
OLR Bill Analysis

sHB 7070 (as amended by House "A")*

AN ACT CONCERNING DECEPTIVE ADVERTISING PRACTICES OF LIMITED SERVICES PREGNANCY CENTERS.

SUMMARY

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

This prohibition applies only to statements made before the public, in an advertisement, print publication, online, or in any other manner. It applies (1) whether the centers make these statements themselves or cause others to do so and (2) whether the statement itself is deceptive or is deceptive by omission.

The bill 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. Among other things, 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.

The bill specifies that it does not prohibit the state or municipalities from seeking any administrative, legal, or equitable relief permitted by law, including relief available under the unfair trade practices act (see BACKGROUND).

*House Amendment "A" specifies that the bill applies (1) only to

statements made before the public, (2) to centers that do not directly provide abortions or emergency contraception, not just centers that do not refer for such services, and (3) to centers that have the intent to perform a pregnancy-related service. The amendment also (1) requires other relief the court orders to be narrowly tailored and (2) makes various minor, clarifying, and technical changes.

EFFECTIVE DATE: July 1, 2019

DEFINITIONS

Under the bill, a “limited services pregnancy center” is a pregnancy services center that does not directly provide, or provide referrals for, abortions or emergency contraception. A “pregnancy services center” is a facility, including a mobile facility, whose primary purpose is to provide services to clients who are or have reason to believe that they may be pregnant, and that either (1) offers obstetric ultrasounds or sonograms, pregnancy testing or diagnosis, or prenatal care, or (2) has the appearance of a medical facility by having at least two of the following five specified factors present:

1. staff or volunteers who wear medical attire and uniforms;
2. one or more examination tables;
3. a private or semiprivate room or area with medical supplies or instruments;
4. staff or volunteers who collect health information from clients; or
5. the facility (a) is on the same premises as a licensed health care facility or licensed health care provider or (b) shares facility space with a licensed provider.

The bill applies to statements about a “pregnancy-related service,” which is any medical or health counseling service related to pregnancy or pregnancy prevention, including contraception and contraceptive counseling, pregnancy testing or diagnosis, pregnancy options counseling, obstetric ultrasound or sonogram, and prenatal care.

ATTORNEY GENERAL ENFORCEMENT AND COURT AUTHORITY

Under the bill, before the attorney general may apply to court for injunctive relief in response to such deceptive advertising, he must give written notice of the violation to the limited services pregnancy center. If the center does not respond or refuses to correct the advertising within this 10-day period, the attorney general may apply to court for injunctive relief to compel compliance and correct the effects of the advertising.

The court may order the center to:

1. pay for and disseminate appropriate corrective advertising in the same form and using the same advertising device as the deceptive advertising;
2. post a remedial notice that corrects the effects of the deceptive advertising; or
3. provide other narrowly-tailored relief as the court deems necessary to remedy the deceptive advertising's adverse effects on any clients seeking pregnancy-related services.

If the court finds that a center violated the bill's prohibition, it also must order the center to pay to the state (1) civil penalties of \$50 to \$500 per violation and (2) reasonable attorney's fees and costs.

BACKGROUND

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for a

violation of a restraining order.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 14 Nay 11 (03/29/2019)