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CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON WOMEN

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September 20, 2018

Start: 10:05 a.m.

Recess: 12:07 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E: HELEN K. ROSENTHAL
Chairperson

COUNCIL MEMBERS:

DIANA AYALA

LAURIE A. CUMBO

BEN KALLOS

BRAD S. LANDER

A P P E A R A N C E S (CONTINUED)

1 Elizabeth Krueger Senator of New York State

2 Jacqueline Ebanks
3 Executive Director of the Commission on Gender
4 Equity

5 Letitia James
6 Public Advocate for the city of New York

7 Marisa Nadas
8 Attending Physician and Director of Women's
9 Options in the Department of Obstetrics and
Gynecology at Jacobi Medical Center

10 Rebecca Donn
11 Women's Health Nurse Practitioner and the
12 Director of Quality Management at Planned
Parenthood of New York City

13 Ashley Gray
14 State Advocacy Advisor at the Center for
Reproductive Rights

15 Heidi Sieck
16 CEO and Co-Founder of Vote Pro Choice

17 Garin Marschell
18 Testified to his and his Wife's Story of
19 Complicated Pregnancy

20 Laura Riker
21 Senior Program Manager at the Reproductive Health
22 Access Project

23 Emily Kadar
24 Representing the National Institute for
25 Reproductive Health

Tashiana Diaz
New York City Associate Program Director for Peer
Health Exchange

Emily Gertz
Deputy Director at National Advocates for
Pregnant Women

A P P E A R A N C E S (CONTINUED)

1
2
3 Cynthia Soohoo

4 Co-Director of the Human Rights and Gender
Justice Clinic at CUNY Law School

5 Farah Diaz-Tello

6 Senior Counsel Attorney for the SIA Legal Team

7 Justine Kahn

8 Special Assistant to the Executive Director at
The Door Adolescent Health Center

9 Jessie Losch

10 Co-Chair of the Women's Health and Reproductive
Rights Advocacy group of Get Organized Brooklyn,
WHARR

11 Andrea Salwen-Kopel

12 Executive Director of National Council of Jewish
women New York

13 Melissa Upreti

14 Special Mandate Holder, Member of the United
Nations Working Group on Discrimination Against
Women

15 Odile Schalit

16 Director of Brigid Alliance

17 Mirah Curzer

18 Co-Chair of the Sex and Law Committee at the New
York City Bar Association

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[gavel]

CHAIRPERSON ROSENTHAL: Good morning everyone. Good morning. I'm Council Member Helen Rosenthal, Chair of the Committee on Women calling this hearing to order. Today we will discuss abortion and reproductive rights in New York State as well as hear Resolution Number 84 sponsored by the public advocate, the current public advocate Letitia James. The Resolution urges the New York State Legislature to pass and the Governor to sign the reproductive health act which I'm going to refer to as HRA but before we delve into the details of the HRA let's review some New York State history as it relates to abortion. An individual's right to choose an abortion is an essential component of their personal health, economic mobility, educational opportunities and career aspirations. When New York State passed its abortion law in 1970, it was taking the lead on advancing women's rights and health. This had an immediate effect. According to a study by the city's own Department of Health, abortion was the leading cause of maternal mortality before legalization. Following legalization of abortion, maternal mortality rates declined by 30 percent. In 1973 with

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2 the decision of Roe v. Wade and in subsequent Supreme
3 Court decisions further advances were made as such
4 New York State's law went from groundbreaking to
5 dated. For instance, under current New York State law
6 abortion is located in the criminal code rather than
7 the public health law. Self-induced abortion is
8 criminalized. Abortion is illegal after 24 weeks of
9 pregnancy unless the life of the pregnant person is
10 at risk meaning that the health of the pregnant
11 person is not an exception. Also, it is ambiguous
12 currently whether non-medical doctor health
13 professionals such as nurse practitioners or midwives
14 are permitted to perform an abortion. Now the
15 reproductive health act addresses each and every one
16 of those concerns, abortion will be regulated in the
17 public health code rather than in criminal law. Self-
18 induced abortion will no longer be criminalized, the
19 health of a pregnant person will be an exception to
20 late term abortion restrictions and it will be made
21 clear that nurse practitioners, physician assistants
22 and licensed midwives can perform abortions. I know
23 that many of the advocates that are set to testify
24 today, and welcome are only able to do so because the
25 state... the senate... the U.S. Senate judiciary

1
2 Committee has delayed it's vote on the nomination of
3 Brett Kavanaugh to the Supreme Court. If the senate
4 were to confirm Judge Kavanaugh to the Supreme Court,
5 there is a very real concern that Roe V. Wade would
6 be overturned. Were this to be the case we would find
7 the progress made to the right of a pregnant person
8 to access safe and legal abortion undone and all New
9 Yorkers would be especially vulnerable to the
10 negative consequences. I guess fortunately that both
11 has been delayed and I trust that U.S. Senators will
12 listen and believe in people who are testifying under
13 oath but that aside, also at present public programs
14 including Medicaid and Title X National Family... the
15 National Family Planning Program are crucial to
16 providing women with access to affordable
17 contraceptive services and information. These too are
18 under attack from a Trump administration that is dead
19 set on undermining reproductive freedom. In sum, the
20 progress of the past several decades is under serious
21 and considerable threat and it is crucial that New
22 York State take the lead again on protecting the
23 right to choose. The reproductive health act would
24 address the flaws in the state's existing abortion
25 laws and it will signal that our state will protect

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2 every New Yorker's right to access abortion amidst
3 the considerable threats coming from the federal
4 level. I look forward to having the public advocate
5 speak on her resolution in favor of the reproductive
6 health act as well as hearing testimony from State
7 Senator Kreuger who is the leading sponsor of the act
8 in the New York State Senate. I would like to thank
9 the staff of the Committee on Women including Council
10 Brenda McKinney, Policy Analyst Chloe Rivera, Legal
11 Fellow Raabia Qasim and Finance Analyst Dan Kroop for
12 all their help in preparing for this hearing as well
13 as my Legislative Director Sean Fitzpatrick and my
14 incoming Legislative Director Ned Terrace. I would
15 ask that this body be patient with our public
16 advocate Letitia James, she will be here just as
17 quickly as possible and when she is I will ask
18 everyone's patience by interrupting their testimony
19 in order to give her a chance to talk about the
20 resolution but for right now I'd like to call up to
21 the panel State Senator Liz Krueger from the East
22 Side and Jacqueline Ebanks who is our Executive
23 Director of the Commission on Gender Equity. I say
24 our, but I should say the Mayor's Commission on
25 Gender Equity but on which I proudly serve and I'm

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2 going to turn it over to my Legislative Direct...
3 Counsel to issue the oath.

4 COMMITTEE CLERK: If you can please raise
5 your right hands. Do you affirm to tell the truth,
6 the whole truth and nothing but the truth in your
7 testimony before this committee and to respond
8 honestly to Council Member questions?

9 CHAIRPERSON ROSENTHAL: So, I'm going to
10 beg the indulgence of the public and this committee
11 and ask... and the administration to ask that State
12 Senator Krueger testify first given her very busy day
13 today, so thank you and welcome.

14 ELIZABETH KRUEGER: I did not submit
15 testimony because I figure the bill you are
16 discussing today, and everyone will be testifying is
17 my testimony. I'll just say briefly why it is so
18 critical and you... you know you read in your opening
19 remarks pretty much all the reasons but on a personal
20 level, so there's not that many grey haired people in
21 this room so, in 1976 as a college student in the
22 Midwest I trained with planned parenthood to do birth
23 control counseling and they would give you like a, a
24 suitcase, like a fuller brush man with all kinds of
25 birth control in it and you would go out and you

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2 would talk to people about access to birth control
3 and their options of reproductive health and because
4 it was only three years after Roe V. Wade and the
5 Midwest always things trickle down a little more
6 slowly, the concept of actual access to abortion as a
7 legal right was still not totally there and so I
8 would talk to women who had gone through illegal
9 abortion even after 1973 because they didn't know
10 they had a right to legal and I would hear the horror
11 stories from women who had to go to people who might
12 not be trained professionals, perhaps in a unsanitary
13 situation, perhaps ending up in the emergency room
14 because of botched procedures and I talk to young
15 people today about the importance of establishing the
16 state law because we may be losing all those rights
17 at the federal level and I just want to emphasize, a
18 lot of the younger people don't actually understand
19 what it would be to live in a country that didn't
20 give them access and the right to decide to end their
21 pregnancy for whatever reasons in a healthy, safe
22 place with medical providers. So, while I've carried
23 the bill that you are going... your resolution supports
24 really since Eliot Spitzer was the Governor, so
25 that's going back a few years and the Assembly has

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2 passed it multiple times and the Senate has yet to
3 pass it, when people say why now, I don't feel like I
4 have to explain that anymore, thank you Donald Trump
5 because we're at literally the door of losing our
6 right to reproductive health and safe abortion
7 opportunities and access and even access to birth
8 control in 2018 in New York State. So, I'm just
9 simply committing to everybody who's testifying here
10 today, help me get this across the finish line. If we
11 have a democratic senate in January, I know this
12 isn't a partisan council hearing but actually the
13 republicans in New York City are prochoice too, thank
14 you very much, so we need a democratic senate and we
15 will pass this bill and I am perfectly confident the
16 Governor will sign it and we will finally for the
17 first time actually have the protections we need in
18 New York State because I think that some people will
19 testify today that even though we've had a certain
20 law on the books and we've had Roe V. Wade, we
21 haven't had the right law on the books and
22 particularly for women who have to make decisions,
23 incredibly difficult decisions in the later term of
24 their pregnancy to need an abortion for health and
25 safety reasons, life reasons, the fact that their

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2 doctors have explained they're putting their lives at
3 risk, there is no viability to continue the
4 pregnancy, they have to leave New York State and find
5 health care in three other states far, far away at
6 enormous cost to themselves. So, this is critical
7 even if we weren't literally at the door of ending
8 access nationally, but we are and so we're actually
9 at the emergency responder moment, so I see the city
10 council and city elected officials working with the
11 state to pass a law that's literally a first
12 responder emergency action. So, thank you Helen and
13 your committee for, I know you will move this
14 Resolution after this hearing today and thank you for
15 letting me testify.

16 CHAIRPERSON ROSENTHAL: Absolutely, I
17 actually do have one political but not political
18 question... [cross-talk]

19 ELIZABETH KRUEGER: Yes... [cross-talk]

20 CHAIRPERSON ROSENTHAL: ...a, a question of
21 fact...

22 ELIZABETH KRUEGER: Yes...

23 CHAIRPERSON ROSENTHAL: ...for you and then
24 we're going to hear from the public advocate. Now
25 could you explain to me today or this past year why

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2 you couldn't get the bill passed, you mentioned that
3 you have some republican senators who would vote for
4 it, what... why then hasn't been... it been able to pass,
5 is that not a descriptive question?

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ELIZABETH KRUEGER: That's fine.

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CHAIRPERSON ROSENTHAL: In the past few
years?

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ELIZABETH KRUEGER: So, life in Albany is
different than here in New York City and the City
Council, the only way a bill comes to the floor of
the senate for a vote is if the majority leader
decides it can come for a vote. So, if you have... you
need 32 votes to pass a bill, there are bills that
have 38 sponsors, my bill is not one of them, but you
have bills with 38 sponsors that you cannot get to
the floor for a vote because if Majority Leader John
Flanagan decides it's not coming for a vote, it's not
coming for a vote and there is nothing in the rules
of the senate that actually can work to allow you to
move a bill over the objection of the Majority
Leader. If the democrats are in the majority come
January, John Flanagan will not be reelected Majority
Leader, I'm pretty sure that Andrea Stewart-Cousins
will be elected Majority Leader with a democratic

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senate and she has been the number two co-sponsor of this bill the entire time she has been in the senate so I am very sure and I have asked her and anyone else could, will she bring this floor... this bill to the floor for a vote, yes she will. If we're in the majority, we will have 32 votes and I've been checking very carefully and there's not one anti-choice democrat in the senate or running for the senate.

CHAIRPERSON ROSENTHAL: May I ask a follow up question, the mood in the city has been very uplifted by an anti-IDC vote so many if not all of the anti-IDC, six of seven I think were... or five of six were... [cross-talk]

ELIZABETH KRUEGER: Six of eight were... [cross-talk]

CHAIRPERSON ROSENTHAL: Thank you, six of... [cross-talk]

ELIZABETH KRUEGER: Sure... [cross-talk]

CHAIRPERSON ROSENTHAL: ...eight were elected, does that make a difference in terms of the senate electing a democrat as its Majority Leader?

ELIZABETH KRUEGER: Excellent question and complicated but yes, I believe it does because

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2 over the last eight years at least half of the time
3 there was a democratic numerical majority and we
4 should and could have been the majority except for
5 the fact that the IDC members in exchange for
6 leadership titles and perks gave their allegiance to
7 John Flanagan to make sure that we didn't have the
8 votes to take back the majority or pass endless bills
9 that were important to us and that we won't have that
10 story line.

11 CHAIRPERSON ROSENTHAL: With apologies...
12 [cross-talk]

13 ELIZABETH KRUEGER: Yes... [cross-talk]

14 CHAIRPERSON ROSENTHAL: ...for interrupting
15 I'd like to really ask again... [cross-talk]

16 ELIZABETH KRUEGER: Okay... [cross-talk]

17 CHAIRPERSON ROSENTHAL: It's my
18 understanding that there's still a senator who would
19 even though he's elected as a democrat coccus with
20 the republicans...

21 ELIZABETH KRUEGER: Simcha Felder...
22 [cross-talk]

23 CHAIRPERSON ROSENTHAL: And so... [cross-
24 talk]

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COMMITTEE ON WOMEN

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ELIZABETH KRUEGER: He was never an IDC

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member.

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CHAIRPERSON ROSENTHAL: If Simcha Felder

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gets elected and continues to coccus with the

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republicans and there are no other changes in the

7

state senate would you be able to elect a democratic

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senate leader? My understanding is no, which implies

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that there's more work to be done before this can

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happen, am I misunderstanding something... [cross-talk]

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ELIZABETH KRUEGER: No, no, I, I can't... I

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said multiple times if we are in the majority in

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January, that requires we win more democratic seats

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in November so I wasn't counting Simcha Felder as one

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of the democrats because while he runs on the

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democratic line as well as the republican line the

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day he got to Albany he went into the republican

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conference room so I don't even think it's fair to

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label him a democratic on behalf of democrats so,

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yes, we need more democrats, you need 32 democrats.

21

My optimistic self thinks we will have at least 34 or

22

35 democrats after the November election.

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CHAIRPERSON ROSENTHAL: So, should people

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contact you offline in order... [cross-talk]

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ELIZABETH KRUEGER: Not in my government office but yes, people can reach me in a lot of ways and I'd be happy to coordinate them and direct them to non-elect... non-governmental work that they...

[cross-talk]

CHAIRPERSON ROSENTHAL: Okay... [cross-talk]

ELIZABETH KRUEGER: ...might be interested...

[cross-talk]

CHAIRPERSON ROSENTHAL: I just want...

[cross-talk]

ELIZABETH KRUEGER: ...in... [cross-talk]

CHAIRPERSON ROSENTHAL: ...to focus on that at that hearing in this moment because it's not that people can rest on their laurels, there is still work to be done, is that correct?

ELIZABETH KRUEGER: Yes, ma'am.

CHAIRPERSON ROSENTHAL: Thank you, I appreciate it, appreciate your time. We have the Public Advocate here, we're going to hear from her, thank you so much for stopping by today State Senator.

ELIZABETH KRUEGER: Thank you very much Council Member.

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2 CHAIRPERSON ROSENTHAL: Alright, Public
3 Advocate Tish James who is the lead sponsor on this
4 resolution, welcome and congratulations on a recent
5 victory.

6 PUBLIC ADVOCATE JAMES: Thank you. I want
7 to thank the Chair, Helen Rosenthal for holding this
8 hearing today and for being a friend and for being an
9 uncompromising and tireless fighter for the basic
10 principles that women's rights are human rights and I
11 cannot believe that in 2018 that we're still
12 demanding freedom and protection to make personal
13 choices about our bodies. It reminds me of a t-shirt
14 that I saw recently that... well it uses a lot of foul
15 language, but it basically says I can't believe that
16 we're still fighting for this stuff. So, the right to
17 make our own decisions about what happens to our own
18 bodies is a fundamental human right and these
19 decisions should be made between a woman, her doctor
20 and her... and whatever god she chooses to pray to or
21 even if she chooses not to pray to any gods, it's
22 basically a personal decision. It's not a decision
23 left up to this illegitimate president or to this
24 illegitimate supreme court nominee who sought to
25 prevent an unaccompanied minor, an immigrant form

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2 obtaining a legal abortion and uses... and use the law...
3 twisted the law to basically come to that conclusion
4 or Neil Gorsuch, who believes corporations have a
5 religious right to prevent their employees from
6 lawfully obtaining contraception and not by any
7 gaggle of privileged men sitting comfortably in the
8 halls of power who know and care nothing of the
9 challenges of being a woman let alone being the
10 challenges of a woman of color. New York was once a
11 pioneer when it came to protecting reproductive
12 rights and we were one of the first states in the
13 nation to decriminalize abortion three years before
14 Roe versus Wade and yet as we sit here today New
15 Yorkers access to reproductive health care is in
16 great peril than any time in nearly 50 years. A man
17 who bragged about committing sexual assault occupies
18 the White House for now and he's trying to confirm
19 another man accused of assault to a lifetime
20 appointment to the highest court in the land and even
21 if these men were incredibly accused sexual violence
22 their public positions on personal autonomy and
23 reproductive rights are poisonous and in fact the
24 conduct they're... that they are engaging in right now
25 and the process that they are engaging in denying a

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2 woman the right to testify before the... before the,
3 the State Senate... the United State Senate is also
4 offensive and I hope that women stand up and... as an
5 aside I recognize that there is a wave of blue coming
6 but I'm hoping that there's a wave of pink coming in
7 strong numbers. As it is the Trump administration is
8 already taking regressive steps to dismantle women's
9 reproductive rights. For example, with their proposed
10 rule changes to Title X, the federal family planning
11 program which I let... pinned a letter on before my
12 life changed, and the proposed rule change will
13 prevent medical providers from giving complete
14 objective medical counseling which violates medical
15 ethics and disempowers women and girls from being
16 able to choose their desired family, their planning
17 method including abortion. And several weeks ago, I
18 joined with groups like Planned Parenthood of NYC and
19 submitted, submitted comments to the federal
20 government opposing this rule change and we recognize
21 this is just another tactic of the Trump
22 administration to roll back our rights. So, if they
23 get their way it is not a matter of if Roe versus
24 Wade is overturned but a matter of when and as a
25 state we are not prepared to protect the fundamental

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2 right to abortion from federal assault, assault and
3 though... therefore we've got to harden our laws and as
4 it currently stands unless a pregnancy is life
5 threatening it is against New York State law to
6 terminate a pregnancy, pregnancy after 24 weeks even
7 if it necessary to protect the woman's health or the
8 fetus is not viable and shockingly abortion remains
9 in the state penal code listed alongside homicide,
10 let me say that again, believe it or not in New York
11 State abortion remains in the state penal code and
12 it's listed alongside of homicide. New York remains
13 one of only seven states that has such a law and if I
14 get the opportunity to introduce state legislation
15 those are one of my bills that we will be introducing
16 in the first 100 days. For years we have seen the
17 reproductive health act stall in Albany because
18 people said there was no danger to New, New Yorkers
19 but now we have a present and real danger and our
20 fundamental rights are under assault and at genuine
21 risk. Last year 19 states adopted 63 different
22 restrictions on abortion rights and access and with
23 these new laws 58 percent of women in the United
24 States currently live in states that are either
25 hostile or extremely hostile to abortion rights and

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2 when Anthony Kennedy announced his retirement I stood
3 with many elected officials and advocates who called
4 for the state senate republicans to return to Albany
5 to pass the reproductive health act, they did
6 nothing, they took no action, they decided it was
7 okay to leave New Yorkers at the Supreme Court mercy,
8 mercy and at President Trump's mercy and at the... and
9 as the most important election of our lifetime
10 approaches I believe New Yorkers deserve to know
11 where their representatives stand on reproductive
12 rights because the time is... the time to stand up and
13 be counted is long past due. And when the legislature
14 returns to Albany in January their first order of
15 business... their first order of business must be to
16 pass the reproductive health act uncompromised,
17 undiluted just pass the damn law in, into... pass the
18 bill into law and do it now, dammit and then we can
19 begin the multiyear process of codifying reproductive
20 rights into our state's constitutions and today we
21 lay down the marker, New York must once again lead by
22 example. We stand for reproductive rights, I will
23 stand for reproductive rights and I will do it with
24 every passion and with every fiber of my being
25 because I believe that what happens between you and

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2 your body is no one else's business but yours. Madame
3 Chair I apologize for cursing but as someone who has
4 had to lead a number of young girls into planned
5 parenthood, take them by the hand, counsel them, hold
6 them because they did not have stable families, this
7 issue is personal and so I thank you for allowing me
8 to say a few words and I thank you for allowing my
9 bill to be heard. Thank you.

10 CHAIRPERSON ROSENTHAL: Thank you so much
11 Public Advocate James. Do you have any questions for
12 State Senator Krueger? Okay, thank you so much, we're
13 going to turn now to the administration and hear from
14 Commissioner Ebanks.

15 JACQUELINE EBANKS: Thank you. Good
16 morning Chair Rosenthal, good morning Public Advocate
17 James. I want to say a special thank you to Senator
18 Krueger and to Assembly Member Deborah Glick for
19 their leadership in shepherding this bill through the
20 New York State legislature. As you mentioned I am
21 Jacqueline Ebanks, Executive Director of the
22 Commission on Gender Equity. In this role I also
23 serve as an advisor to the Mayor and First Lady on
24 policies and issues impacting gender equity in New
25 York City. Established in 2015 and codified into law

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2 in 2016, the Commission works with city agencies to
3 remove institutional barriers to equity and to
4 establish inclusive policies and practices which
5 ensure that all New Yorkers, regardless of gender
6 identity or expression have opportunities to be
7 economically secure, have access to quality and
8 affordable health care, have full autonomy over their
9 reproductive lives and live safely in their homes and
10 communities. I am pleased to represent the
11 administration today in support of Resolution 84
12 which urges the New York State Legislature to pass
13 and the Governor to sign the reproductive health act
14 in the upcoming legislative session. In a recently
15 filed amicus brief, in the United State Supreme Court
16 case of Whole Women's Health versus the Commissioner...
17 the Texas Department of State Health Services, New
18 York City's leadership in the fight for reproductive
19 justice was described as follows: Before the
20 constitutional right to abortion was established, New
21 York City was one of the few places where women could
22 obtain safe and legal abortions. Hundreds of
23 thousands of women from all over the country,
24 including 3,400 from Texas, traveled to New York City
25 seeking access to abortion services. The brief fear..

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2 further states that, "before New York State became
3 one of the first jurisdictions to legalize abortions,
4 New York City faced a public health crisis. An
5 estimated 50,000 women were having clandestine
6 abortions every year. As a consequence, abortion
7 related deaths and complications were commonplace.
8 That all changed in 1970 when New York State
9 liberalized its laws to allow abortions up to 24
10 weeks after conception, or at any time thereafter to
11 protect a woman's life", end quote. The De Blasio
12 administration remains committed to implementing
13 holistic and inclusionary reproductive justice
14 policies and services. And since 2014, the
15 administration has ensured that the city's 11
16 hospitals within its health and hospital network
17 provide expert prenatal care, labor and delivery
18 services, family planning, comprehensive
19 gynecological services, women's health and primary
20 care outpatient medical support for women at every
21 stage of life. Also since 2014, the administration
22 and this City Council through various legislative,
23 programmatic and advocacy actions; have increased
24 access to contraceptives, including emergency
25 contraception; created the health... Sexual Health

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2 Education Task Force to, to develop strategies for
3 implementing comprehensive sexual health education in
4 New York City public schools, with offered
5 comprehensive and confidential care for women,
6 including contraceptive counseling, management of
7 pregnancy loss and elective pregnancy termination in
8 a safe environment and as noted above, filed amicus
9 briefs to protect reproductive freedom whenever it is
10 threatened in the nation. So, while New York City
11 continues to expand and support comprehensive
12 reproductive health care, the Trump administration
13 continues its attack on reproductive health care
14 programs at the federal level. Such was the case on
15 June 1st as already mentioned when the administration
16 proposed significant and detrimental changes to the
17 Title X Family Planning Program. In response to these
18 proposed changes, Mayor De Blasio, along with 79
19 mayors across the nation sent a letter expressing
20 vehement opposition to the implementation of a
21 domestic gag rule on the Title X Family Planning
22 Program. Additionally, New York City Deputy Mayor for
23 Health and Human Services, Dr. Herminia Palacio,
24 submitted the administration's detailed objections to
25 the proposed changes during the public comment. The

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2 Mayor's letter and Dr. Palacio's comments are
3 attached to the testimony. In the wake of these
4 changes, New York City continues to advocate for
5 maintaining full appropriation to Title X funds.
6 Clearly, current trends place the nation on the
7 precipice of returning to an era when women's right
8 to make her own decisions, reproductive decision,
9 belonged to everyone else but her. These trends are
10 exacerbated by the complete and willful ignorance to
11 the reproductive rights of transgender and gender
12 non-conforming Americans. Given these sobering
13 realities, from the proposed changes to Title X
14 funding, to the possible appointment of another
15 Supreme Court justice opposed to Roe V. Wade, to the
16 fact that several states have enacted laws limiting
17 women's reproductive rights and to the denial of
18 reproductive rights and competent medical care for
19 transgender and gender nonconforming Americans, it is
20 incumbent upon the New York State legislature to
21 secure reproductive justice for all New Yorkers.
22 Therefore, it is with great urgency that the
23 Commission on Gender Equity supports the Reproductive
24 Health Act. The city has always supported the act in
25 the past years and again in 2018, submitted a

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2 Memorandum of support to the legislature. As already
3 stated the act would bring New York State into
4 compliance with constitutional law, by providing... by
5 providing a pregnant individual with the explicit
6 right to access the care necessary when their health
7 is at risk or the fetus is not viable. It also
8 prohibits the prosecution of health care
9 professionals that provide abortion services ensuring
10 that a fear of prosecution is not a barrier to care.
11 And finally, the act would remove the state abortion
12 law from the penal code and place it in the public
13 health law, sending an important signal to medical
14 providers that they need not fear criminal
15 prosecution for treating a patient whose pregnancy is
16 endangering their health. Again, the city's
17 memorandum of support is attached to this testimony.
18 I also want to note that the reproductive health act
19 underscores the importance of access to contraception
20 in securing reproductive rights for all New Yorkers.
21 It's really impressive that it asserts that it is the
22 public policy of the state of New York that every
23 individual has the fundamental right to choose or
24 refuse contraception. Therefore, passing and signing
25 the reproductive health act into law is essential to

COMMITTEE ON WOMEN

1
2 ensuring the reproductive rights and economic
3 wellbeing of New Yorkers. As Supreme Court Justice...
4 Associate Justice Ruth Bader Ginsberg writes, in her
5 Hobby Lobby dissent, "the ability of women to
6 participate equally in the economic and social life
7 of the nation has been facilitated by their ability
8 to control their reproductive lives." If New York
9 State wants to remain a beacon of progressivism in
10 this nation, and the globe, it must lead by providing
11 New Yorkers full autonomy over their reproductive
12 lives. As First Lady Chirlane McCray stated,
13 "reproductive health is not a privilege, it is a
14 right protected by the constitution." Resolution 84
15 calls for New York State to assert its leadership for
16 reproductive justice and to protect a women's right
17 to choose. The administration applauds the City
18 Council for considering this Resolution and supports
19 its passage. Thank you.

20 CHAIRPERSON ROSENTHAL: Thank you very
21 much. I want to welcome Council Member Ayala who I
22 believe congratulations are in order for a new birth.
23 Yeah, very exciting, very exciting, that makes you a
24 mother, right or no... [cross-talk]

25 COUNCIL MEMBER AYALA: Grandmother.

COMMITTEE ON WOMEN

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CHAIRPERSON ROSENTHAL: Oh, okay,

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grandmother, you're so... you're too young... [cross-

4

talk]

5

COUNCIL MEMBER AYALA: I know I... [cross-

6

talk]

7

CHAIRPERSON ROSENTHAL: ...to be a

8

grandmother, it's very cool, babies having babies but

9

I'm all for it. So, Commissioner thanks so much for

10

your testimony. I wanted to ask in your testimony you

11

make this really important point at the end of page

12

one where you said that an estimated 50,000 women

13

were having clandestine abortions every year, I'm

14

wondering if you have a sense, you know of old data

15

or more recent data of what that number might be

16

today?

17

JACQUELINE EBANKS: I don't have an

18

accurate sense at this time but I know that that

19

information will be available from the Department of

20

Health and Mental Hygiene and so we can get that to

21

you at a later... [cross-talk]

22

CHAIRPERSON ROSENTHAL: Great... [cross-

23

talk]

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JACQUELINE EBANKS: ...in, in short order.

25

COMMITTEE ON WOMEN

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CHAIRPERSON ROSENTHAL: And you know

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maybe a couple of questions around that... [cross-talk]

4

JACQUELINE EBANKS: Uh-huh... [cross-talk]

5

CHAIRPERSON ROSENTHAL: ...you know... you

6

know how many... I would want to... just in order to

7

quantify the... [cross-talk]

8

JACQUELINE EBANKS: Yes... [cross-talk]

9

CHAIRPERSON ROSENTHAL: ...risk I'd be

10

interested in knowing, you know how many of the

11

different contraceptive methods are provided by New

12

York City Department of Health as well as H and H...

13

[cross-talk]

14

JACQUELINE EBANKS: Health and...

15

absolutely, yes.

16

CHAIRPERSON ROSENTHAL: Great, I'd think

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that'd be helpful. Let's see, I'm going to ask really

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quickly, do either of my colleagues have questions

19

for the Commissioner? Okay, Commissioner this, this

20

will be the last question, do you think that... is New

21

York City contemplating taking any... is, is, is New

22

York City planning or thinking about what might

23

happen should Roe V. Wade be... Wade be overturned and

24

New York State not fixing its own laws what the

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COMMITTEE ON WOMEN

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2 impact would be and what the city could do to help in
3 this situation?

4 JACQUELINE EBANKS: The city is committed
5 to expanding access to reproductive care and
6 providing comprehensive reproductive services, I
7 think we have continued to do that certainly through
8 the duration of this administration. When we do our
9 work and the commission as, as you know we operate in
10 three intersecting areas; economic mobility and
11 opportunity, health and reproductive justice, and
12 safety and we see them completely related and
13 consequently the health and reproductive justice
14 options for women, transgender, gender nonconforming
15 individuals really impacts the totality of their
16 life. New York City will continue within those values
17 and principles and I think we will work with H and H
18 and DOHMH to ensure that we continue to protect and
19 stand for a women's right to choose and for
20 individuals to have full autonomy over their
21 reproductive lives.

22 CHAIRPERSON ROSENTHAL: One question I've
23 always had is whether or not there's something we
24 could codify here in New York City should these
25 things come to pass and while the states has always

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said we don't have to codify these things because we are protected by Roe, I wouldn't want the city to fall into the situation where the state is now where it's imperative... [cross-talk]

JACQUELINE EBANKS: Right... [cross-talk]

CHAIRPERSON ROSENTHAL: ...that we pass the reproductive health act, is there anything that the city could be codifying now?

JACQUELINE EBANKS: We're in full agreement with your sentiment, I'd have to say that we have not yet to the best of my knowledge done that work but it's definitely something we will take up in the Commission and in partnership with Health and Hospitals and Department of Health and Mental...

[cross-talk]

CHAIRPERSON ROSENTHAL: I appreciate...

[cross-talk]

JACQUELINE EBANKS: ...Hygiene... [cross-talk]

CHAIRPERSON ROSENTHAL: ...that, I appreciate... [cross-talk]

JACQUELINE EBANKS: Thank you so much... [cross-talk]

COMMITTEE ON WOMEN

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CHAIRPERSON ROSENTHAL: ...working with you

3

as we have over this... [cross-talk]

4

JACQUELINE EBANKS: Yes... [cross-talk]

5

CHAIRPERSON ROSENTHAL: ...past year and

6

you know I, I, I just want to clarify I ask that

7

question because I know you and the administration

8

are so supportive... [cross-talk]

9

JACQUELINE EBANKS: Yes... [cross-talk]

10

CHAIRPERSON ROSENTHAL: ...you never know

11

who's going to be elected next as we all... [cross-

12

talk]

13

JACQUELINE EBANKS: We never know, I

14

think... [cross-talk]

15

CHAIRPERSON ROSENTHAL: ...have

16

experienced... [cross-talk]

17

JACQUELINE EBANKS: November 2016 has

18

proven to us, but it also calls on us to have urgency

19

and diligence as you're pointing out to identify gaps

20

and be the progressive city and state that we need to

21

be. I want to thank you for your partnership with the

22

Commission and the work that we have been doing and

23

also thank Majority Leader Cumbo and Ayala as well as

24

Council Member Rivera, so thank you all so much.

25

COMMITTEE ON WOMEN

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2 CHAIRPERSON ROSENTHAL: Thank you very
3 much and of course under the leadership of our
4 Speaker Corey Johnson who gives us the bandwidth to
5 do what's right here.

6 JACQUELINE EBANKS: Absolutely... [cross-
7 talk]

8 CHAIRPERSON ROSENTHAL: So, thank you. I
9 appreciate your time, thank you very much. We're
10 going to call up a panel, our next panel if you could
11 come forward; Planned... Rebecca Donn from Planned
12 Parenthood of New York City; Marisa Nadas a... sorry,
13 Doctor Nadas; Heidi Sieck from Vote Pro Choice and
14 Ashley Gray from the Center for Reproductive Rights.
15 And Heidi I apologize, I missed the hashtag, Heidi
16 Sieck from hashtag Vote Pro Choice.

17 COUNCIL MEMBER LANDER: Madame Chair as
18 the panel comes up could I... [cross-talk]

19 CHAIRPERSON ROSENTHAL: Oh, sorry and I'd
20 like to welcome Council Member Lander who has joined
21 us.

22 COUNCIL MEMBER LANDER: Thank you and I
23 just want to say thank you for convening this
24 important hearing, I'd like to sign on to the
25 Resolution and I really appreciate you and the

COMMITTEE ON WOMEN

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2 Speaker taking leadership here just raising up the
3 voice of this body to make sure we get the right
4 thing done at the state level, we sure need it, thank
5 you.

6 CHAIRPERSON ROSENTHAL: Thank you. So, we
7 got Lander, someone checked him off, okay. Oh, sorry.
8 Can we start with you just introduce yourself for the
9 record, no one needs to be sworn in and we really
10 appreciate your being here so we'll just move on
11 down, thank you.

12 REBECCA DONN: Sure, hi... [cross-talk]

13 CHAIRPERSON ROSENTHAL: Oh, I'm so sorry,
14 we happily have so many people here to testify today
15 we are going to use a clock of... we're going to limit
16 testimony... try to limit testimony to two minutes and
17 do keep in mind that if you have written something
18 and submitted it this will be on the record so if you
19 want to summarize your thoughts for the purpose of
20 your testimony today, your oral testimony feel
21 welcome to do that but again thank you so much for
22 coming.

23 REBECCA DONN: Sure. Hi, I'm Rebecca Donn
24 from Planned Parenthood of New York City.

25 [off mic dialogue]

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2 REBECCA DONN: I think it's, it's on but
3 I always think I'm so loud, so I'm surprised... you
4 can't hear me.

5 [off mic dialogue]

6 REBECCA DONN: Absolutely. Okay, good
7 morning. I am a women's health nurse practitioner and
8 the Director of Quality Management at Planned
9 Parenthood of New York City and I want to thank the
10 Public Advocate Letitia James, Council Members
11 Brannan, Rosenthal, Ayala, and Rivera for introducing
12 this important Resolution to call on the New York
13 State Legislature to pass and the Governor to sign
14 the reproductive health act. Planned Parenthood of
15 New York City has been a leading provider of sexual
16 and reproductive health care for over 100 years in
17 New York City and we're reaching approximately 85,000
18 New Yorkers annually both with our clinical services
19 and our education programs. I have been a nurse
20 practitioner for 18 years and working in this field I
21 have seen firsthand the importance of reproductive
22 health care to help people live their best lives and
23 currently I'm the Director of Quality Management at
24 Planned Parenthood of New York City and that means I
25 help ensure the quality of our services and part of

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2 that is helping to train other health care providers
3 to provide both reproductive health care and
4 medication abortion services so I also know firsthand
5 the competency of advanced practice clinicians in
6 providing those services. In my years of experience
7 as a provider and also just working in abortion care
8 as both a counselor and a, a volunteer for my entire
9 adult life I've seen firsthand the barriers that New
10 Yorkers face when accessing abortion and sexual and
11 reproductive health care, patients frequently
12 encounter protesters who physically block health
13 center entrances, they use harassment or intimidation
14 to, to deter, deter them from accessing the care that
15 they need and then crisis pregnant... crisis pregnancy
16 centers like the one we have right across the street
17 from our Bronx health care center are masquerading as
18 legitimate health care providers and they deceive New
19 Yorkers who are trying to ask... access care. So, in
20 the face of these other challenges it's critical that
21 we work to protect and expand access to abortion and
22 sexual reproductive health care services.

23 CHAIRPERSON ROSENTHAL: Thank you very...
24 [cross-talk]

25 REBECCA DONN: Is that my... [cross-talk]

COMMITTEE ON WOMEN

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2 CHAIRPERSON ROSENTHAL: ...much... [cross-
3 talk]

4 REBECCA DONN: ...two minutes, okay.

5 CHAIRPERSON ROSENTHAL: Thank you and I
6 want to welcome our Majority Leader Laurie Cumbo to
7 the Committee as well and Council Member Carlina
8 Rivera whose here as well, thank you and who is co-
9 sponsor of the Resolution as well. Please.

10 ASHLEY GRAY: Good morning, thank you
11 Council Member Rosenthal for convening this hearing
12 today and thank you Public Advocate James for
13 introducing the Resolution before the Committee. My
14 name is Ashley Gray, I'm the State Advocacy Advisor
15 at the Center for Reproductive Rights. The Center for
16 Reproductive Rights is a legal advocacy organization
17 dedicated to protecting the rights of women to access
18 safe and legal abortion and other reproductive health
19 care services. For nearly 20 years we have
20 successfully defended abortion access throughout the
21 United States including winning the landmark case,
22 Whole Women's Health V. Hellerstedt, in which the
23 U.S. Supreme Court reaffirmed the constitution's
24 robust protections for a woman's decision to have an
25 abortion. The center strongly supports the RHA and

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2 this Resolution. New York has led the country when it
3 comes to the pursuit of access to reproductive health
4 care. Now more than ever it needs to take steps to
5 protect and increase access to abortion. Roe V. Wade,
6 the landmark Supreme Court case establishing access
7 to abortion as a constitutional right has been
8 settled law for over 45 years yet remains under
9 constant attack. President Trump promised that he
10 will appoint Supreme Court Justices who will overturn
11 Roe V. Wade and with the nomination of Judge
12 Kavanaugh, we can assume that he made good on that
13 promise. We... we now face the greatest threat to
14 reproductive rights in more than a generation. Many
15 provisions of the reproductive health act are even
16 more urgent and relevant in this landscape. The act
17 affirms the right to privacy in New York law, removes
18 outdated criminal penalties, including for self-
19 induction, and clarifies that advanced practice
20 clinicians like nurse practitioners and physician's
21 assistants can perform abortion care within their
22 scope of practice. These medical professionals fill a
23 critical gap in the rural area... rural areas of the
24 state and would increase the number of providers to
25 assist with the potential influx of patients from

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2 other states if access federally should be gutted.
3 Removing abortion access from the criminal... criminal
4 code is a critical step in recognizing that abortion
5 is health care and not a crime. Thank you.

6 CHAIRPERSON ROSENTHAL: Thank you very
7 much. Okay, yep that...

8 MARISA NADAS: Good morning, my name is
9 Marisa Nadas and... good morning, my name is Doctor
10 Marisa Nadas. Thank you, Council Member Rosenthal,
11 for, for convening this hearing today and thank you
12 Public Advocate James for introducing the Resolution
13 before the Committee. As an OBGYN and a fellow of
14 Physicians for Reproductive Health who cares for New
15 Yorkers every day, I am pleased to support Resolution
16 Number 84. Access to reproductive health services
17 including abortion care, is vital to a women's
18 overall health and wellbeing as well as to the health
19 of her family. Currently New York regulates abortion
20 in the criminal code and this is a problem. It means
21 that medical professionals can be deterred from
22 providing medically indicated care. New York law does
23 not include an explicit provision that allows for
24 abortion care throughout pregnancy when a woman's
25 health is at risk, as, as protected by Roe V. Wade

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2 and the same goes for when a devastating fetal
3 abnormality exists, which is a situation in which
4 abortion is an option under federal protections.
5 Every pregnancy is different. At times patients face
6 serious obstetric complications or life-threatening
7 illnesses later in pregnancy. In these devastating
8 circumstances, abortion care may be the safest path
9 forward. However, because current law deters doctors
10 from providing care, our patients are forced to leave
11 the state to get the care they need even when their
12 health is severely compromised. Traveling out of
13 state for care is an enormous additional burden on
14 top of what, for many has already been a difficult
15 experience. Let me give you an example. A patient of
16 mine, I will call her Ashley, was pregnant with her
17 third child and she also suffered from lupus. She
18 presented to the hospital in kidney failure and
19 received outstanding care as a multidisciplinary team
20 worked to control her lupus and reverse her kidney
21 failure. However, the weeks passed, and her kidneys
22 did not recover. Pregnancy is known to be hard on the
23 kidneys, and it was determined by her medical team
24 that her kidney function would not recover until her
25 pregnancy ended. If this went on too long, it was

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2 possible she would never regain kidney function and
3 be on dialysis... [cross-talk]

4 CHAIRPERSON ROSENTHAL: Could you take
5 your time and keep going.

6 MARISA NADAS: Okay.

7 CHAIRPERSON ROSENTHAL: Thank you.

8 MARISA NADAS: She chose to terminate her
9 pregnancy and I was able to assist her with this
10 during the second trimester and her kidney function
11 did, did resolve. However, if this complication had
12 presented later in the pregnancy or the course of the
13 illness had been more insidious she could easily have
14 surpassed the gestational age limit laid out in New
15 York State law and as her provider I would not have
16 been protected under state law to provide abortion
17 care. This intrusion into the provider patient
18 relationship is cruel and is dangerous. As health
19 care providers we best serve our patients when we can
20 act according to scientific evidence and with our
21 best medical judgement. In cases of health risks and
22 fetal conditions detected later in pregnancy, our
23 patients, who are often struggling with complicated
24 decisions need access to the best care for their
25 individual circumstances. In the face of dire threats

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2 to abortion access on the federal level, it is
3 absolutely crucial to protect New Yorker's health and
4 rights and I urge the Committee to pass this
5 resolution calling on New York State to pass this
6 important legislation. Thank you.

7 CHAIRPERSON ROSENTHAL: Thank you Doctor,
8 I also want to welcome Council Member Kallos who
9 joined the committee.

10 HEIDI SIECK: Thank you. Thank you so
11 much Council Member Rosenthal for having this hearing
12 and I acknowledge the Public Advocate's amazing
13 Resolution as the other... and as well as the other
14 Council Members who are supporting this. My name is
15 Heidi Sieck, I'm the CEO and Co-founder of Vote Pro
16 Choice. We're a nationwide political engagement
17 project that engages millions of pro-choice voters
18 to... with the largest progressive pro-choice voter
19 guide and we elect pro choice champions in every
20 election where reproductive freedom is at stake. And
21 let me be very, very clear; reproductive freedom is
22 at stake right now. I'll summarize my testimony by
23 making two points. I've been fighting for
24 reproductive freedom for almost 30 years when I got
25 my first job at Planned Parenthood in Lincoln,

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2 Nebraska and that was a... it's been a perilous three
3 decades of losses and wins but mostly losses. And we
4 are in a dire situation now. I come to you... I came to
5 vote pro choice and New York as the former President
6 of the San Francisco Women's Political Committee
7 where we focused on creating a coalition then led
8 with District Attorney Kamala Harris where we created
9 a collaborative of elected officials, committee...
10 reproductive rights organizations, women's
11 organizations, labor unions, and political leaders to
12 create gender equity and reproductive freedom in the
13 state... into the city of San Francisco and according
14 to the National Institute of Reproductive Health
15 Local Index, we are one of the most pro choice cities
16 along with New York. There's a lot we can do and that
17 is... I look forward to working with all of you to make
18 that a reality here because the second... the second
19 thing I would like to highlight is, I was down in the
20 Senate Judiciary Committee two weeks ago, the first
21 person in the hearing, the fourth person to get
22 arrested, I looked into the eyes of Congressman... or
23 Chairman Grassley and let me tell you these leaders
24 are determined to take away our rights, the threat is
25 real. If there are 13 bills that are going to be

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2 coming toward the Supreme Court now that will gut Roe
3 V. Wade and if they are gutted four states with
4 trigger bans will actually prevent women from getting
5 abortion care in those states. We must do whatever it
6 takes to make sure that our state laws are shored up
7 and providing access and real care to the women of
8 America and it can start here in New York. Like we've
9 led before, we can lead again. Thank you.

10 CHAIRPERSON ROSENTHAL: Thank you very
11 much. Would any of my colleagues like to ask a
12 question? No... sorry, Council Member Kallos? No, okay.
13 So, thank you all for coming, I especially want to
14 thank the doctor for coming because it's helpful to
15 us to hear real life experiences, that's the part
16 that, you know we don't hear as often, we think more
17 in the abstract and while we can look at numbers or...
18 you know the data or quality we don't know what
19 you're experiencing day to day and the example you
20 gave of which is one where somebody should for her
21 own health have access to an abortion but you even as
22 somebody who believes that, you know abortion should
23 be available would not feel comfortable doing it
24 because of the New York State criminal penal law is a
25 very powerful one. So, I appreciate your telling it,

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I've heard other similar stories as well. Thank you very much, thank you for coming. I'm going to invite up the next... oh, I'm sorry, Majority... oh my... quick question to our Public Advocate Tish James to be followed by Majority Leader Laurie Cumbo.

PUBLIC ADVOCATE JAMES: Thank you. Miss Sieck is that how you pronounce...

HEIDI SIECK: Sieck.

PUBLIC ADVOCATE JAMES: Sieck, I apologize. Are, are you working with the State Senate, have you identified some senatorial districts in New York as part of your voter pro choice campaign?

HEIDI SIECK: Yes.

PUBLIC ADVOCATE JAMES: And what districts are you focusing on?

HEIDI SIECK: [off mic audio]

PUBLIC ADVOCATE JAMES: Your microphone is off.

HEIDI SIECK: The voter guide focuses on two... it... two parts; we endorse candidates and then we also recommend candidates. So, the endorsed candidates have been... we only... we endorsed eight

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2 candidates for the State Senate and those have been
3 the folks that got elected against the IDC members.

4 PUBLIC ADVOCATE JAMES: And so, going
5 forward in the general have you identified any, any,
6 any seat or districts that we can flip?

7 HEIDI SIECK: We are going to be
8 recommending the most pro-choice candidates in each
9 of the districts, so we'll be evaluating those and be
10 posting them at the beginning of October.

11 PUBLIC ADVOCATE JAMES: Okay, thank you.

12 HEIDI SIECK: Uh-huh.

13 MAJORITY LEADER CUMBO: Hi, I wanted to
14 ask a question in regards to what we would consider
15 abortions that take place later on in the process and
16 so you spoke very eloquently about the issue around
17 health related issues that might cause a woman to
18 have... to terminate a pregnancy later on than
19 anticipated because of health reasons but I remember
20 going on a tour at Planned Parenthood and they spoke
21 about the fact that the reason why there may be women
22 that are coming in the fourth and fifth and later on
23 months could have something to do with health
24 complications but a lot of it also has a lot to do
25 with women that are forced to travel from state to

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2 state because in their own hometown or their own
3 state they can't have those services performed and so
4 they actually discussed which was very heartbreaking
5 the experience that many women have in terms of
6 having to take off a day, two days, three days from
7 work to be able to travel out of town to be able to
8 stay there and then to travel back to go back to
9 their hometown and the ability to actually come up
10 with the money and the resources in order to take
11 that journey, is that more often the reason or is it
12 more often health related reasons that find a woman
13 having to terminate a pregnancy later on? In the
14 cycle?

15 MARISA NADAS: There are many
16 contributing factors to why women may present later
17 on and some of those reasons are related to a delay
18 in access to care such as what you're describing and
19 some of those are related to simply their health
20 condition or the fetal anomaly being diagnosed later
21 on. I can give you an example, a colleague of mine
22 just this past week took care of a woman who had... her
23 fetus had been diagnosed with a lethal anomaly and
24 unfortunately due to our current law she wasn't able
25 to access abortion care in our state and related to

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2 the delays that she incurred she ultimately had to
3 travel out of state, out of New York to another state
4 and was 30 weeks pregnant by the time she was able to
5 actually access her abortion in another state and
6 it's embarrassing to me that she was a patient... she
7 was a woman of ours, of our state, she went to
8 another state and they experienced her later on
9 because of the delays she had experienced here in New
10 York. Unfortunately, that story also involves the
11 fact that she couldn't afford to access all of her
12 care out of state, so she was forced to travel out of
13 state to initiate her abortion care and then return
14 to New York State to complete her care, so you can
15 only imagine the experience that she had.

16 MAJORITY LEADER CUMBO: What is the
17 experience that many women face that live in this
18 state where they don't have access, what are we
19 finding that they do if they do not actually travel
20 outside of their state, what do illegal abortion
21 options, illegal look like in a state and do we know
22 the health outcomes for women that participate
23 because they have no other choice?

24 MARISA NADAS: I think that's a great
25 question, it's hard for me to speak to that

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2 specifically because I'm fortunate enough to be
3 practicing here in New York so I'm not directly
4 taking care of those women and I'm only hearing those
5 stories from other colleagues.

6 MAJORITY LEADER CUMBO: Okay, thank you
7 very much. Thank you for your service and thank you
8 for the work that you do... oh, you wanted to speak to
9 that, thank you.

10 ASHLEY GRAY: Yeah, I'm happy to try and
11 I'm the State Advocacy Advisor for the Center for
12 Reproductive Rights. So, we track and monitor
13 restrictive and proactive legislation in all 50
14 states and what we're seeing in states like Texas is
15 women crossing the border to get medication abortion
16 in Mexico, we're also seeing a higher rate of self-
17 induction and the self-induction language especially
18 in the, the New York Criminal Code right now is...
19 disproportionately effects women of color and women
20 of lower income backgrounds who, who don't have
21 access or, or have financial barriers to seek the
22 care they need and try to take matters into their own
23 hands and so that's another aspect of why the
24 reproductive health act is so important to New York
25 women.

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MAJORITY LEADER CUMBO: And can you give me that term again?

4

ASHLEY GRAY: Self-induction or...

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MAJORITY LEADER CUMBO: what does that actually look like?

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ASHLEY GRAY: It's self-managed abortion.

9

So, this day and age it's abortion pills, it's two

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pills that you take. I'm sure the, the providers can explain more about the pills but it's... we're, we're...

11

it's, it's women who take one pill to, to stop the

12

pregnancy and then another to induce a miscarriage.

13

MAJORITY LEADER CUMBO: And at what stage

14

of a pregnancy can you do that, and it be effective?

15

ASHLEY GRAY: Before 12 weeks, before...

16

around nine to ten weeks is when it's most safe, yes.

17

MAJORITY LEADER CUMBO: And are we

18

finding that people... or women are doing it after that

19

time frame?

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ASHLEY GRAY: I can't speak to that, but

21

I am happy to follow up with partners at the Marker

22

Institute who track things like this and I can

23

provide more information later.

24

MAJORITY LEADER CUMBO: I think... I, I

25

appreciate that because I think that that would be...

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2 it's important for us to know what's happening also
3 in states where women don't have access so... [cross-
4 talk]

5 ASHLEY GRAY: Uh-huh... [cross-talk]

6 MAJORITY LEADER CUMBO: ...that way we can
7 all speak more powerfully to what the issue is and
8 what it's going to mean and what it is meaning if on
9 the federal level these horrific archaic... [cross-
10 talk]

11 ASHLEY GRAY: Uh-huh... [cross-talk]

12 MAJORITY LEADER CUMBO: ...laws see the
13 light of day we have to be able to push back with an
14 understanding of the impact that its going to have on
15 the lives of women particularly women in low income
16 communities and of color.

17 ASHLEY GRAY: Absolutely.

18 MAJORITY LEADER CUMBO: Thank you.

19 REBECCA DONN: And if I could chime in
20 just to be clear self-induction is also happening
21 here in New York, women in poor communities and who
22 don't... maybe have language barriers and access
23 barriers are actually getting these pills from
24 bodegas and other places where they're actually... we...
25 so, we sometimes do see women who've self-induced who

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1
2 are coming in for follow up care or who've had an
3 unsuccessful abortion so this is something that does
4 happen in New York State as well.

5 MAJORITY LEADER CUMBO: Thank you.

6 CHAIRPERSON ROSENTHAL: Council Member
7 Kallos did you have a question?

8 COUNCIL MEMBER KALLOS: Yes, thank you
9 Council Member and Chair of the Women's Committee
10 Helen Rosenthal as well as all of the sponsors of
11 this amazing Resolution, our Speaker, our Public
12 Advocate Tish James who we will miss dearly but we
13 will have fighting for us on a higher level very
14 soon, Council Member Rosenthal and Ayala and Rivera.
15 I want to touch on the, the services here in New York
16 City for family planning so when, when I was a, a
17 young, younger man I, I found myself at planned
18 parenthood more often than not in terms of doing
19 things like getting tested with somebody that I might
20 be dating and making sure that we're planning around
21 whether or not we wanted a family and I can tell you
22 at that time I was not interested and, and neither
23 were they. What kind of access do public school
24 students have in New York City, do college students
25 have and do low income... do just every day New Yorkers

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2 regardless of income have to these services and are
3 they being provided at school-based health centers
4 and what kind of services are available in a school
5 building versus a referral out and how does that
6 whole process work?

7 REBECCA DONN: Well I can tell you in
8 terms of planned parenthood of New York City, we are
9 able to access Title X funds so for low income folks
10 of all ages regardless of age we are able to provide
11 service... reproductive... you know sexual and
12 reproductive health care services to all New Yorkers
13 regardless of income so... in terms of exactly what's
14 happening at school based health clinics I'm not... I'm
15 not sure but... you know we also have education
16 programs, so we're really committed to teaching New
17 Yorkers about reproductive and sexual health care.

18 COUNCIL MEMBER KALLOS: You mentioned
19 Title X, you mentioned a word that used to make me
20 feel warm and fuzzy under previous present, you said
21 the word federal, if there is... and I'm not sure if
22 this question was already asked but if there's a cut
23 to federal Title X funds what does that look like at
24 least in New York City and how much would the city
25 council probably be more than glad to, to put in to

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1
2 make sure that you can continue the great work that
3 you do?

4 REBECCA DONN: I think the last statistic
5 I heard of Planned Parenthood of New York City is
6 about a quarter of our budget is coming from Title X
7 funds so it's very significant to us having those
8 funds available. We are committed to providing those
9 services to patients regardless of income, it's
10 really important to not just teenagers but there may
11 be... you know in terms of protecting confidentiality
12 it's really important to young people who may have
13 their parent's insurance that they're able to access
14 health care on their own so we, we really need those
15 funds, it's really important to us to keeping New
16 Yorkers healthy.

17 COUNCIL MEMBER KALLOS: And, and so
18 what's that price tag?

19 REBECCA DONN: That I would... I would have
20 to ask my, my non... my non-health care provider
21 colleagues about that.

22 COUNCIL MEMBER KALLOS: No worries, thank
23 you.

24 CHAIRPERSON ROSENTHAL: Thank you, I know
25 you had more questions, we're trying to wrap up

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2 because we have a beautiful child here and we're
3 going to have his father come testify next and I, I
4 know he needs to get a move on so thank you
5 Councilman Kallos, thank you everyone for your
6 testimony today. I'd like to now call up Mr.
7 Marschall, I don't want... Grannon Marschall... Garin,
8 thank you; Emily Kadar from the National Institute
9 for Reproductive Health; Lauren Riker from
10 Reproductive, Reproductive Health Access Project and
11 Tashiana Diaz from Peer Health Exchange and Mr.
12 Marschall I'd like you to go speak whenever you want
13 to speak possibly first and don't feel you need to
14 stay if you need to... if, if you get a little
15 distracted. Alright, so just be sure to turn on the
16 microphone, you'll see the red button and speak into
17 the mic, thank you. If you could start Mr. Marschall.

18 GARIN MARSCHELL: Thank you and thank
19 you for accommodating my little situation. I wanted
20 to come today just to share my story and share a
21 story of some other patients that my wife and I
22 helped represent. Our story... my wife and I were 30
23 weeks into a fairly complicated pregnancy when we got
24 very disturbing news about the pregnancy. We found
25 out that there was a development that meant that the

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2 baby if, if born would not be able to breath and
3 again this was discovered at 30 weeks when we got
4 this diagnosis so in that moment we were obviously
5 crushed, we were heartbroken, it was very much a
6 wanted pregnancy and it had been very difficult all
7 30 weeks through that pregnancy and when we got this
8 news we did what most people do when they get bad
9 news from a doctor, they sort of ask their doctor
10 okay well what do we do, you know what do we do now.
11 So, and, and that's, that's the moment that I want to
12 focus on because our doctor was not able to then
13 suggest a course of action that they could help us
14 with, they could not treat us. We found out that my
15 wife's health would also be threatened in this
16 situation, she had had a brain surgery the year
17 before and if she went into spontaneous labor she
18 could die. So, we were in a situation where we wanted
19 to sort of avoid undue suffering on the part of a
20 potential child who might live for moments and then
21 choke for air and die and also to avoid any risk to
22 my wife's health and ensure her fertility beyond that
23 and I'm glad we did that. So... but that's when we
24 found out about New York State's law, that we were
25 past the cut off at 24 weeks, our only option was to

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travel out of state for care. There are three providers in the country that will treat patients in situations like ours that late in pregnancy and take patients from out of state; they're in New Mexico, Colorado and Bethesda. Our doctor had had good outcomes with patients he had sent to Colorado, so we went there. When we were arranging a course of care we found out that normally the procedure costs around 25,000 dollars... [cross-talk]

MAJORITY LEADER CUMBO: Oh, my god..

GARIN MARSCHELL: ...it's... you have to pay it up front out of pocket and that's because they... insurance companies don't often reimburse people for care and obviously you're forced out of network in this situation and we simply didn't have the resources for that. Due to my wife's specific situation we were able to... like the patient... the provider mentioned we got the first part of the procedure in Colorado which is a shot and then flew back and had the induction at Sinai which was a... you know we flew back that night after terminating the pregnancy and then my wife went through 36 hours of labor... [cross-talk]

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MAJORITY LEADER CUMBO: Oh god... [cross-talk]

GARIN MARSCHELL: ...on a labor and delivery ward at Sinai. So, that's, that's what we're asking patients to do a lot of times, the ones that can afford to get care. And then you're dealing with... you know everyone is seeing you pregnant, very pregnant, pregnancy's a very public thing and then all of the sudden you're having to explain your situation to people, explain why you had to leave for a week. Usually the procedure takes about a week when you fly into these places. So, just the cost of travel, the cost of the procedure itself which is again usually not reimbursed obviously ensures that many people would simply not be able to get care and are then forced to carry pregnancies that are either unhealthy to the point where their life is actually threatened or forced to carry pregnancies that, that are non-viable, you know through the point at which the pregnancy is, is finished. So, we... I, I also just want to share another story. My wife and I got involved and, and we found out about the reproductive health act and efforts by people like in our area to sort of fix this law in New York State and we've been

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2 sharing our story as much as possible. We've talked
3 to plenty of people in Albany about this and after
4 about a year of doing this we met another couple from
5 Brooklyn that had to travel, they traveled in
6 December which meant that we had failed so I want to
7 read her story which has been submitted in testimony
8 as well. I was into the third trimester of a very
9 much wanted planned and healthy pregnancy when a
10 routine OB visit turned into our worst nightmare, a
11 scan had revealed that the fetus had not been
12 developing correctly and I was rushed to a specialist
13 for further examination. After a full and devastating
14 day of meeting with the top medical professionals in
15 their field our worst fears were confirmed. The fetus
16 if it made it to delivery had little chance for
17 survival and if so would lead an excruciatingly
18 painful and short life, my health too was now at
19 risk. What followed was a painful decision between my
20 doctors, my husband and I that terminating the
21 pregnancy was the best and necessary decision. After
22 the heartbreaking decision was made my doctors then
23 told me I would have to get on a plane and travel
24 across the country to receive the medical care that
25 we all agreed I needed. I was shocked to learn there

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2 was a 24-week cut off in New York even when the
3 health of the mother is at risk or with a non-viable
4 fetus. It is often neglected to be discussed that
5 many problems occur in the third trimester of
6 pregnancy even though it is more uncommon. It was a
7 physically, emotionally and financially excruciating
8 experience to have been provided health care I needed
9 in my home state would have made a world of
10 difference. I'm also acutely aware that we were
11 incredibly lucky to be able to have the financial
12 resources and supportive medical team to make sure
13 that I was taken care of. Many women in New York are
14 not this lucky and that has to change. If not... it's
15 not... if this happens to another woman in New York
16 it's when and that's the point, this happens, you
17 know a year and a half after ours when we met them,
18 these efforts are continuing to fail due to inaction
19 in Albany and we have to fix this. So, I thank you
20 for taking this up today and listening to terrible
21 stories.

22 CHAIRPERSON ROSENTHAL: I'm going to use
23 Chair's privilege just to thank you... [cross-talk]

24 MAJORITY LEADER CUMBO: Uh-huh... [cross-
25 talk]

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CHAIRPERSON ROSENTHAL: Every individual reacts to a tragedy their own way, you have it within you to share your story with others but really, you're just sharing the story of many other people, you're just able to come forward to let legislators and advocates know so thank you for that.

GARIN MARSCHELL: Thank you...

CHAIRPERSON ROSENTHAL: You're doing... you're doing a mitzva for everyone else and you know it's just so frustrating that legislators there are those who can't hear what you're saying... [cross-talk]

GARIN MARSCHELL: Yeah... [cross-talk]

CHAIRPERSON ROSENTHAL: ...but there are so many of us who... while we've had other experiences have not had that type of hellacious experience and it's very easy for a legislator to say oh, something like that is rare or really doesn't happen so therefore we're just writing the language this way for another reason but we need people like you to come forward to make it clear that no, no, it does happen to people and there is a reason why you would put in the language for not just life of the mother but for the health of the mother.

GARIN MARSCHELL: Yes...

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2 CHAIRPERSON ROSENTHAL: So, thank you so
3 much for coming forward.

4 GARIN MARSCHELL: Thank you.

5 CHAIRPERSON ROSENTHAL: And whatever you
6 need to do.

7 GARIN MARSCHELL: Yeah.

8 CHAIRPERSON ROSENTHAL: Congratulations
9 on your... [cross-talk]

10 GARIN MARSCHELL: Thank you... thank you...
11 [cross-talk]

12 CHAIRPERSON ROSENTHAL: ...second full term
13 pregnancy. Please.

14 LAURA RIKER: Hello, thank you Council
15 Member Rosenthal for convening this hearing today and
16 thank you Public Advocate James for introducing this
17 important Resolution before the Committee. My name is
18 Laura Riker and I'm the Senior Program Manager at the
19 Reproductive Health Access Project. We are a national
20 nonprofit organization that trains and supports
21 primary care clinicians to integrate abortion,
22 contraception and miscarriage care into their
23 clinical settings. We're based in New York and
24 therefore we work very extensively throughout the
25 state. Because our work focuses on primary care and

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2 primary care clinics, we see firsthand how uneven
3 access to abortion is for folks in different parts of
4 the state. Primary care providers are the main
5 providers of health care in rural and medically
6 underserved parts of New York and I work with
7 providers in areas of the state where access to
8 specialized reproductive health care is severely
9 limited which forces many women across New York to
10 travel for hours in order to get the care that they
11 need and lack of abortion training for these
12 clinician populations directly impacts the ability of
13 women in these areas to access abortion care within
14 their own communities. Currently there are 34 family
15 medicine residency programs in the state, of these
16 only five provide comprehensive abortion training and
17 they're on... all in Albany or New York City. None of
18 these residency programs are in state funded
19 universities or in public hospitals and for non-
20 physician clinicians' access is even more limited.
21 Things would only get worse if Roe were to fall and
22 we do pass the reproductive health act. We work to
23 fill in the training gaps for these post residency
24 clinicians. So, for example, last month we hosted a
25 medication abortion training in the city which drew a

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1
2 large, large audience of nurse practitioners, nurse
3 midwives, students and family physicians who are
4 fired up and committed to integrating medication
5 abortion into their clinics. One woman shared that as
6 a future family nurse practitioner coming to this
7 training would help her protect the autonomy and
8 self-determination of her patients, which makes her a
9 better provider. We work towards a future where
10 abortion care is mainstreaming to routine health
11 care, available in community health centers and
12 publicly funded clinics and being able to offer same
13 day in office abortion services to women across the
14 state is critical not... for not only maintaining but
15 improving access and the reproductive health act
16 would help us to ensure that clinicians in our state
17 are able to continue providing these services but
18 also would expand access to training so that they can
19 give their patients the care that they deserve. Thank
20 you.

21 CHAIRPERSON ROSENTHAL: Thank you.

22 EMILY KADAR: Good morning, my name is
23 Emily Kadar and I'm here today to represent the
24 National Institute for Reproductive Health. Thank
25 you, Council Member Rosenthal, Public Advocate James

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2 and all the committee members for holding this
3 hearing today. As one of the organizations leading
4 the fight to decriminalize abortion in New York
5 State, NIRH strongly supports the resolution calling
6 upon our state legislature to finally pass the
7 Reproductive Health Act. The city council understands
8 that the Trump-Pence administration is determined to
9 institute draconian policies restricting access to
10 abortion and reproductive health care and that the
11 nomination of Brett Kavanaugh to the Supreme Court
12 threatens to undo any federal protection of abortion
13 rights. Given this immediate and very real risk, the
14 state legislature must take action to update New
15 York's abortion law by passing the RHA. Our state
16 still treats abortion like a crime rather than health
17 care, and there is too much at stake to maintain the
18 status quo for yet another legislative session.
19 Because our laws regulating abortion are so outdated,
20 pregnant individuals who have serious complications
21 later in pregnancy are sometimes forced to leave New
22 York in order to get the safe, legal abortion care
23 that they need as we just heard. I also want to draw
24 the council's attention to the fact that the New York
25 State law also contains a civil war era criminal

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2 prohibition on self-abortion, which we were talking
3 about a bit earlier which means that women who end
4 their own pregnancies can face potential arrests,
5 prosecution and jail time. And as a result, women who
6 have ended their own pregnancies in New York have
7 been arrested and charged under New York's criminal
8 abortion statute. No woman should fear arrest or jail
9 for ending her own pregnancy and that is another
10 provision in our law that the reproductive health act
11 will fix. Finally, I also just want to reinforce that
12 the RHA would ensure that qualified health care
13 providers including advanced practice clinicians like
14 nurse practitioners and physician assistants can
15 provide abortion services within their expertise and
16 training. Our law must reflect the reality of how
17 care is being... is actually happening here in New York
18 State right now. We need both houses of the
19 legislature to pass this bill as soon as they begin
20 session in January and it must be a top priority.
21 Thank you.

22 CHAIRPERSON ROSENTHAL: Thank you.

23 TASHIANA DIAZ: Thank you Council Member
24 Rosenthal for convening this hearing today and thank
25 you Public Advocate James for introducing the

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2 Resolution before the committee. My name is Tashiana
3 Diaz and I am the New York City Associate Program
4 Director for Peer Health Exchange. Peer Health
5 Exchange or PHE empowers young people with the
6 knowledge, skills and resources to make healthy
7 decisions. We do this by training college volunteers
8 to teach a skills-based health curriculum in public
9 schools focusing on sexual health, mental health and
10 substance misuse prevention. In addition to
11 addressing topics such as consent and refusal skills,
12 we also teach young people how to access their
13 school-based health center or local community clinic
14 for health care. After receiving our curriculum 86
15 percent of 9th graders know how to access
16 contraception versus 65 percent that have received
17 PHE. The resolution before you calls on the New York
18 State legislator to pass the reproductive health act
19 legislation that would update and improve New York
20 States... New York's antiquated laws around abortion. I
21 strongly support the RHA and this resolution. At 20
22 years old, while I was nearing the end of college I
23 got pregnant, it was a terrifying experience. Not
24 only was I in school and 100 percent incapable of
25 raising a child on my own but I was in an abusive

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2 relationship with the man who got me pregnant. Once I
3 was sure I was pregnant however I was able to
4 reluctantly get my mother involved and get an
5 abortion at a hospital, hospital by applying for
6 emergency Medicaid. Without that option I would have
7 been stuck in an abusive partnership and definitely
8 not be in the place I am today, 14 weeks pregnant in
9 a happy, healthy marriage and at an organization that
10 supports all people despite of race, ethnicity,
11 gender identity. continued access to these resources
12 will possibly give young women like myself the option
13 to not be forced to stay with their abuser. Also
14 having programs like Peer Health Exchange who educate
15 young people on consent, an agency to make healthy
16 decisions could also help in finding resources before
17 it's too late. Thank you.

18 CHAIRPERSON ROSENTHAL: Thank you all for
19 your testimony, one quick question, are you aware of
20 any New York City district attorney filing criminal
21 charges against an individual or health care provider
22 under the current law?

23 EMILY KADAR: So, there was a case in
24 which there were initial filed... charges filed in
25 Manhattan a few years ago which were I think fairly

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2 quickly dropped once the DA sort of recognized the
3 possible ramifications of that where criminal
4 abortion was included as one of the charges but I
5 know that some of colleagues here are from the SIA
6 legal team and they'll be able to talk I think more
7 extensively about how self-managed abortion care, the
8 importance of making sure that it is legally
9 protected especially right now under the
10 circumstances that we're seeing federally.

11 CHAIRPERSON ROSENTHAL: I appreciate
12 that, thank you and I will count on your colleagues
13 to testify about that... [cross-talk]

14 EMILY KADAR: Yes... [cross-talk]

15 CHAIRPERSON ROSENTHAL: ...to make sure
16 that's all on the record.

17 EMILY KADAR: Yes... [cross-talk]

18 CHAIRPERSON ROSENTHAL: Thank you all
19 very much. I'm going to call up the next panel; we
20 have Emily Gertz from the National Advocates for
21 Pregnant Women, Professor Cynthia Soohoo, Soohoo from
22 the Human Rights Gender Justice Clinic, Farah Diaz-
23 Tello from the SIA Legal Team and Justine Kahn from
24 the Door, a Center of Alternatives, thank you. And if
25 I could ask that Emily Gertz begin. Thank you.

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2 EMILY GERTZ: Thank you for having me
3 here today and for this important Resolution. The
4 National Advocates for Pregnant Women secures the
5 civil and human rights of all pregnant women whether
6 they choose to have an abortion, experience a
7 pregnancy loss or go to term. One of the perspectives
8 we can bring to the chamber today is to remind the
9 council and our allies that these archaic penal laws
10 impacts more than women who choose to have an
11 abortion but also can impact women who have
12 pregnancies that they want to bring to term. I can
13 share this story quickly of Ms. Rinat Dray, who in
14 2010 was pregnant with her third child and desired to
15 have VBAC, a vaginal birth after cesarean. She sought
16 a doctor in a hospital who supported her in her
17 efforts but when she went into labor her chosen
18 doctor was not on duty and the doctor who took care
19 of her did not share her desire for a VBAC. He
20 pressured her continuously to have the cesarean
21 surgery and when she consistently and continuously
22 refused he sought the support of his superiors and
23 hospital counsel to override her desires and forced
24 her to have a c-section. He wrote simply in her
25 medical record quote, "Ms... this woman has decisional

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capacity, I have chosen to override her refusal to have a c-section. Ms. Dray was wheeled into the operating room and surgery was performed upon her". Since 1973 abortion opponents around the country have worked tirelessly to restrict access to abortion by giving rights to fertilize eggs, embryos and fetuses and by performing an unconsented to surgery on Ms. Dray that morning or day not only did they strip Ms. Dray of her due process they also stripped her of her fundamental rights including bodily integrity and fundamental liberty. As she... as Ms. Dray has sought redress for the violation she suffered through the court system fetal rights have been used as the hospitals continued argument for why they felt it okay to perform this surgery on her. In fact, one trial court judge stated New York quote, "recognizes an interest in the protection of a viable fetus by retaining the crimes of abortion and self-abortion". Another words, because of these penal law's women do lose their civil and human rights during pregnancy. We urge the New York State legislature to pass the reproductive health act so that all women have rights not only those who choose abortion but those who also

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2 like Ms. Dray want to carry their pregnancies to
3 term. Thank you.

4 CYNTHIA SOOHOO: Thank you, Council
5 Member Rosenthal and Public Advocate James. My name
6 is Cynthia Soohoo and I am the Co-director of the
7 Human Rights and Gender Justice Clinic at CUNY Law
8 School. Our clinic has documented laws used to
9 criminally prosecute women for ending their own
10 pregnancies in the U.S. and critiqued why such laws
11 violate the human rights of women. As others have
12 testified, New York was a trailblazer in recognizing
13 women's right to access reproductive health care and
14 New York City has also been a strong champion for
15 women's human rights. However, the Supreme Court's
16 recognition of the right to safe... however, after the
17 Supreme Court's recognition of the right to safe and
18 legal abortion in Roe versus Wade, New York State
19 failed to update its laws to repeal criminal abortion
20 provisions. As a result, we've relied on prosecutors
21 to exercise restraint and recognize that criminally
22 prosecuting women for abortion is unconstitutional
23 and violates women's human rights. Unfortunately, as
24 our clinic has documented in New York and other
25 states, prosecutors continue to use pre-Roe laws like

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2 those in New York to criminally prosecute women for
3 ending their own pregnancies, including in 2011, the
4 prosecution of a New York City woman for allegedly
5 drinking an herbal tea to induce an abortion. Given
6 current, current uncertainty about the direction of
7 the Supreme Court, it is imperative for New Yorkers
8 to ensure that our laws reflect our values and
9 commitment to reproductive rights and in particular
10 that no one should be arrested for... or imprisoned for
11 ending their own pregnancy. Recognizing the
12 fundamental rights at stake, international human
13 rights experts condemn laws that criminalize women
14 for ending their pregnancies and consistently call on
15 countries to repealing such laws. Indeed, in 2017,
16 the United Nations Working Group on Discrimination
17 Against Women called on New York State to, to pass
18 the reproductive health act. The findings of
19 international human rights experts confirm what our
20 Supreme Court has said and what most New Yorkers
21 already know; the ability to decide whether or not to
22 end a pregnancy is central to the dignity... the right
23 to dignity and bodily autonomy. Human rights experts
24 have also recognized that imposing criminal penalties
25 in abortion constitutes discrimination against women.

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2 The experience of other countries with criminal
3 abortion laws is instructive. In countries like El
4 Salvador, emergency rooms and other medical settings
5 have become sites of arrest and interrogation
6 subjecting women suspected of ending their
7 pregnancies to mistreatment and prosecution including
8 women who have suffered spontaneous miscarriages and
9 stillbirths. The reproductive health act provides the
10 opportunity for New York to once again become a
11 leader in protecting the human rights of women. We
12 strongly support this resolution and encourage
13 passage of the act.

14 CHAIRPERSON ROSENTHAL: Alright, just one
15 quick question on that before I forget, the... you
16 mentioned the 2011 case... [cross-talk]

17 Cynthia: Uh-huh... [cross-talk]

18 CHAIRPERSON ROSENTHAL: Is that the one
19 that Miss Kadar reflected on a moment before with the
20 case that the DA later dropped?

21 CYNTHIA SOOHOO: I believe it was and I
22 think that my colleague Farah Diaz-Tello... [cross-
23 talk]

24 CHAIRPERSON ROSENTHAL: Oh, great...
25 [cross-talk]

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CYNTHIA SOOHOO: ...is going to talk more...

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[cross-talk]

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CHAIRPERSON ROSENTHAL: ...sorry... [cross-

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talk]

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CYNTHIA SOOHOO: ...about that, yeah...

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[cross-talk]

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CHAIRPERSON ROSENTHAL: Thank you very

9

much.

10

FARAH DIAZ-TELLO: Hi, good morning and

11

thank you for the opportunity to speak on this

12

important issue. My name is Farah Diaz-Tello and I'm

13

Senior Counsel for the SIA Legal Team which works to

14

transform the legal landscape so that people who end

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their pregnancies outside of the formal medical

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system can do so with dignity and without fear of

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punishment. And I want to focus on the parts of New

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York's law concerning abortion and put us firmly in

19

the back of the pack in the rest of the country. As

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Public Advocate James mentioned earlier we're one of

21

only seven states that retains a law criminalizing

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self-managed abortion and of those states we're one

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of only four that still believes that their law is

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enforceable the rest have been deemed unenforceable

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by courts or by attorney generals. I notice that it

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2 seems to come as a bit of surprise for the committee
3 that self-managed abortion is something that still
4 happens and that it's not just a relic of pre-Roe
5 past and the truth is that self-managed abortion has
6 always existed and will always continue to exist for
7 a variety of reasons and those reasons might be
8 people who lack access or who have well founded
9 suspicions about the medical... the medical system
10 because of histories of unconsented medical testing
11 to fears about being harassed by clinic protesters
12 but they may also may include reasons like wanting a
13 private more self-directed experience in the comfort
14 of their own home. You asked earlier how many people
15 are having self-managed abortions and the truth is we
16 can't really tell because they only come to our
17 attention either when something goes wrong or when,
18 when a criminal prosecution happens but we do know is
19 that research from the Texas Policy Evaluation
20 Project found that among Texas women, up to four
21 percent of women of reproductive age had attempted to
22 end a pregnancy on their own at some point and
23 research into google searches for terms related to
24 self-managed abortions found that in the course of
25 one month more than 210,000 searches in the United

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2 States for self-managed abortion had, had occurred.
3 Lawmakers always ask me how many arrests there have
4 been and I... the question I really wish that they
5 would ask is how many more women have to suffer the
6 humiliation of arrests and criminal interrogation
7 before we recognize the folly and danger of treating
8 a public health issue under the criminal code. The
9 women who suffer are women like Yaribely Almonte, the
10 Washington Heights woman who was arrested after
11 drinking a tea allegedly to end a pregnancy. Women
12 like domestic violence survivor Katrina Pierce who
13 was arrested in West Monroe after allegedly taking a
14 handful of, of over the counter pain medications in
15 an unsuccessful bid to end a pregnancy and was still
16 charged with a crime for it. The pattern that we see
17 at the SIA Legal Team is that as long as there is a
18 way for prosecutors to prosecute people for ending
19 their pregnancies they're going to find a way to do
20 it, the time is now to fix this problem in New York's
21 law. Thank you.

22 JUSTINE KAHN: Good morning, thank you to
23 the Council and Public Advocate James. My name is
24 Justine Kahn and I'm representing the Door Adolescent
25 Health Center. The Door's mission is to empower young

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2 people to reach their full potential by providing
3 comprehensive youth development services in a diverse
4 and caring environment. Since 1872, the Door has
5 helped rapidly growing population of young people in
6 New York City gain the tools they need to become
7 successful in school, in work, and in life. Each
8 year, the Door serves 11,000 young people from all
9 over the city, with a wide range of services
10 including reproductive health care and education,
11 mental health counseling and crisis assistance, legal
12 assistance, career and education services, supportive
13 housing, sports and recreational activities, arts,
14 and nutritious meals all under one roof. The
15 resolution before you now calls on the New York State
16 legislature to pass the reproductive health act,
17 legislation which would update and improve New York's
18 antiquated laws around abortion. I strongly support
19 the RHA and this resolution. The Door agrees that in
20 passing the RHA and thereby moving our abortion law
21 from the criminal code to the health code, regulating
22 abortion as the medical procedure it is, New York
23 would be better protecting its residents. It would be
24 better protecting its health care providers from
25 prosecution, it would recognize and protect advanced

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medical... advanced practice providers who perform abortions within their scope of practice, it would be protecting individuals face, facing major health complications late in pregnancy by creating an exception to the ban on abortion after 24 weeks, it would no longer criminalize women who self-manage their abortions, it would protect women from having to travel out of state for care or waiting until their health was in jeopardy before having access to an abortion all of which will be possible should the Trump administration overturn Roe. The State Assembly has passed this bill too many times, but it has been blocked again and again by the New York State Senate and by anti-choice leadership. With our rights under attack at the federal level and states around the country restricting abortion access, we cannot afford to waste any more time. We need both houses of the legislature to pass this act as soon as possible in January. This must be a top priority. I thank the New York City Council and Public Advocate James for taking a stand and urging your colleagues in Albany to pass this reproductive health act. Thank you.

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CHAIRPERSON ROSENTHAL: Thank you all so much. I have questions but I'm going to defer to the Public Advocate to begin.

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PUBLIC ADVOCATE JAMES: I just have one question for Miss Farah Diaz-Tello. The cases that you cited are relatively recent cases based on decisions, were all of these cases prosecuted by local DAs or the office of the Attorney General?

10

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FARAH DIAZ-TELLO: They were local DAs as far as I know.

12

13

14

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PUBLIC ADVOCATE JAMES: And in the case involving our Staten Island... the hospital, the Staten Island University Hospital, who... in that particular case who prosecuted that case?

16

17

18

FARAH DIAZ-TELLO: That wasn't a criminal prosecution, that was an active medical malpractice among other things so... [cross-talk]

19

20

PUBLIC ADVOCATE JAMES: It was a civil... [cross-talk]

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FARAH DIAZ-TELLO: ...so, it's a civil matter, yeah, so one of the arguments that the hospital has raised in that case is that they're justified in prevent... in preventing harm to a fetus

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2 by any means necessary including cutting into an
3 unwilling woman.

4 PUBLIC ADVOCATE JAMES: And in any of
5 those cases did any elected official intervene and
6 oppose?

7 FARAH DIAZ-TELLO: Not that I know of.

8 PUBLIC ADVOCATE JAMES: Thank you.

9 CHAIRPERSON ROSENTHAL: Thank you Public
10 Advocate James. Many of you have focused on the
11 importance of repealing the provisions related to
12 abortion and the penal law additionally how can... is
13 there an additional way that the city council can
14 support the expansion of access to abortion?

15 CYNTHIA SOOHOO: I mean I, I think that
16 the city council should be spearheading efforts to
17 make sure that there's access to services, you know
18 I, I think that also if we... Supreme Court... if some,
19 something happens to Roe versus Wade I think what
20 we're going to see is more people coming to New York
21 and I think that that's going to underscore the need
22 for us to expand the health services we provide to
23 make sure that there are, are enough for New Yorkers
24 and also for other women who might be forced to come
25 to New York. I also wanted to add we're lucky

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2 actually that we have Melissa Upreti who is from the
3 U.N. working group on Discrimination Against Women
4 who will talk in more detail about why this is a
5 human rights issue but I, I want to add that the
6 experience that the man testified about earlier,
7 denial of, of an abortion for a woman who needs an
8 abortion for health or because the fetus is not
9 viable that human rights bodies have said denial of,
10 of... access to an abortion in those situations is
11 cruel, cruel... it's a... it's a cruel and degrading
12 treatment and could rise to torture.

13 EMILY GERTZ: I just wanted to add that
14 the city council can continue to remind people that
15 abortion and reproductive health care in general is
16 simply health care. Estimates are that one in three
17 or one in four women will have an abortion in their
18 lifetime, we know that about 84 percent of women who
19 have abortions are already mothers so people who have
20 abortions are not a separate group of people, they
21 are simply people who needed an abortion at one point
22 in their life, maybe have a child before and may have
23 children afterwards so... it's essential that we just
24 consider this as part of the health care that 50

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2 percent of the population may need to access in their
3 lifetime.

4 PUBLIC ADVOCATE JAMES: Madame Chair may
5 I just follow up with one simple question? On all the
6 cases that were cited did, did... do the women... did she
7 get legal counsel, is she entitled to legal counsel
8 anywhere, is... are there... are there legal services for
9 them individually and if so where?

10 FARAH DIAZ-TELLO: There should be, so
11 the for the most part these women who qualified for
12 indigent defense, as we see most time... most often
13 people who are self-managing their own abortions are
14 people who can't otherwise afford them, that's not
15 universally the case but it's often the case so they
16 may have access to a public defender, they are very
17 unlikely to have access to private counsel but those
18 are the circumstances that they're under. And I also...
19 I'd like to, to the earlier question underscore the
20 point that decriminalizing abortion... [cross-talk]

21 PUBLIC ADVOCATE JAMES: Right... [cross-
22 talk]

23 FARAH DIAZ-TELLO: ...finally delivering on
24 Roe's promise, to decriminalize abortion is an access
25 issue, the difference between a safe self-managed

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2 abortion and a dangerous one is whether the person
3 has access to information and access to, to, to
4 medical care and back up in case they need it and
5 when people fear arrest for seeking help they're not
6 going to seek help so this is... this is really a
7 health access issue.

8 PUBLIC ADVOCATE JAMES: And I'm
9 particularly concerned about women outside of... I mean
10 New York City obviously there's a plethora of
11 resources but once you get outside of New York City
12 particularly upstate we've got a lot of work to do.

13 CHAIRPERSON ROSENTHAL: Thank you. And I
14 do just want to thank you for talking about how this
15 is a human rights issue and let you know that we did
16 hear from Rinat Dray at our maternal mortality
17 hearing back in June, so I appreciate your
18 referencing her again. Thank you. I'm going to move
19 on to the next panel; we have Jessie Losch from
20 WHARR, Melissa Upreti, Upreti from the U.N. Working
21 Group on Discrimination Against Women, we have Andrea
22 Salwen Kopel from the National Council of Jewish
23 Women in New York, thank you all for being here. And
24 Jessie if you could begin.

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2 JESSIE LOSCH: So, thank you all so much
3 and thank you everybody for testifying as well and I
4 know everybody knows how and why the RHA is vital so
5 I will skip that and really just say that New York
6 has a storied history as a haven for those who need
7 it most in so many ways and we need to be that again
8 and so, WHARR, the Women's Health and Reproductive
9 Rights group is a subgroup of get organized Brooklyn
10 so a thank you to Brad Lander for creating that
11 opportunity for all of us and I'm a Co-chair for
12 WHARR, I'm also a preschool teacher and an
13 interpreter for sex traffickers and so when I was
14 thinking of what to say and, and who's story I could
15 tell I realized that there were too many, there are..
16 there are too many stories that, that over score the
17 importance of, of why we need this and, and so the
18 one that stood out is the one that's just the most
19 recent and that is the story of one of the women
20 whose children I have the pleasure of seeing every
21 day in my preschool, twin boys who are two and their
22 mom Rachel was pregnant again with another boy, her
23 husband was thrilled, I'm not so sure that three.. she
24 was thrilled with a third boy under the age of, of
25 two and everything was going well for the first five

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2 months. Her twins came in every day with the story of
3 being a big brother, they were drawing pictures,
4 Rachel had a routine ultrasound about three months
5 ago and they found that the fetus that she was
6 carrying had no lymphatic or renal system which is
7 the reason that she wasn't showing so well and..
8 because the fetus was actually relying on her own
9 systems to filter out the kidney.. the poisonous in
10 his own blood. So, the doctor said that should she
11 carry to term... this was actually a... considered a
12 viable fetus because he would live a few hours before
13 extensively suffocating in, in those poisons, dying
14 of blood poisoning so he gave her a choice to choose
15 to carry to term and then watch this happen, the
16 other choice was that she and her husband had one day
17 to make this decision because they were at the very
18 end of this time period where this was legal so they
19 had to basically do all this at once, they had to
20 grieve a very wanted pregnancy, they had to make
21 childcare decisions, they had to make appointments
22 and they had to explain to their boys that they would
23 not be becoming big brothers at least right away. We
24 have not caught up with science with the times and
25 with human rights. We have.. you know I saw my school

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2 go into emergency mode and take care of Rachel and of
3 her boys and of her family and I trust that we in New
4 York State will do that again but I don't trust that
5 we will do that legally and so I know that the
6 Assembly has passed this so many times and I'm asking
7 that the Senate catch up and that we do this on
8 behalf of Rachel and her boys and her family as well.
9 So, I thank you very much for your fight.

10 ANDREA SALWEN-KOPEL: Hello, thank you
11 Public Advocate James for introducing this Resolution
12 before the committee and thank you Council Member
13 Rosenthal for convening this hearing today. My name
14 is Andrea Salwen-Kopel and I'm the Executive Director
15 of National Council of Jewish Women New York, we're
16 known as NCJW New York and we are a grass roots
17 organization of volunteers and advocates who turn
18 progressive ideas into action. We are inspired by our
19 Jewish values to strive for social justice and
20 improve the quality of life for women, children and
21 families and to safeguard individual rights and
22 freedoms and we think it's very important to be here
23 today. We are a 125-year-old organization and I
24 suspect that for that entire 125 years we've been
25 working for reproductive rights and justice for women

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2 as an integral part of women's equality. We think
3 that as a faith-based organization we have a special
4 role to play in this issue where as we all know anti-
5 choice advocates claim to have god and faith on their
6 side. Our official testimony in the record of course
7 echoes everything that people have said about the
8 importance of this legislation in updating New York
9 State's antiquated abortion laws, the reason why... the
10 reasons why that's important and the ways in which it
11 does that so I won't repeat that here since my, my
12 colleagues and our coalition partners and lawyers and
13 professors and doctors have done that so very well
14 but I did just want to conclude by saying that NCJW
15 New York is committed to creating a world where all
16 people regardless of race, class, gender, sexuality,
17 ability, or immigration status have the right to
18 choose whether and when to have children, to build
19 their families and to live their lives with dignity.
20 Our Jewish values teach us that reproductive freedoms
21 are integrally bound to our religious liberty, we are
22 committed to advancing the goals of reproductive
23 justice such that all people can make their own moral
24 decisions about their bodies, their health, their
25 family informed by their own religious beliefs and

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2 their own faith and that is why we will continue to
3 work with our coalition partners in this fight to
4 finally see the reproductive health act passed and
5 signed into law and once again we thank you.

6 CHAIRPERSON ROSENTHAL: Thank you. I
7 think your mic... [cross-talk]

8 MELISSA UPRETI: Can you hear me now?
9 Thank you very much. Good morning everyone and thank
10 you Council Member Rosenthal and Public Advocate
11 James. My name is Melissa Upreti and I am a Special
12 Mandate Holder appointed by the United Nations to
13 examine laws and practices that discriminate against
14 women and I'm a member of the United Nations Working
15 Group on Discrimination Against Women in law and in
16 practice. In 2017, the working group sent a letter to
17 the United States urging the passage of the
18 reproductive health act in New York and as set forth
19 in the letter which is available publicly and I shall
20 send you a copy later, the working group expressed
21 concern about measures taken by states that undermine
22 women and girl's equal rights to health and
23 specifically their right to reproductive health as
24 well as their right to physical integrity. Such
25 measures run contrary to international human right

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2 standards and to the obligations undertaken by the
3 United States including through its ratification of
4 the international covenant on civil and political
5 rights also frequently referred to as the ICCPR. One
6 particularly troubling aspect of New York's current
7 law governing abortion is that it criminalizes women
8 who end their own pregnancies. Criminalization of
9 abortion and the failure to provide adequate access
10 for the safe termination of an unwanted pregnancy
11 constitute discrimination on the basis of sex and
12 contravention of Article two of the ICCPR. The
13 working group has called for protection of the right
14 to safe termination of pregnancy in the context of
15 the right to life enshrined in Article six of the
16 ICCPR. The criminalization of termination of
17 pregnancy as we can tell from the stories this
18 morning deters health officials from carrying out
19 safe abortion procedures thus increasing the number
20 of women resorting to unsafe methods of pregnancy
21 termination. Ultimately criminalization does grave
22 harm to women's health and human rights by
23 stigmatizing a safe and commonly needed medical
24 procedure. Also, such provisions deter women who have
25 had abortions outside of a clinical setting from

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2 obtaining help if complications arise. The working
3 group is of the view that criminalizing the
4 termination of a pregnancy instrumentalizes women's
5 bodies, undercuts women's autonomy and unnecessarily
6 as well as unjustly puts their lives and health at
7 risk. As we have seen here and across the world, the
8 treatment of abortion as a criminal matter often
9 produces harmful collateral consequences including
10 the imprisonment of women who have had miscarriages.
11 Criminalization of self-induced abortion raises
12 concern about the impact on low income women who due
13 to limited means and reduced access to health care
14 are most likely to seek to terminate their own
15 pregnancies and consequently most likely to be harmed
16 by the current legislation. In the last few years a
17 number of human rights mechanisms have moved to
18 requiring decriminalization including as an immediate
19 obligation of states. Criminalization of abortion has
20 been deemed a form of gender-based violence that
21 depending on the circumstances may amount to torture
22 or cruel inhuman and degrading treatment. There is no
23 doubt that women's access to safe abortion is
24 critical to their ability to realize many other
25 fundamental human rights. The right to equality and

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2 the highest available standard of health care and the
3 right to nondiscrimination and access to health
4 services including those related to sexual and
5 reproductive health require specific protection.
6 Equality and the supply of health services requires a
7 differential approach to women and men in accordance
8 with their biological needs and the right to safe
9 termination of pregnancy is an equality right for
10 women. Punitive measures must not be enforced against
11 women seeking to make decisions about their health,
12 safety and wellbeing. On behalf of the working group
13 I would like to say that we do indeed welcome this
14 resolution and urge New York State to pass the bill
15 in order to ensure that women's most basic human
16 rights are guaranteed, and that abortion is
17 decriminalized, to do so would be consistent with
18 international human rights law. We are watching, and
19 the world is watching. Thank you.

20 CHAIRPERSON ROSENTHAL: Thank you very
21 much, do you have copies of your testimony.

22 MELISSA UPRETI: I do, and I shall email
23 the... [cross-talk]

24 CHAIRPERSON ROSENTHAL: Very good, thank
25 you I was... just wanted to make sure and I have a

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2 quick follow up question for you given your wider
3 perspective obviously working with the U.N. In the
4 U.S. according to researchers at the University of
5 California San Francisco, American women who are
6 denied an abortion struggle more financially than
7 women who undergo the procedure, women denied the
8 procedure are less likely to be working full time one
9 year later and are more likely to be receiving public
10 assistance and living below the federal poverty line
11 than women able to obtain an abortion, can you tell
12 us more about the connection between reproductive
13 freedom and economic opportunity?

14 MELISSA UPRETI: Well I think the two are
15 critically linked and that's why the rights of a
16 woman to control her fertility, the number, spacing,
17 timing of her children has been recognized as a human
18 right and the denial of that has been recognized as
19 discrimination which percolates into every aspect of
20 her life; economic, political and otherwise and it is
21 amply clear that women who are not able to control
22 their fertility also are not able to avail of
23 opportunities to participate in the workforce and
24 aside from that there is the whole issue of unpaid
25 care work, the fact that a lot of work that women do

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is simply not valued, there is no monetary value assigned to it, that doesn't mean that women are not working and their work is not of value it just means that we live in an economic system that has an androcentric bias that does not put... assign that kind of value so the link is clear, I think it's just that it has not been adequately established through research but you know that's something that needs to be addressed.

CHAIRPERSON ROSENTHAL: Thank you very

much, thank you all for your testimony. We're going to call up our last panel; we have Ann Danforth from Raising Women's Voices New York, Odile Schalit from the Brigid Alliance and Mirah Curzer from the New York City Bar Association, thank you if you could all give your testimony to the Sergeant At Arms and we will begin, thank you.

ODILE SCHALIT: Thank you Council Member

Rosenthal and thank you Public Advocate James. My name is Odile Schalit and I offer testimony today in support of resolution 84. I do so with many years of experience working with individuals seeking abortion care as a full spectrum Doula, as a social worker and currently as the Director of the Brigid Alliance. The

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2 Brigid Alliance is a support service that provides
3 assistance to people who are forced to travel to seek
4 abortion care. We help individuals cover the
5 considerable cost for transportation and housing,
6 provide funds for gas and tolls and refer people to
7 local practical support networks where they exist.
8 Over my career I have assisted countless numbers of
9 women in accessing abortion care and informed... and
10 informing them and counseling many who were beyond
11 the gestational limits. This experience has shown me
12 the enormous barriers women face in accessing
13 abortion care in New York State. The law as it stands
14 has resulted in gross inequity for and inordinate
15 burden to New York State women. This is due to the
16 gestational limitation, the restrictions of who may
17 provide abortion services and the pervasive fear of
18 persecution. While it may seem unbelievable to many
19 of us here, though not in this room, in New York
20 City, many women in New York State live in hostile
21 environments where it is hard to identify and access
22 trustworthy supportive providers who offer a full
23 spectrum of care. Given these barriers the
24 reproductive destinies of these individuals vary
25 widely. Some of these women will pursue their care,

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2 often taking long treks from upstate New York to New
3 York City, an often-unfamiliar voyage. They will
4 leave children, jobs, partners, dependents behind;
5 they will be forced to disclose their very personal
6 experience and needs to unsupportive individuals,
7 they will be burdened with the myriad financial costs
8 of travel; gas, tolls, parking, bus, train, plane
9 tickets, hotels, meals, medications, child care. All
10 of these additional burdens have the potential of
11 creating emotional stress for these women, which may
12 even force them to abandon their plans to find the
13 most appropriate care for themselves. All of which
14 could have been avoided if there existed safe,
15 supportive and expert care in their local area.
16 Because of the gestational limit others will have to
17 leave New York State and travel even further across
18 state lines as Mr. Marschell discussed. Many of these
19 individuals are faced with the deeply complicated
20 experience of grief that comes from discovering a
21 fetal anomaly or a health issue that complicates the
22 viability of a wanted pregnancy for the safety of a
23 mother. It is unnecessary and cruel to cause this
24 additional pain by forcing such a person to surmount
25 the even greater logistical challenges of traveling

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2 so far away. There's so much more but I'm out of
3 time. Oh, yeah so just to finish and to say the
4 Brigid Alliance is proud to provide this work but
5 simply put, we shouldn't have to exist, so we need
6 this revision to this law, thank you so much for
7 hearing my testimony.

8 CHAIRPERSON ROSENTHAL: Thank you.

9 MIRAH CURZER: Good morning, thank you to
10 the Council and to Public Advocate James. My name is
11 Mirah Curzer and the Co-chair of the Sex and Law
12 Committee at the New York City Bar Association. The
13 city bar has a longstanding commitment to upholding
14 the principles of individual liberty and supporting
15 the constitutionally protected freedom to make public
16 health care... private health care decisions and
17 reproductive choices. We reaffirm this commitment by
18 supporting city council resolution 84, urging the New
19 York State legislature to pass and the Governor to
20 sign the reproductive health act. Although the New
21 York law enacted in 1970 includes an exception for a
22 performance of an abortion after 24 weeks when a
23 women's life is at risk, the law currently does not
24 contain an exception for women's health or for cases
25 of fetal non-viability. Accordingly, it fails to

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2 comply with the United States Supreme Court
3 precedence requiring that statutes governing abortion
4 permit abortion at any time prior to fetal viability
5 or in cases where a women's health is at risk. As
6 others have testified this has resulted in a
7 significant obstacle for women who find themselves in
8 the tragic circumstances of needing an abortion later
9 in pregnancy due to a severe fetal anomaly or a risk
10 to their own health. On a personal note, I am
11 currently 27 weeks pregnant which puts me past New
12 York State's 24 week cut off which would leave me
13 with no recourse under the penal law should my
14 pregnancy become a danger to my health or should my
15 fetus become diagnosed with a fatal abnormality. In
16 addition, New York's continued criminalization of
17 self-abortion stands as an outlier in the nation at
18 common law even when abortion was considered a crime
19 it was not a crime that a woman could commit upon
20 herself. New York State is one of only seven states
21 that elected to break with that tradition and even
22 among those outliers the ninth circuit has ruled at
23 least one self-abortion ban unconstitutional, another
24 has been declared unenforceable by the state attorney
25 general and a third has been declared

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unconstitutional by a federal district court. Of further note, by only authorizing abortions performed by a physician, New York law has placed an obstacle in the path of advanced practice clinicians acting in their lawful scope of practice in the provision of early non-surgical abortion. There is no valid medical justification for a physician only limitation as leading medical associations have endorsed the provision of abortion by appropriately trained APCs. Clarifying this legal ambiguity is critical particularly in rural areas of the state where providers are few and far between. Finally, New York's law contains archaic provisions that have since become obsolete or been held unconstitutional by subsequent Supreme Court decisions including the criminal ban on the sale of contraceptives to minors and the requirement that second trimester abortions be performed in hospitals. The act conforms New York's law to current jurisprudence by repealing these obsolete provisions which are not currently followed in practice. The New York City Bar praises the city council for standing up for the reproductive rights of all New Yorkers and joins in it's call for

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2 the legislature's swift passage of the reproductive
3 health act. Thank you.

4 CHAIRPERSON ROSENTHAL: Thank you, I know
5 the Public Advocate has a question.

6 PUBLIC ADVOCATE JAMES: Sure, in your..
7 thank you Madame Chair. In your testimony you talked
8 about the outdated and harmful facets of New York's
9 abortion related penal laws and you made reference to
10 several cases where it was declared unconstitutional,
11 one by the ninth circuit, the second one by the
12 attorney general and the third by a federal district
13 court, can you just elaborate a little bit
14 particularly as it relates to what were the
15 circumstances by which they were determined to be
16 unconstitutional and particularly in that one example
17 that you cited involving the office of attorney
18 general?

19 MIRAH CURZER: I apologize I don't have
20 the, the details in front of me at the moment...

21 [cross-talk]

22 PUBLIC ADVOCATE JAMES: Okay... [cross-
23 talk]

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COMMITTEE ON WOMEN

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MIRAH CURZER: ...but I... they are in part of the appendix to the testimony that we've submitted to the council.

PUBLIC ADVOCATE JAMES: Okay, thank you, I appreciate that.

CHAIRPERSON ROSENTHAL: Thank you so much current Public Advocate Tish James and with that I'm going to call this hearing to close but I thank everyone who came together today to educate this body about the work that they've been doing and I want to let you know on a personal note how much I appreciate the work that you are doing and urge you to be patient and not give up so we can... we can actually pass the reproductive health act. Thank you very much.

[gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date

September 30, 2018