Written Testimony of Denise Harle,
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On Connecticut Assembly Bill 835 (2021)

Madam Chairwoman and members of the Committee, I am Denise Harle, Senior Counsel with Alliance Defending Freedom. My testimony will provide accurate information on the outcome of a recent lawsuit against the City of Hartford after it passed an ordinance similar to S.B. 835.

Background on Hartford Ordinance

In 2017, the City of Hartford enacted an ordinance forcing life-affirming, faith-based pregnancy care centers to make compelled statements using signs inside and outside their facilities, on their websites, and in telephone conversations with clients. The Hartford ordinance was similar to a California law struck down by the U.S. Supreme Court in *National Institute of Family and Life Advocates v. Becerra*, 585 U.S. __ (2018). Hartford's ordinance also contained a prohibition on advertising very similar to S.B. 835, using sweeping language to ban speech by pregnancy centers and giving dangerous discretion to government officials to decide which speech — or which *omitted* speech — is illegal.

Lawsuit Against the City of Hartford

Caring Families, a pregnancy center in Willimantic, and its affiliated mobile care ministry challenged Hartford's ordinance in federal court, arguing that the City's compelled statements and speech restrictions violated the First Amendment and targeted pro-life speakers for disfavored treatment and government punishment. As we argued to the district court, the Hartford ordinance unconstitutionally regulated speech based on viewpoint and incorrectly implied that certain non-profit ministries are not qualified to provide the range of free services they offer clients, including ultrasounds, self-administered pregnancy tests, counseling, and material support. Alliance Defending Freedom was proud to represent Caring Families in its lawsuit against Hartford's overreaching ordinance.

After more than a year of litigation, the City of Hartford offered to settle our lawsuit, agreeing that they cannot and will not enforce the law against Caring Families. As part of the settlement, the City of Hartford also agreed to provide specific definitions for vague and undefined terms in the law, making clear that Hartford cannot enforce the law against Caring Families to restrict or compel speech.

Importantly, the lawsuit did not decide the ultimate constitutionality of the law. <u>The district court did not rule that the ordinance was constitutional</u>, which remains an open question. But to the extent that other pregnancy centers operate in much the same way as Caring Families does, they should also be protected. In fact, during the

lawsuit, the City of Hartford's witnesses testified that they had never enforced the law and were not aware of any pregnancy center that was subject to the law.

Misinformation and Lack of Information Informed Hartford Ordinance

City of Hartford officials admitted under oath that they were not aware of any woman being confused, misled, deceived, or harmed by any pregnancy center in Hartford. The City had never received any complaints and did not know of a single instance of an actual problem. Even the City's expert witnesses admitted they had no knowledge of any actual harms connected to any Hartford pregnancy center. In fact, the City testified it had never even bothered to visit or talk to any pregnancy centers before passing the ordinance regulating speech.

Lessons to Be Learned from Hartford Litigation

There are many lessons to be learned from the litigation against the City of Hartford. First, no law should be passed that targets certain speakers based on their viewpoints, when there is no evidence of a demonstrable need. Labels and unsupported, vague accusations are not enough to support restricting First Amendment rights.

To establish a compelling interest sufficient to potentially restrict and compel speech, the government must identify an "actual problem in need of solving." *Brown v. Entm't Merchants Ass'n*, 564 U.S. 786, 799 (2011) (cleaned up). It must "present more than anecdote and supposition," *United States v. Playboy Entm't Grp.*, 529 U.S. 803, 822 (2000), and neither "ambiguous proof" nor "predictive judgment" will suffice, *Brown*, 564 U.S. at 799. The government must further show that the law is "actually necessary to . . . sol[ve]" the problem it claims to be addressing. *Id.*; *see also Turner Broad. Sys., Inc. v. F.C.C.*, 512 U.S. 622, 664 (1994) (government "must demonstrate that the recited harms are real" and must show that "the regulation will in fact alleviate these harms in a direct and material way") (cleaned up).

There is no such "problem" here. Despite a multi-year effort to enact laws unfairly targeting and restricting pregnancy care centers, all proponents have been able to offer in support of S.B. 835 and similar efforts are "anecdote and supposition." They have utterly failed to show any evidence of actual harm to women.

Conclusion

The life-affirming impact of pregnancy care centers on the women, men, children, and communities they serve is considerable and growing. They serve citizens of Connecticut with integrity and compassion, providing care to women and men facing unplanned pregnancies including resources to meet their physical, psychological, emotional, and spiritual needs. Pregnancy care centers offer women free, confidential, and compassionate services including pregnancy tests, ultrasounds, peer counseling,

24-hour telephone hotlines, childbirth and parenting classes, referrals to community health care, and other support services. They are an important asset to the community and should not be targeted for their pro-life beliefs.