

PROPOSED SUBSTITUTE HOUSE BILL 1366

By Representative Clibborn

Original bill: (1) Requires a limited service pregnancy center (center) to make various disclosures to persons seeking the center's services, (2) prohibits a center from disclosing a service recipient's health care information without written authorization, and (3) allows an aggrieved person to bring a civil action against the center.

Substitute bill compared to original bill:

- (1) Legislative Intent: Clarifies legislative intent to allow both public and private remedies to enforce the center requirements.
 - (2) Requirements for Disclosure:
 - Deletes the specified font size for posting disclosures on the main door, and instead requires the posting to be prominent, clear, and conspicuous.
 - Requires posting on the website to be clear and conspicuous.
 - Changes the requirements for using "primary languages" to require using at least the five most frequently spoken languages in the state, instead of in the county. (According to the latest available census data for 2006-08, these are English, Spanish, Vietnamese, Korean, and Tagalog.)
 - (3) Remedies: Replaces the civil cause of action with the following:
 - For a first violation, an aggrieved person may seek an injunction to enjoin the violation.
 - 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.
 - The court (1) may impose appropriate remedies as permitted by law, (2) must impose a civil penalty of up to \$1,000, and (3) may award costs and reasonable attorneys' fees to the party seeking to enforce the injunction.
 - Counties, cities, and other political subdivisions may be "aggrieved persons" who may seek an injunction.
 - (4) Technical/clarifying. 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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Committee: House Health Care & Wellness Committee
Staff: Chris Cordes (786-7103), Office of Program Research
Draft: H-1415.1/11

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-1415.1/11

ATTY/TYPIST: AL:ean

BRIEF DESCRIPTION: Concerning limited service pregnancy centers.

1 AN ACT Relating to limited service pregnancy centers; adding a new
2 chapter to Title 70 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** This chapter may be known and cited as the
5 limited service pregnancy center accountability act.

6 NEW SECTION. **Sec. 2.** (1) The legislature finds that:

7 (a) Health care information is personal and sensitive information
8 that if improperly used, released, or withheld from a patient may do
9 significant harm to a patient's interests in privacy, health care, or
10 other interests;

11 (b) Some limited service pregnancy centers have misled people about
12 the nature of their services, and have withheld health care records,
13 including the results of pregnancy tests, from individuals seeking
14 services; and

15 (c) Seeking or obtaining health care is fundamental to public
16 health and safety.

17 (2) Therefore, the legislature finds it to be of substantial public
18 importance, significantly affecting the safety and health of state

1 residents, that limited service pregnancy centers operating in
2 Washington state provide truthful information about the services they
3 offer, and that these centers maintain the privacy of a person's health
4 care information and respect a person's right to his or her health care
5 information.

6 (3) To provide for proper enforcement of this chapter, it is the
7 intent of the legislature to allow both private and public remedies.

8 NEW SECTION. **Sec. 3.** The definitions in this section apply
9 throughout this chapter unless the context clearly requires otherwise.

10 (1) "Aggrieved person" includes, in addition to any natural person,
11 counties, municipalities, and all political subdivisions of the state.

12 (2) "Comprehensive birth control services" means the medical
13 evaluation and care related to the prescription or provision of
14 contraceptive drugs or devices, and includes the provision of
15 nondirective counseling on methods and efficacy of contraception, and
16 the prescription or provision of contraceptive drugs or devices.

17 (3) "Health care information" has the same meaning as in RCW
18 70.02.010.

19 (4) "Limited service pregnancy center" means an organization that
20 advertises, offers, or provides pregnancy tests or ultrasounds, and
21 information about adoption or abortion, whether for a fee or as a free
22 service, but does not provide any of the following: Medical care for
23 pregnant women, comprehensive birth control services, or abortion or
24 referrals for abortion. "Limited service pregnancy center" does not
25 include health care entities licensed under Title 18 RCW, hospitals and
26 entities licensed under Title 70 RCW, or health care providers licensed
27 under Title 18 RCW. A limited service pregnancy center is subject to
28 this chapter notwithstanding the presence of a licensed health care
29 provider in the governance of, on the staff of, or acting as a
30 volunteer with the limited service pregnancy center.

31 (5) "Primary languages" means the five most frequently spoken
32 languages in the state, as determined by the most recently available
33 census data.

34 NEW SECTION. **Sec. 4.** (1) A limited service pregnancy center shall
35 make the following disclosures to a person seeking services:

1 (a) That the center does not provide abortion or comprehensive
2 birth control services;

3 (b) That the center does not provide referrals to individuals or
4 organizations that provide abortion or comprehensive birth control
5 services; and

6 (c) That the center does not provide medical care for pregnant
7 women.

8 (2) The disclosure required by subsection (1) of this section must
9 be provided as follows:

10 (a) Orally, in such a manner as to be reasonably understandable to
11 the person seeking services, upon first communication or first contact
12 with a person seeking services, whether by telephone, electronic
13 communication, or in person; and

14 (b) In writing, as follows:

15 (i) In at least all primary languages, posted (A) on the main entry
16 door of the organization prominently, clearly, and conspicuously and
17 (B) inside the building housing the organization in such a manner as to
18 be clearly visible from the area at which the organization conducts
19 intakes;

20 (ii) In at least all primary languages, clearly and conspicuously
21 on the home page of the organization's web site, in the primary font
22 size used on the web site; and

23 (iii) In at least all primary languages, in any advertisement or
24 notice promoting the center's services.

25 (3) A limited service pregnancy center shall, before providing a
26 pregnancy test that uses an over-the-counter product to perform the
27 pregnancy test: (a) Inform the person seeking to be tested, in such a
28 manner as to be reasonably understandable to the person seeking
29 services, that the pregnancy test is an over-the-counter product; and
30 (b) offer the person seeking to be tested the opportunity to self-
31 administer.

32 NEW SECTION. **Sec. 5.** (1) A limited service pregnancy center may
33 not disclose health care information about a person seeking or
34 receiving the center's services to any other person, entity, or
35 organization without the service recipient's written authorization. A
36 disclosure made under a service recipient's written authorization must
37 conform to the authorization.

1 (2) To be valid, a service recipient's authorization must conform
2 to the requirements of RCW 70.02.030(3).

3 (3) A limited service pregnancy center that provides or assists in
4 the provision of pregnancy testing, whether for a fee or without
5 charge, whether those tests are over-the-counter or laboratory tests,
6 shall provide the person tested with a free written statement of the
7 results of the pregnancy test, in English and in the person's first
8 language, immediately after the test is completed. For the purpose of
9 this subsection, "first language" means the language primarily spoken
10 by the tested person provided it is one of the primary languages as
11 defined in section 3 of this act.

12 (4) Upon receipt of a written request from a service recipient to
13 examine or copy all or part of the recipient's recorded health care
14 information collected by a limited service pregnancy center, the center
15 as promptly as required under the circumstances, but no later than
16 fifteen working days after receiving the request shall:

17 (a) Make the information available for examination during regular
18 business hours and provide a free copy to the service recipient, if
19 requested;

20 (b) Inform the service recipient if the information does not exist
21 or cannot be found; or

22 (c) If the limited service pregnancy center does not maintain a
23 record of the information, inform the service recipient and provide the
24 name and address, if known, of the entity that maintains the record.

25 NEW SECTION. **Sec. 6.** (1)(a) A limited service pregnancy center
26 violating this chapter may be enjoined from continuing the violation.
27 Any person aggrieved by a violation of this chapter may bring an action
28 to enjoin the violation in the superior court in the county where such
29 violation is alleged to have occurred. The superior court shall have
30 authority to grant temporary, preliminary, and permanent injunctive
31 relief to enjoin violations of this chapter. Due to the nature of the
32 harm involved, injunctive relief may be issued without bond in the
33 discretion of the court, notwithstanding any other requirement imposed
34 by statute.

35 (b) Injunctive relief pursuant to this section shall be granted
36 upon proof of a violation by a preponderance of the evidence.

1 (2)(a) Any person who is aggrieved by a second or subsequent
2 violation of this chapter alleged to have been committed by a limited
3 service pregnancy center subject to an injunction under this chapter
4 may seek enforcement of the injunction in the superior court at least
5 thirty days after issuance of such injunction, whether or not the
6 injunction is being appealed. A party seeking to enforce the
7 injunction shall prevail upon proof of a violation by a preponderance
8 of the evidence.

9 (b) If a second or subsequent violation is proved, the superior
10 courts of this state shall have authority to impose appropriate
11 remedies for violation of the injunction as permitted by law and shall
12 impose a civil penalty of up to one thousand dollars per violation.
13 The superior court may also award the party seeking to enforce the
14 injunction the costs of the suit, including reasonable attorneys' fees.

15 (3) The remedies provided by this chapter are cumulative, not
16 exclusive. This chapter may not be construed to limit the right to
17 seek other available civil or criminal remedies.

18 NEW SECTION. **Sec. 7.** If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 remainder of the act or the application of the provision to other
21 persons or circumstances is not affected.

22 NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act constitute
23 a new chapter in Title 70 RCW.

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By Representative Cody

PSHB 1366 - H COMM AMD (TO H-1415.1/11)

By Committee on Health Care & Wellness

1 On page 3, line 23 of the proposed substitute, after "(iii) In"
2 strike "at least all primary languages, in"
3

EFFECT: Removes the requirement that the disclosure be provided in all primary languages in advertisements or notices promoting the center's services.

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