



Senate

General Assembly

File No. 38

January Session, 2021

Senate Bill No. 835

Senate, March 9, 2021

The Committee on Public Health reported through SEN. DAUGHERTY ABRAMS of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

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

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2021*) As used in this section and
2 sections 2 and 3 of this act:

3 (1) "Abortion" means the termination of a pregnancy for purposes
4 other than producing a live birth. "Abortion" includes, but is not limited
5 to, a termination of a pregnancy using pharmacological agents;

6 (2) "Client" means an individual who is inquiring about or seeking
7 services at a pregnancy services center;

8 (3) "Clinical laboratory services" means the microbiological,
9 serological, chemical, hematological, biophysical, cytological or
10 pathological examination of materials derived from the human body for
11 the purpose of obtaining information for the diagnosis, prevention or
12 treatment of disease or the assessment of a health condition;

13 (4) "Emergency contraception" means one or more prescription drugs
14 (A) used separately or in combination for the purpose of preventing
15 pregnancy, (B) administered to or self-administered by a patient within
16 a medically recommended amount of time after sexual intercourse, (C)
17 dispensed for such purpose in accordance with professional standards
18 of practice, and (D) determined by the United States Food and Drug
19 Administration to be safe for such purpose;

20 (5) "Health information" means any oral or written information in any
21 form or medium that relates to health insurance or the past, present or
22 future physical or mental health or condition of a client;

23 (6) "Licensed health care provider" means a person licensed under the
24 provisions of federal or state law to provide health care or other medical
25 services;

26 (7) "Limited services pregnancy center" means a pregnancy services
27 center that does not directly provide, or provide referrals for, abortions
28 or emergency contraception;

29 (8) "Pregnancy-related service" means any medical or health
30 counseling service related to pregnancy or pregnancy prevention,
31 including, but not limited to, contraception and contraceptive
32 counseling, pregnancy testing, pregnancy diagnosis, pregnancy options
33 counseling, obstetric ultrasound, obstetric sonogram and prenatal care;

34 (9) "Pregnancy services center" means a facility, including a mobile
35 facility, the primary purpose of which is to provide services to clients
36 who are or have reason to believe they may be pregnant and that either
37 (A) offers obstetric ultrasounds, obstetric sonograms, pregnancy testing
38 or diagnosis or prenatal care to pregnant clients, or (B) has the
39 appearance of a medical facility by virtue of having two or more of the
40 following factors present: (i) Staff or volunteers who wear medical attire
41 and uniforms; (ii) one or more examination tables; (iii) a private or
42 semiprivate room or area containing medical supplies or medical
43 instruments; (iv) staff or volunteers who collect health information from
44 clients; or (v) the facility is located on the same premises as a licensed

45 health care facility or licensed health care provider or shares facility
46 space with a licensed health care provider;

47 (10) "Premises" means land and improvements or appurtenances or
48 any part thereof; and

49 (11) "Prenatal care" means services consisting of a physical
50 examination, pelvic examination or clinical laboratory services
51 provided to a client during pregnancy.

52 Sec. 2. (NEW) (*Effective July 1, 2021*) No limited services pregnancy
53 center, with the intent to perform a pregnancy-related service, shall
54 make or disseminate before the public, or cause to be made or
55 disseminated before the public, in any newspaper or other publication,
56 through any advertising device, or in any other manner, including, but
57 not limited to, through use of the Internet, any statement concerning any
58 pregnancy-related service or the provision of any pregnancy-related
59 service that is deceptive, whether by statement or omission, and that a
60 limited services pregnancy center knows or reasonably should know to
61 be deceptive.

62 Sec. 3. (NEW) (*Effective July 1, 2021*) (a) The Attorney General may
63 apply to any court of competent jurisdiction for injunctive relief to
64 compel compliance with the provisions of section 2 of this act and
65 correct the effects of the deceptive advertising, provided the Attorney
66 General gives written notice to the limited services pregnancy center in
67 accordance with subsection (b) of this section. Any injunctive relief
68 ordered by the court may include requiring the limited service
69 pregnancy center to:

70 (1) Pay for and disseminate appropriate corrective advertising in the
71 same form and using the same advertising device as used in the
72 deceptive advertising;

73 (2) Post a remedial notice that corrects the effects of the deceptive
74 advertising; or

75 (3) Provide such other narrowly tailored relief as the court deems

76 necessary to remedy the adverse effects of the deceptive advertising on
77 any clients seeking pregnancy-related services.

78 (b) Prior to commencing an action pursuant to subsection (a) of this
79 section, the Attorney General shall give written notice to the limited
80 services pregnancy center of the violation of section 2 of this act and
81 allow the limited services pregnancy center to cure such violation not
82 later than ten days after receipt of the written notice. The Attorney
83 General may file an action pursuant to subsection (a) of this section after
84 such ten-day period if the limited services pregnancy center does not
85 respond to the written notice or refuses to cure the violation of section 2
86 of this act.

87 (c) Upon a finding by the court that a limited services pregnancy
88 center has violated any provision of section 2 of this act, the state shall
89 be entitled to recover (1) civil penalties of not less than fifty dollars and
90 not more than five hundred dollars per violation, and (2) reasonable
91 attorney's fees and costs.

92 (d) Nothing in this section shall prohibit the state or any political
93 subdivision thereof from seeking any administrative, legal or equitable
94 relief permitted by law, including, but not limited to, relief permitted by
95 chapter 735a of the general statutes and the regulations adopted
96 thereunder.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2021	New section
Sec. 2	July 1, 2021	New section
Sec. 3	July 1, 2021	New section

PH Joint Favorable

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Attorney General	GF - Potential Revenue Gain	Up to 10,000	Up to 10,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill prohibits deceptive advertising by pregnancy centers under certain conditions. It requires the attorney general to notify the center and allow them to comply within a specified time period. However, if the center does not rectify the violation the state can collect civil penalties and reasonable attorney's fees.

The bill could result in a revenue gain to the state, estimated to be up to \$10,000 annually based on the number of violations that occur.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations.

OLR Bill Analysis**SB 835*****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 them, with intent to perform a pregnancy-related service, from publicly making or disseminating a deceptive statement about the provision of these services or the services themselves that the center knows or reasonably should know is deceptive.

This prohibition includes public statements made in advertisements, print publications, online, or any other manner and it applies regardless of whether the (1) centers make these statements themselves or cause others to do so and (2) statement itself is deceptive or is deceptive by omission.

The bill requires the attorney general, before bringing a court action against a center for violating the bill's provisions, to notify the center and allow up to 10 days for them to comply. If the center does not respond or cure the violation, the attorney general may apply to court for related injunctive relief. 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 state is entitled to 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 allowed under the unfair trade practices act (see

BACKGROUND).

EFFECTIVE DATE: July 1, 2021

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, that primarily serves clients who are pregnant or believe they may be pregnant, and that either (1) offers obstetric ultrasounds or sonograms, pregnancy testing or diagnosis, or prenatal care or (2) appears to be 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 notify the limited services pregnancy center in writing of the violation. If the center does not respond or refuses to correct the advertising within

10 days, the attorney general may apply to court for injunctive relief to compel compliance and correct the advertising's effects.

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, the state is entitled to recover from the center (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

Yea 20 Nay 13 (02/22/2021)