



**In re: Pregnancy Center Disclosures
(S.2264-Hoyleman/A.2352-Glick)**

Memorandum of Opposition

Bill S.2264-Hoyleman/A.2352-Glick is an unnecessary bill that would compel crisis pregnancy centers to make certain disclosures to prospective clients. If passed, the legislation would be vulnerable to a constitutional challenge on First Amendment grounds.

This bill would require crisis pregnancy centers, “upon first communication or first contact” with prospective clients, to disclose that they do not provide abortion or birth control services or make referrals for such services. The bill defines “crisis pregnancy center” as an organization “whose primary purpose is to provide pregnancy counseling, assistance and/or information, whether for a fee or as a free service, but does not perform abortions or refer for abortions.” The legislation would allow anyone who believes that a crisis pregnancy center has failed to communicate the mandated disclosure to complain to the State of New York; that complaint, in turn, would trigger an investigation by the New York State Department of Health. Violators would be fined. Significantly, the bill’s mandated disclosure is not applicable to “licensed health care providers, hospitals, family planning clinics that provide or refer for abortion and/or contraception, or family planning clinics that receive federal Title X funds.”

In *NIFLA v. Becerra*, the Supreme Court of the United States heard a constitutional challenge to a crisis pregnancy center disclosure law passed in California. The Court found that California law unconstitutional, noting that content-based restrictions on free speech “are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests.” *NIFLA v. Becerra*, 585 U.S. __, __ (2018) (slip op. at 6) (citations omitted). The Court added that its “precedents are deeply skeptical of laws that ‘distinguis[h] among different speakers...’” *Id.* (slip op. at 19). By targeting only crisis pregnancy centers and excluding four other categories of organizations from its mandated disclosures, distinguishing among different speakers is exactly what Bill S.2264-Hoyleman/A.2352-Glick would do. The New York State Legislature should learn from the State of California’s mistake and refrain from passing this bill.

Furthermore, the sponsor memo accompanying Bill S.2264-Hoylman/A.2352-Glick provides no real justification for its provisions. According to the memo:

The deception and misinformation that is has been [sic] previously offered by [crisis pregnancy centers] is not only unjust but potentially dangerous to a woman's health... When women are seeking family planning and health care services, it is imperative that they are easily able to distinguish medical from non medical [sic] services and receive accurate information as well as information on family planning without hassle or propaganda.

Pregnancy centers, both in New York and across the nation, provide thousands of pregnant women with free pregnancy tests, parenting skill training, and material support.¹ The bill memo offers no basis for its assertion that crisis pregnancy centers have offered "deception and misinformation" (let alone "hassle or propaganda") to anyone. This pejorative language begs the question: Is the purpose of this bill to "improve a woman's ability to receive accurate and unbiased reproductive health services," as the memo states? Or is it merely an expression of animus against crisis pregnancy centers?

New Yorkers for Constitutional Freedoms urges Members of the New York State Legislature to vote against this heavy-handed, constitutionally suspect measure.

¹ See "The Truth About 'Crisis Pregnancy Centers,'" available at CareNet.org (last accessed April 28, 2019).