

Senate Bill 196

By: Senators Orrock of the 36th, Jackson of the 41st, Parent of the 44th, Jones II of the 22nd, Halpern of the 39th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 2A of Title 31 of the Official Code of Georgia Annotated,
2 relating to perinatal facilities, so as to explicitly prohibit limited services pregnancy centers
3 from engaging in false or misleading advertising about the products or services provided at
4 such centers; to provide for definitions; to provide for enforcement; to provide for notice and
5 procedures; to provide for penalties; to provide for cause of action; to provide for a short
6 title; to provide for legislative findings; to provide for related matters; to repeal conflicting
7 laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "Pregnancy Center Fraud Prevention Act."

11 **SECTION 2.**

12 The General Assembly finds and declares that:

13 (1) Pregnant individuals are entitled to honest, accurate, and timely information when
14 seeking reproductive healthcare;

- 15 (2) Limited services pregnancy centers typically advertise themselves as providers of
16 comprehensive healthcare. However, most limited services pregnancy centers do not
17 employ licensed medical professionals or provide referrals for emergency contraception
18 or abortion care;
- 19 (3) Some limited services pregnancy centers use deceptive advertising tactics to target and
20 acquire clients from historically marginalized groups, including Black, Indigenous, and
21 other people of color; those living in rural areas; LGBTQ+ communities; students; people
22 with lower incomes; and people for whom English is not their first language;
- 23 (4) According to the American Medical Association's Journal of Ethics, limited services
24 pregnancy centers, also known as antiabortion centers or "crisis pregnancy centers," often
25 aim "to prevent abortions by persuading people that adoption or parenting is a better
26 option";
- 27 (5) Some limited services pregnancy centers go so far as to advertise medication abortion
28 reversal, a dangerous and deceptive practice that is not supported by science or clinical
29 standards, according to the American College of Obstetricians and Gynecologists;
- 30 (6) The State of Georgia respects the right of limited services pregnancy centers to counsel
31 against abortions, if the centers are otherwise operating in compliance with this chapter,
32 and the state does not intend by this chapter to regulate, limit, or curtail such advocacy;
- 33 (7) Time is a critical factor for individuals seeking reproductive healthcare, and no one
34 should be deceived, manipulated, or face unnecessary delays when seeking support or
35 healthcare during pregnancy; and
- 36 (8) The State of Georgia has determined that there exists a need to regulate false and
37 misleading advertising by limited services pregnancy centers offering limited services.

38

SECTION 3.

39 Article 3 of Chapter 2A of Title 31 of the Official Code of Georgia Annotated, relating to
40 perinatal facilities, is amended by revising Code Section 31-2A-51, relating to definitions,
41 as follows:

42 "31-2A-51.

43 As used in this article, the term:

44 (1) 'Advertising' means representations by way of any medium whatsoever about a
45 product or service, regardless of whether such product or service is offered for payment
46 or will result in profit, for individuals who are or may be pregnant, including, but not
47 limited to, representations made directly to consumers; marketing practices;
48 communication in any print medium such as newspapers, magazines, mailers, or
49 handouts; any broadcast medium such as television or radio; telephone marketing; or
50 advertising over the internet through public websites and website advertisements.

51 (2) 'Client' means an individual who is inquiring about or seeking services at a limited
52 services pregnancy center.

53 ~~(1)~~(3) 'Designated facility' means a perinatal facility that has been inspected and
54 approved by the department pursuant to this article as meeting its established criteria for
55 a particular maternal or neonatal level of care.

56 (4) 'Emergency contraception' means Levonorgestrel or any other drug, drug regimen,
57 or device used to prevent pregnancy when administered after sexual contact, including
58 prescription and over-the-counter hormonal emergency contraception.

59 (5) 'Health information' means any oral or written information in any form or medium
60 that relates to health insurance or the past, present, or future physical or mental health or
61 condition of a client.

62 (6) 'Limited services pregnancy center' means a pregnancy services center that does not
63 directly provide abortions or emergency contraception, and does not provide referrals to
64 clients for such services.

65 ~~(2)~~(7) 'Perinatal facility' means a hospital, clinic, or birthing center that provides
66 maternal or neonatal ~~healthcare~~ healthcare services.

67 (8) 'Pregnancy services center' means a facility, licensed or unlicensed and including a
68 mobile facility, where the primary purpose is to provide products or services to
69 individuals who are or may be pregnant; that either offers pregnancy counseling and
70 pregnancy testing or diagnosis; obstetric ultrasounds, obstetric sonograms, or prenatal
71 care to pregnant people; or has the appearance of a medical facility. A pregnancy
72 services center has the appearance of a medical facility if two or more of the following
73 factors are present:

74 (A) The facility offers pregnancy testing or pregnancy diagnosis;

75 (B) The facility has staff or volunteers who wear medical attire or uniforms;

76 (C) The facility contains one or more examination tables;

77 (D) The facility contains a private or semiprivate room or area containing medical
78 supplies or medical instruments;

79 (E) The facility has staff or volunteers who collect health information from clients; or

80 (F) The facility is located on the same premises as a state licensed medical facility or
81 provider or shares facility space with a state licensed medical provider.

82 (9) 'Premises' means land and improvements or appurtenances or any part thereof.

83 (10) 'Prenatal care' means services consisting of physical examinations, pelvic
84 examinations, or clinical laboratory services provided to an individual who is or who may
85 be pregnant.

86 (11) 'Clinical laboratory services' refers to the microbiological, serological, chemical,
87 hematological, biophysical, cytological or pathological examination of materials derived
88 from the human body, for the purposes of obtaining information for the diagnosis,
89 prevention, or treatment of a disease or the assessment of health condition."

SECTION 4.

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91 Said article is further amended by revising Code Section 31-2A-56, relating to advertisement
92 prohibited unless designated by department, as follows:

93 "31-2A-56.

94 (a) No person or facility may advertise to the public, by way of any medium whatsoever,
95 that it is a designated facility or has achieved a particular level of maternal or neonatal care
96 according to the criteria established pursuant to this article, unless it has been designated
97 as such by the department.

98 (b) No person or limited services pregnancy center shall disseminate or cause to be
99 disseminated before the public in Georgia, or disseminate or cause to be disseminated
100 before the public anywhere from Georgia, any advertising about the actual or proposed
101 products or services available at a limited services pregnancy center if the center knows or,
102 by the exercise of reasonable care, should know that such advertising is untrue or deceptive
103 whether by a statement or omission, or misleading to the public about the nature of the
104 products or services provided.

105 (c) The Attorney General and local district attorneys with jurisdiction may enforce the
106 provisions of this Code section through a civil action in any court of competent jurisdiction.
107 Before filing an action under this Code section, the Attorney General or local district
108 attorney with jurisdiction shall give written notice of the violation to the person or limited
109 services pregnancy center. The written notice shall indicate that the person or limited
110 services pregnancy center has ten days in which to correct the false, misleading, or
111 deceptive advertising. If the person or limited services pregnancy center has not responded
112 to the written notice within ten days of receiving such notice or refuses to correct the false,
113 misleading, or deceptive advertising within that period, the Attorney General or local
114 district attorney with jurisdiction may file the civil action.

115 (d) The Attorney General or local district attorney with jurisdiction may apply to any court
116 of jurisdiction for injunctive relief compelling compliance with any provision of this Code

117 section and for any additional equitable relief or for a court order requiring, but not limited
118 to, any of the following from the person or limited services pregnancy center:

119 (1) Paying for and disseminating appropriate corrective advertising in the same form as
120 the false, misleading, or deceptive advertising;

121 (2) Posting a notice on its premises, in a location clearly noticeable from the waiting
122 area, examination area, or both, stating:

123 (A) Whether there is a licensed medical doctor, registered nurse, or other licensed
124 medical practitioner on staff at the center; and

125 (B) Whether abortion, emergency contraception, or referrals for abortion or emergency
126 contraception are available at the center;

127 (3) Paying restitution to any person or persons who are adversely affected by a violation
128 or violations of this Code section; or

129 (4) Any other narrowly tailored relief that the court deems necessary to remedy the
130 adverse effects of the false, misleading, or deceptive advertising on persons seeking
131 pregnancy related products or services.

132 (e) Upon a finding by a court of competent jurisdiction that a person or limited services
133 pregnancy center has violated this Code section:

134 (1) The department shall amend printed materials and materials available on the state's
135 public website developed under Code Section 31-9A-4 to remove contact information for
136 the limited services pregnancy center found to be in violation of this Code section; and

137 (2) The state shall be entitled to recover civil penalties from each and every party
138 responsible for the violation of not less than \$500.00 and not more than \$5,000.00 per
139 violation. In addition, if the state prevails, it shall be entitled to reasonable attorney's fees
140 and costs pursuant to order of the court.

141 (f) Any person claiming to be injured by the false, misleading, or deceptive advertising of
142 a limited services pregnancy center may bring a cause of action in any court of competent
143 jurisdiction for any and all of the following remedies: compensatory and punitive damages,

144 injunctive and declaratory relief; attorney's fees and costs, and such other relief as a court
145 deems appropriate.

146 (g) The Attorney General shall develop, a portal on its public website to receive, review,
147 and investigate public complaints of noncompliance.

148 (h) Such portal shall be verified through user testing to be understandable for someone
149 with a fifth grade reading level, accessible to people with disabilities, and take an average
150 user no more than ten minutes to complete the complaint form."

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SECTION 5.

152 All laws and parts of laws in conflict with this Act are repealed.