



**Written Testimony of Danielle Pimentel, J.D.
Policy Counsel, Americans United for Life
In Opposition to Senate Bill No. 37
Submitted to the Senate Committee on Appropriations
March 14, 2023**

Dear Chair Kitchel, Vice-Chair Perchlik, and Members of the Committee:

My name is Danielle Pimentel, and I serve as Policy Counsel at Americans United for Life (AUL). Established in 1971, AUL is a national law and policy nonprofit organization with a specialization in abortion, end-of-life issues, and bioethics law. AUL publishes pro-life model legislation and policy guides,¹ tracks state bioethics legislation,² and testifies on pro-life legislation in Congress and the states. Our vision at AUL is to strive for a world where everyone is welcomed in life and protected in law. AUL has represented pro-life pregnancy centers and medical professionals in briefs before the United States Supreme Court in *National Institute of Family and Life Advocates v. Becerra* (“NIFLA”)³ and *First Resort v. Herrera*.⁴

Thank you for the opportunity to testify against S. 37 (“the bill”), concerning the alleged “deceptive” practices of “limited-service” pregnancy centers. This bill explicitly targets pro-life pregnancy centers, subjecting them to harassment and burdensome legal fees. In effect, this bill threatens to close pregnancy resource centers that provide essential

¹ *Pro-Life Model Legislation and Guides*, AMS. UNITED FOR LIFE, <https://aul.org/law-and-policy/> (last visited Mar. 13, 2023). AUL is the original drafter of many of the hundreds of pro-life bills enacted in the States in recent years. See Olga Khazan, *Planning the End of Abortion*, ATLANTIC (July 16, 2020), www.theatlantic.com/politics/archive/2015/07/what-pro-life-activists-really-want/398297/ (“State legislatures have enacted a slew of abortion restrictions in recent years. Americans United for Life wrote most of them.”); see also Anne Ryman & Matt Wynn, *For Anti-Abortion Activists, Success of ‘Heartbeat’ Bills was 10 Years in the Making*, CTR. FOR PUB. INTEGRITY (Jun. 20, 2019), <https://publicintegrity.org/politics/state-politics/copy-paste-legislate/for-anti-abortion-activists-success-of-heartbeat-bills-was-10-years-in-the-making/> (“The USA TODAY/Arizona Republic analysis found Americans United for Life was behind the bulk of the more than 400 copycat [anti-]abortion bills introduced in 41 states.”).

² *Defending Life: State Legislation Tracker*, AMS. UNITED FOR LIFE, <https://aul.org/law-and-policy/state-legislation-tracker/> (last visited Feb. 6, 2022).

³ Brief *Amicus Curiae* of the American Association of Pro-Life Obstetricians & Gynecologists et al. in Support of Petitioners, *NIFLA v. Becerra*, 138 S. Ct. 2361 (2018), <https://aul.org/wp-content/uploads/2018/10/AUL-Amicus-Brief-NIFLA-Becerra.pdf>.

⁴ Brief *Amicus Curiae* of Heartbeat International, Inc. in Support of Petitioner, *First Resort, Inc. v. Herrera*, No. 17-1087 (U.S. March 5, 2018), https://aul.org/wp-content/uploads/2018/10/20180305165317599_USSC-17-1087-Amicus-Brief-of-Heartbeat-International.pdf.

services to women and men across Vermont, which would have a monumental negative impact on women, children, and families throughout the state.

I. Pro-Life Pregnancy Centers Provide Essential Services Throughout Vermont and the United States

Over the past 50 years, pregnancy resource centers (“pregnancy centers”) have provided invaluable services to underserved women across the United States, including pregnancy testing, obstetrical ultrasounds, STD and STI testing and treatment, sexual risk avoidance education, and counseling. Pregnancy centers offer these services at either low or no cost for women seeking their help. Additionally, pregnancy centers serve as a connection point for other available resources and often refer women and men to trusted maternity homes, job centers, housing agencies, public health resources, drug rehabilitation centers, and other social services organizations; parenting and childbirth classes; fatherhood programs; adoption support; abortion recovery programs; and material assistance. In 2019, pregnancy centers served 1,848,376 people, provided over 2 million baby outfits, over 1.2 million packs of diapers, over 19,000 strollers, and over 30,000 car seats to their clients at no cost.⁵ Additionally, they provided 486,213 free ultrasounds, 731,884 free pregnancy tests, 160,201 free STI/STD tests and counseling, and 1,290,079 free packs of diapers.⁶

Vermont has pregnancy centers throughout the state that have been faithfully serving women for years.⁷ These pregnancy centers provide confidential and free services to pregnant women in Vermont. Nevertheless, this bill falsely assumes that pregnancy centers that do not provide abortion services are misleading pregnant women. However, the reality is most women who access resources at pregnancy centers report a positive experience.⁸ In a 2019 study, 99% of women surveyed nationwide that used resources from a pregnancy center reported “high client satisfaction.”⁹ Notably, another recent study confirmed that pro-life pregnancy resource centers offer better and less expensive services than abortion facilities.¹⁰

⁵ See Charlotte Lozier Institute, PREGNANCY CENTERS STAND THE TEST OF TIME, 16, 24, 61–62 (2020), https://lozierinstitute.org/wp-content/uploads/2020/10/Pregnancy-Center-Report-2020_FINAL.pdf; Family Research Council, A Passion to Serve, 6–11, 20–21 (2d ed. 2010), <https://downloads.frc.org/EF/EF12A47.pdf>.

⁶ *Id.*

⁷ *Help in Your Area*, PREGNANCY RESOURCE CTR. DIRECTORY, <https://helpinyourarea.com/vermont/> (last visited 3/14/2023).

⁸ See Moria Gaul, *Fact Sheet: Pregnancy Centers – Serving Women and Saving Lives (2020 Study)*, CHARLOTTE LOZIER INST. (July 19, 2021), https://lozierinstitute.org/fact-sheet-pregnancy-centers-serving-women-and-saving-lives-2020/#_ftn8.

⁹ *Id.*

¹⁰ Kavita Vinekar et al., *Early Pregnancy Confirmation Availability at Crisis Pregnancy Centers and Abortion Facilities in the United States*, 117 CONTRACEPTION 30 (2023).

These studies show that pregnancy centers engage in high standards of care in the course of offering their services. The three largest national networks of pregnancy centers—Care Net, Heartbeat International, and the National Institute of Family and Life Advocates—in addition to eight other pregnancy center networks, submit to a national code of ethics, “Our Commitment of Care and Competence,” whereby pregnancy centers must abide by “truthfulness in all communications,” provide accurate scientific and medical information, and “maintain strict confidentiality protections as guided by federal, state, and local law.”¹¹ The national code of ethics also requires that a licensed physician supervise and direct all medical services “in accordance with applicable medical standards.”¹² All staff members, board members, and volunteers at the pregnancy center must “receive appropriate training to uphold these standards.”¹³ These pregnancy centers provide a wide range of essential services and free resources to clients in Vermont and do so with a high standard of care. Allowing pregnancy centers to function as they have been provides women the opportunity to make informed decisions for themselves and their futures.

II. S. 37 Targets Pro-Life Pregnancy Centers

S. 37 targets pro-life pregnancy centers. The bill’s provisions under Subchapter 11 apply only to a “limited-services pregnancy center,” which is defined as a “pregnancy services center that does not directly provide, or provide referrals to clients, for abortions or emergency contraception.”¹⁴ Additionally, the bill defines “pregnancy services centers” as “a facility . . . where the primary purpose is to provide services to individuals who are or may be pregnant and that either offer obstetric ultrasounds, obstetric sonograms, or prenatal care to pregnant individuals or has the appearance of a medical facility.”¹⁵

Under the bill, if a facility’s primary purpose is to provide services to pregnant women and either offers ultrasounds, sonograms, or prenatal care or has the appearance of a medical facility, it is not considered a “limited-services pregnancy center” so long as it provides or refers for abortion, or emergency contraception. However, if a facility has the same primary purpose but does *not* refer for abortion or emergency contraception, it is considered an “limited-services pregnancy center.” As a result, the only facilities that would fall under the definition of “limited-services pregnancy centers” are pro-life pregnancy centers since they are the only facilities that do not, often for reasons of conscience or conviction, provide or

¹¹ Charlotte Lozier Institute, *supra* note 5 at 63.

¹² *Id.*

¹³ *Id.* at 65.

¹⁴ S. 37 § 2491, 77th Gen. Assemb., Reg. Sess. (Vt. 2023).

¹⁵ *Id.*

refer for abortion or emergency contraception.¹⁶ Furthermore, if a facility does not provide or refer for abortions, it would be subject to state action, harassing lawsuits and fines, while a facility that provides or refers for abortion would remain completely unaffected. Some pregnancy centers would not be able to stay open after facing such burdensome litigation and financial costs, which would result in pregnancy centers closing their doors as a consequence of providing a wide array of services other than abortion and emergency contraception referrals.

This bill does not prohibit deceptive statements by *all* pregnancy centers, but only statements made by pro-life pregnancy centers that do not provide or refer for abortion or emergency contraception. Thus, the bill's blatant under-inclusiveness reveals that its purpose is to disfavor a particular viewpoint, particularly pro-life pregnancy centers and the pro-life viewpoint, to the detriment of the thousands of women who benefit from their resources every year.

III. S. 37 Allows for the Harassment and Silencing of Pro-Life Pregnancy Centers and Their Pro-Life Views

The bill discriminates against both pro-life content and viewpoints. Under the First Amendment, the government may not engage in this kind of discrimination.¹⁷ Pro-life pregnancy centers are free to offer non-abortion services without discrimination and legal harassment based on their pro-life viewpoint. In *NIFLA v. Becerra*, for example, the Supreme Court found unconstitutional a California law that mandated pro-life pregnancy centers, if “licensed,” provide information to patients on how to obtain a state-funded abortion or, if “unlicensed,” provide notice it is an unlicensed facility.¹⁸ The Court found that mandating the provision of abortion information was an impermissible content-based action that failed constitutional review.¹⁹ Requiring notice that a pro-life facility is unlicensed “targets speakers, not speech, and imposes an unduly burdensome disclosure requirement that will chill their protected speech.”²⁰ Similarly, Vermont cannot trespass on the First Amendment rights of pregnancy centers that forego abortion services merely because the pregnancy centers are pro-life.

¹⁶ Hypothetically, there could be a non-pro-life pregnancy center that does not provide referrals for abortion or emergency contraception, but if such a center did exist, it could easily exclude itself from the contours of the bill by now providing referrals for abortion or emergency contraception. It is only the pregnancy centers that hold pro-life views who will be unable, for reasons of conscience and conviction, to self-exempt from the bill's requirements.

¹⁷ *Rosenberger v. Rector and Visitors of University of Virginia*, 515 U.S. 819, 846 (1995).

¹⁸ 138 S. Ct. 2361 (2018).

¹⁹ *Id.* at 2375–2376.

²⁰ *Id.* at 2378.

The bill's statutory remedies open pro-life pregnancy centers to targeting and harassment. Specifically, the bill gives Vermont's Attorney General broad authority to "make rules, conduct civil investigations, and bring civil actions with respect to violations of" the bill."²¹ This is concerning given that Vermont's current Attorney General, Charity Clark, has openly made it her goal to harass pro-life pregnancy centers through Vermont's Consumer Protection Act.²² Vermont's unfettered ability to open an investigation and bring suit, coupled with the expansive nature of the behavior prohibited, opens pro-life pregnancy centers to targeting and harassment by Attorney General Clarke who clearly disfavors pro-life speech.

Additionally, under Vermont's Consumer Protection Act (the "Act"), the Attorney General may seek a temporary or permanent injunction of "the use of such method, act, or practice" that they believe is in violation of the Act.²³ The Attorney General may also request that the court impose civil penalties ranging from up to \$10,000 for each "unfair or deceptive act or practice."²⁴ If this bill is passed, pregnancy centers found in violation of the bill will be subject to these harsh penalties. These fines would not only funnel money away from the good work pregnancy centers do to help Vermont women who are pregnant, but merely one such lawsuit could financially cripple and shut down the offending pro-life pregnancy center since most offer their services at low cost or free of charge, are funded mainly by donations,²⁵ and are largely staffed by unpaid volunteers. In the end, this would harm women, children, and families of Vermont who rely on pro-life pregnancy centers for care and support.

IV. Conclusion

S. 37 is a blatant effort to silence pro-life pregnancy centers' pro-life viewpoints and stifle their good work. While Vermont can disagree with pregnancy centers' pro-life positions, it should not harass them and prevent the women, children, and families of Vermont from receiving care and support by government fiat. This form of discrimination is unjust and deeply detrimental to communities across the state. This Committee should reject S. 37.

Respectfully Submitted,



²¹ S. 37 § 2491, 77th Gen. Assemb., Reg. Sess. (Vt. 2023).

²² See Charity Clark, *Deceiving People About Abortion or Pregnancy Is Not Only Wrong, It Could Be Illegal*, FACEBOOK (July 29, 2022), <https://www.facebook.com/charityforvermont/videos/3186968554901273/>.

²³ 9 V.S.A. § 2458(a)-(b).

²⁴ *Id.*

²⁵ See Gaul, *supra* note 8 ("[A]t least 90 percent of funding for pregnancy centers is raised locally at the community level.").

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