into a novel right to kill near-term unborn children and inexplicably extended this right to criminal assailants."

Civiletto adds, "The RHA unconstitutionally authorizes the killing of near-term children in utero based on a 'right' that finds no warrant in *Roe v. Wade*."

The complaint cites these constitutional problems with New York's law, including enabling abortions beyond 24 weeks to protect a woman's life or "health," which remains undefined and has been loosely interpreted to include physical, emotional, and psychological health, Life Site News reports. The law also allows virtually any healthcare practitioner to perform abortions. According to the Women's Alliance Against Violence, this creates a dangerous situation for women seeking abortions, as many women have suffered from injury or death during abortions performed by unqualified clinic staff.

"These vague terms in New York's Reproductive Health Act leave women and their babies unprotected in dangerous ways," explains Collett. "The law now allows almost 'any healthcare practitioner' to perform abortions, including surgical third trimester abortions. Who is a 'healthcare practitioner?'" continues Collett. "The language of the RHA provides little guidance beyond a reference to 'scope of practice,' which simply does not answer the question."



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