

# HOUSE BILL REPORT

## HB 1366

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**As Reported by House Committee On:**  
Health Care & Wellness

**Title:** An act relating to limited service pregnancy centers.

**Brief Description:** Concerning limited service pregnancy centers.

**Sponsors:** Representatives Clibborn, Walsh, Appleton, Goodman, Darneille, Moeller, Green, Carlyle, Fitzgibbon, Frockt, Reykdal, Roberts, Jinkins, Pettigrew, Cody, Pedersen, Van De Wege, Liias, Jacks, Maxwell, Dickerson, Ryu, Lytton, Ormsby, Seaquist, Hasegawa, Upthegrove, McCoy, Eddy, Sells, Haigh, Springer, Hunt, Tharinger, Kenney and Santos.

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 1/24/11, 2/10/11 [DPS].

**Brief Summary of Substitute Bill**

- Requires a limited service pregnancy center (center) to make various disclosures to persons seeking the center's services and prohibits a center from disclosing a service recipient's health care information without written authorization.
- Allows a person aggrieved by a violation to seek an injunction in superior court.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Cody, Chair; Jinkins, Vice Chair; Clibborn, Green, Moeller and Van De Wege.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Schmick, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Bailey and Harris.

**Staff:** Chris Cordes (786-7103).

**Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Health care credentialing laws generally regulate entities and persons providing specified health care services. Credentialed entities and providers are subject to various requirements and standards of conduct and to various penalties or disciplinary actions for failing to meet the required standards.

With some exceptions, health care providers are not permitted under state or federal law to disclose patient health care information to any other person without the patient's authorization. For purposes of Washington's Uniform Health Care Information Act, "health care information" is defined as any information that identifies or can readily be associated with the identity of a patient and directly relates to the patient's health care.

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### **Summary of Substitute Bill:**

A limited service pregnancy center (center) is required to make various disclosures to persons seeking the center's services. A center is prohibited from disclosing the service recipient's health care information without written authorization. A person aggrieved by a violation may seek an injunction in superior court.

Centers are organizations that offer or provide, either free or with a fee, pregnancy tests or ultrasounds and information about adoption or abortion, but do not provide prenatal medical care, comprehensive birth control services, and abortion or abortion referral. Centers do not include licensed health care entities or providers. However, a center remains subject to the statutory requirements notwithstanding the presence of a licensed health care provider in its governance, on its staff, or as a volunteer.

#### General Disclosures.

Centers must disclose to persons seeking services that the center does not provide:

- abortion or comprehensive birth control services or referrals for abortion or comprehensive birth control services; or
- medical care for pregnant women.

This disclosure must be provided:

- orally on first contact, whether by phone, electronic mail, or in person;
- by posting, in at least the state's five primary languages, on the main entry door, inside the building where it is visible to the intake area, and on the organization's website home page; and
- and in advertisements or notices promoting the organization's services.

#### Pregnancy Testing Disclosures.

If a center uses an over-the-counter pregnancy test, the center must inform the person seeking the test that it is over-the-counter and offer the opportunity to self-administer. The center must provide a free written statement of the results of a pregnancy test, whether the test is over-the-counter or a laboratory test, immediately after the test is completed.

### Disclosure of Health Care Information.

The center may not disclose the service recipient's health care information to any other person or entity without the service recipient's written authorization. If a service recipient requests in writing to be allowed to examine or copy the service recipient's recorded health care information that the center has collected, the center must within 15 working days:

- make the information available and provide a free copy, if requested;
- inform the recipient that the information does not exist or cannot be found; or
- inform the recipient if the center does not maintain the record, and provide the name and address of the entity that does.

The definition of "health care information" is the same as the definition under Washington's Uniform Health Care Information Act.

### Injunctive Relief for Violations.

Any person aggrieved by a violation of the pregnancy center requirements may seek injunctive relief in superior court. For second or subsequent violations at a center subject to an injunction for at least 30 days, an aggrieved person may seek enforcement of the injunction. Counties, cities, and other political subdivisions are included in the definition of "aggrieved persons" who may seek an injunction or enforcement of an injunction.

If a second or subsequent violation is proved, the court may impose appropriate remedies as permitted by law and must impose a civil penalty of up to \$1,000 per violation. The court may also award costs and reasonable attorneys' fees to the party seeking to enforce the injunction.

These remedies are cumulative and not exclusive. These provisions do not limit the right to seek other available civil or criminal penalties.

### **Substitute Bill Compared to Original Bill:**

The substitute bill: (1) clarifies legislative intent to allow both public and private remedies to enforce the center requirements; (2) deletes the specified font size for posting disclosures on the main door and, instead, requires the posting to be prominent, clear, and conspicuous and requires posting on the website to be clear and conspicuous; (3) changes the requirement for using "primary languages" to require using at least the five most frequently spoken languages in the state, instead of in the county, and deletes the requirement to use all the primary languages in any advertising; (4) replaces the civil cause of action with injunctive relief, allowing an aggrieved person to seek to enjoin the violations or enforce an injunction; and (5) makes various technical and clarifying changes, including clarifying that a center's obligation to provide a recipient's health care information is limited to the information that the center has collected.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The bill tries to make sure that when women seek help at a pregnancy center, they get consistent information and know what kind of health care will be provided. Women are entitled to make informed decisions. It is all about empowering the woman to make choices, not about shutting down any particular type of services. The goal is to make sure the right services are matched to each woman's needs. The bill does not ask the centers to comply with Title X regulations, but to avoid deceptive or coercive approaches. It is important that pregnancy centers keep health information private, just like health clinics.

Many women are without insurance, and the promise of free care may motivate their choice. Vulnerable teenagers are often the ones seeking out the centers. Minority communities face particular barriers when seeking help.

Women's experiences show that there are problems with some centers. Problems that were identified included: (1) waiting a significant time to receive the pregnancy test results and, during the wait, being told information that seemed designed to delay, such as being required to sit through abstinence counseling; (2) being given misinformation about abortion or adoption; (3) being told that written test results are not given out if the woman wanted an abortion; (4) not being given any information about birth control; and (5) not sending test results to the Department of Social and Health Services, as promised. Long delays may also result in delayed prenatal medical care and put the woman's health in jeopardy.

(Opposed) Various pregnancy centers take different approaches. Some pregnancy centers provide medical services and are appropriately staffed to do so, including having bilingual staff. If providing medical services, then the center will have to meet any language requirements for the patients. Centers are careful about the services offered because women need to be supported in their choices and be able to find centers with different philosophies.

Experiences in some centers showed them to be more welcoming than the family planning agency. These centers gave information on all the options and also offered classes in parenting and life choices, along with interviewing clothes and other services. Allowing civil suits because someone leaves unhappy is a problem; the centers cannot control the reaction of a patient. For some centers, the majority of clients are return clients, and surveys show satisfaction with the services. Some centers also share patients with family planning services, and the patients come to both for different services.

The centers provide a safety net that is not met by other resources, and they do it without public funding. This responds to the Governor's call for the private sector to step up to the needs of communities. The state should not make it harder for people to help people.

There are numerous technical and legal issues with the bill: (1) the definition of aggrieved person seems unlimited and modifies the usual "standing" requirements; (2) only pro-life

centers have to comply with the bill's requirements, which exposes the bill's wrong thinking; (3) giving information "verbally" is a subjective standard which no one will know how to meet, and arguments will arise about what was said or not said on the phone; (4) there is an Equal Protection argument because the requirements are based on ideological distinctions; (5) the bill compels certain speech, which raises First Amendment arguments; (6) there are 12 different requirements, which is onerous; and (7) the superior court action to enforce the standards is an expensive option and would drain money away from services.

No other business has to post what they do not do. If a center is not meeting professional standards, they should be informed about the problem and given time to correct the situation. Many centers are staffed by volunteers who may make mistakes, but the law usually tries to protect Good Samaritans, not punish them.

**Persons Testifying:** (In support) Representative Clibborn, prime sponsor; Sara Ainsworth, Legal Voice; Jennifer Adams; Erin Ward; Representative Van de Wege; Liezl Tomas Rubuggio, National Asian Pacific American Women's Forum; Reverend Katherine Everett, United Methodist Church; and Dr. Kate McLean, American College of Obstetricians and Gynecologists.

(Opposed) Anita Showalter, Life Choices of Yakima; Jeff Smith, Life Choices; Amy Thayer; Representative Klippert; John Panesko; Amy Atwood; Avonte Jackson, Tri-Cities Pregnancy Network; Staci Andersen; and Representative Parker.

**Persons Signed In To Testify But Not Testifying:** More than 20 persons signed in. Please see committee staff for information.