

Public Health Committee JOINT FAVORABLE REPORT

Bill No.: SB-835

AN ACT CONCERNING DECEPTIVE ADVERTISING PRACTICES OF LIMITED

Title: SERVICES PREGNANCY CENTERS.

Vote Date: 2/22/2021

Vote Action: Joint Favorable

PH Date: 2/10/2021

File No.: 38

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SPONSORS OF BILL:

The Public Health Committee

REASONS FOR BILL:

This bill prohibits deceptive advertising by limited services pregnancy centers, which it defines as pregnancy services centers that do not directly provide, or provide referrals for, abortions or emergency contraception. It prohibits them, with intent to perform a pregnancy-related service, from making or otherwise disseminating a statement about the provision of these services or the services themselves that (1) is deceptive and (2) the center knows or reasonably should know is deceptive.

The bill also allows the attorney general to apply to court for related injunctive relief, if he first gave written notice to the center and it did not respond or cure the violation within 10 days. The court can order the center to pay for and disseminate appropriate corrective advertising. If the court finds that the center violated the above prohibition, the center also must pay civil penalties and reasonable attorney's fees.

RESPONSE FROM ADMINISTRATION/AGENCY:

William Tong, Attorney General of the State of CT:

Attorney General Tong strongly supports this legislation based on three key points: (1) the bill not only protects women, but promotes public health policy in Connecticut, (2) it does not harm constitutional rights, and (3) it is necessary to bridge gaps which protect women from deception. Some limited service pregnancy centers (LSPCs) are forthcoming with their positions, including that abortion is fundamentally wrong. While Attorney General Tong strongly disagrees with that position, he recognizes the importance of respecting those

centers' First Amendment rights. Other centers are not as open with their positions and that can contribute to deceptive advertising. Reproductive health services are time-sensitive; therefore, if a pregnant woman is delayed in learning her options, it can contribute to the loss of safer methods as well as the inability to terminate a pregnancy all together. While this is a significant public health issue, it also bears a financial impact. If less-invasive options are lost due to a time delay, the state may be held responsible for the cost of more dangerous procedures.

To address the second point, this bill does not limit the free speech rights of LSPCs. It does not ban anti-abortion campaigns; it protects the consumer from deceptive advertising. The language in this bill is similar to a measure passed in San Francisco and after being challenged in the Ninth Circuit Court of Appeals, it was determined that the language and concept is constitutional.

The final point notes that this legislation would allow for enforcement gaps to be filled. Deceptive advertising is currently regulated under the Connecticut Unfair Trade Practices Act (CUTPA). Yet, some LSPCs may fall outside the scope of CUTPA depending on commercial standards and corporate structure. Massachusetts, for example, did not apply their fair practices act to a LSPC matter. The wellbeing of women in Connecticut is too significant to allow for gaps in enforcement.

Senator Martin Looney, Senate President Pro Tempore, 11th District, et. al:

Senator Looney said this bill is a caucus priority and that these crisis pregnancy centers are organizations that attempt to look like legitimate family planning clinics, while actually providing inaccurate information. Residents seeking real reproductive healthcare from the calculated misinformation of some crisis pregnancy centers must be protected.

Representative Brian Lanoue, 45th Assembly District:

Representative Lanoue is opposed to the bill because he has spoken with clients who were referred to a women's center and they were very satisfied with the support they received. He has yet to be contacted by anyone who feels they were deceived by a women's pregnancy center, in fact in speaking with other community partners, he was told the women's centers have been nothing but supportive and a valued asset to the community. He feels this bill would interfere with and create the risk of losing valuable women centers.

Luke Bronin, Mayor of Hartford, CT:

Mayor Bronin supports this legislation. Women deserve to receive honest information regarding their health and wellbeing. In Hartford, a measure was passed that banned deceptive advertising following the establishment of a "Crisis Pregnancy Center" (CPC) adjacent to the longstanding Hartford GYN Center. While the center has the right to provide services, it was reported that this CPC was leading women to believe that their appointments at the Hartford GYN Center were actually in their center.

In addition, it was confirmed that this CPC was making direct attempts to "lure" women into the center. A Willimantic-based organization that operates a mobile clinic, filed a federal lawsuit claiming that Hartford's ordinance violated the First Amendment. They withdrew that lawsuit last year. They reached a settlement that leaves their local ordinance intact and enforceable because their services are delivered under the supervision of a licensed medical provider, and therefore are not subject to our ordinance. They are prepared to enforce their ordinance, and strongly encourage the State to move forward on this legislation. Despite differing opinions on abortion,

the women in our state should be protected from deceptive practices. This bill does that, while also not infringing on First Amendment rights.

Benjamin Florsheim, Mayor of Middletown, CT:

Mayor Florsheim is in support of the bill because the bill simply states that pregnancy centers present themselves to their clients for what they are, as well as what they are not.

NATURE AND SOURCES OF SUPPORT:

Liz Gustafson, Organizer and Volunteer Coordinator, NARAL Pro-Choice CT:

NARAL is in support of the bill. In 2015, twenty-two in person investigations were conducted with an additional five in 2017 that examined the strategies of pregnancy centers in this state. The results of the studies are encompassed in the testimony, which highlight specific instances of women being deceived by limited services pregnancy centers.

Iyanna Liles, MD, The American Congress of Obstetricians and Gynecologists (ACOG):

ACOG stands in strong support of this bill because the organization advocates for “the elimination of all barriers to the provision of abortion.” Dr. Liles recounted the story of a patient who was pressured to enter a crisis pregnancy center (CPC). This patient was unaware of her options and left the CPC with no further clarity to make her decision. This legislation promotes transparency, honesty, and protects against a threat to our state’s public health.

Patrick McCann, Assistant State Director, American Atheists:

Patrick is in support of the legislation because he sees it as a threat to public health in our state when people are being deceived, delayed, or blocked in finding the healthcare they are seeking, particularly in reproductive healthcare. The state has a clear obligation to protect the public’s health and safety from such tactics.

Kelly McConney Moore, Interim Senior Policy Counsel for the American Civil Liberties Union of Connecticut (ACLU-CT):

The ACLU is in support of this legislation because the bill only addresses one fundamental right – the right to access a full spectrum of reproductive healthcare without burdens or barriers. People who are or may be pregnant and who need information and medical care should be able to figure out whether a facility offers that information and medical care. Delays that may result from a person seeking care at a CPC under false pretenses can increase both the complexity and costs of later reproductive care. The bill only prohibits a certain category of unprotected speech – deceptive commercial speech.

Roxanne Sutocky, Director of Community Engagement, The Women’s Centers:

She is in support of this legislation because she the bill enacts needed protections against false and misleading advertisements by fake women’s health centers meant to delay or intervene in access to legitimate reproductive healthcare services. Fake women’s health centers open up next door to abortion clinics, mimic the appearance and names of abortion clinics, and place advertisements that make it appear they offer the full range of family planning services when they do not, all in the name furthering their antiabortion agenda rather than promoting patient health. Deception and delay in seeking healthcare can also

impact the patient-provider relationship once a patient eventually makes her way to a reputable health care provider.

NATURE AND SOURCES OF OPPOSITION:

Steven H. Aden, Chief Legal Officer and General Counsel of Americans United for Life (AUL):

He opposes this bill because it is his legal opinion that the Act violates the First Amendment by singling out and targeting pro-life pregnancy centers. He believes it purports to address deceptive advertising, but in reality, would only subject these pregnancy centers to harassment and burdensome legal fees.

Cody Barr, Director at Caring Families Pregnancy Services:

Cody is opposed to this bill because the bill discriminates against pro-life / faith-based pregnancy centers and exempts pro-abortion centers, offers no specifics on what language is considered deceptive yet it forces pregnancy centers to pay for 'corrective advertising' if their ads are deemed deceptive, and would grant the Attorney General over-reaching ability to sue pregnancy centers.

Christina Bennett Director of Communications Family Institute of Connecticut:

She is opposed to the bill because she feels it is based on false accusations against faith-based pregnancy centers and because it discriminates against pro-life centers because they don't refer for or perform abortions.

Denise Harle, Senior Counsel with Alliance Defending Freedom:

Denise Harle is opposed to the bill because she believes pregnancy care centers provide so many compassionate services and are an important asset to the community and should not be targeted for their pro-life beliefs.

Molly Hurtado, previous Executive Director of ABC Women's Center:

Molly believes this legislation is trying to regulate an issue that does not exist because there are no verified reports of false advertising.

Anne Manusky President, CTRA:

Anne is opposed to the legislation because CT pregnancy centers need to have the freedom to continue on as they have existed offering life to those women who are in a situation they think is beyond their control; providing choice of going to a pregnancy center to continue life.

William O'Brien, Vice Resident of Connecticut Right to Life:

He is opposed to the bill because he believes it could place Connecticut in danger of losing millions of dollars of federal funds from HHS and Labor appropriation. He is opposed to abortion.

Darlene Passapera, Executive Director of Hope Pregnancy Center in Cheshire:

She is opposed to the bill because she believes it is a very broad and vague statement and leads to open interpretation.

Reported by: Lindsay Van Buren

Date: 3/9/2021