Written by **Michael Tennant** on December 14, 2023

Pro-lifers Cheer End of Illinois Law Targeting Pregnancy Centers for "Deceptive Practices"

Pro-life pregnancy centers in Illinois scored a major victory Monday when Illinois Attorney General Kwame Raoul agreed to a permanent injunction against a new law targeting the centers' speech as a "deceptive business practice."

It must have been particularly galling for the highly pro-abortion Democrat Raoul, given that he personally oversaw the drafting and introduction of the act — and openly celebrated its passage.

Signed by Democratic Governor J.B. Pritzker on July 27, Senate Bill 1909 (SB 1909), the Deceptive Practices of Limited Services Pregnancy Centers Act, defines a "limited services pregnancy center" as

> an organization or facility, including a mobile facility, that:
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> (1) does not directly provide abortions or provide or prescribe emergency contraception, or provide referrals for abortions or emergency contraception, and has no affiliation with any organization or provider who provides abortions or provides or prescribes emergency contraception; and
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> (2) has a primary purpose to offer or provide pregnancy-related services to an individual who is or has reason to believe the individual may be pregnant, whether or not a fee is charged for such services. [Note the care taken not to refer to the individual as "she"; the law elsewhere refers to "pregnant persons."]

This definition, of course, explicitly exempts abortion providers. The Thomas More Society, which represented the plaintiffs challenging the law, observed, "Even though our pregnancy help centers provide *more* assistance and services for pregnant women than Planned Parenthood ever would, Illinois

politicians have tarred our centers as 'limited' and not 'comprehensive' just because they won't participate in terminating pregnancies." (Emphasis in original.)

These "limited services" centers are then prohibited from "engag[ing] in unfair methods of competition" (i.e., taking business away from Planned Parenthood) and "any deception, fraud, false pretense, false promise, or misrepresentation, or the concealment, suppression, or omission of any material fact, with the intent" of dissuading someone from having an abortion. Violators could face fines of up to $50,000, injunctions, and even dissolution of their organizations.

And what constitutes "deception" for the purposes of this law? The text itself is no help. Instead, the attorney general has virtually unlimited discretion in determining violations of the law. In testimony before both houses of the Illinois Legislature, Deputy Attorney General for Policy Ashley Hokenson stated that the attorney general's office would "evaluate each case on a case-by-case basis." Hokenson repeated that refrain when asked if telling a woman that the abortion pill could be reversed, that abortion may increase the risk of health issues including miscarriage, or that life begins at conception constituted a violation of SB 1909. Likewise, state Representative Terra Costa Howard, a Democrat and sponsor of the House version of the bill, claimed that such statements as "abortion is sin" or "contraception is wrong" could be illegal if the attorney general decided so "on a case-by-case basis."

SB 1909's prohibition on the "omission of any material fact" could also compel pregnancy centers to inform clients of pro-abortion talking points such as "data that shows the risk of death associated with childbirth is approximately 14 times higher than the risk of death associated with an abortion," to cite one example of alleged facts the law claims pregnancy centers "conceal." U.S. District Judge Iain Johnston, in granting a preliminary injunction against the law just a week after it was enacted, wrote in a footnote:

> If Plaintiffs' statements or written materials identified the risks associated with abortion, SB 1909 requires on pain of various sanctions that they state or include in their written materials the benefits or positive effects of abortion, which will apparently be determined by Defendant Raoul in bringing an enforcement action. And, again, abortion providers are under no similar obligation. Indeed, they are immunized by SB 1909 as to representations or omissions of material facts.

The act states that it is necessary because pregnancy centers are engaging in deceptive practices, and Hokenson told the state Senate that the attorney general's office had been receiving such complaints "for years." Yet, according to the Thomas More Society, the office "has been unable to provide any documentation of complaints to back up their allegations."

"Simply put," noted the group, "proponents have relied entirely on unsubstantiated hearsay while failing to provide any concrete evidence whatsoever of widespread 'deceptive practices' by pregnancy help centers — whether it be in the form of verified complaints or successful prosecutions."

Johnston seems to have concurred with this assessment. "SB 1909 is both stupid and very likely unconstitutional," he declared. "It is stupid because its own supporter [Raoul] admitted it was unneeded and was unsupported by evidence when challenged. It is likely unconstitutional because it is a blatant example of government taking the side of whose speech is sanctionable and whose speech is immunized — on the very same subject no less."

Despite his desire to maximize the number of abortions in Illinois by eliminating alternatives, Raoul

must have seen the writing on the wall and thus consented to the permanent injunction, which not only prohibits the state from enforcing the law but allows the plaintiffs to recover their attorneys' fees.

"The federal court was spot on in holding that SB 1909 is 'both stupid and very likely unconstitutional,'" Thomas More Society Executive Vice President and Head of Litigation Peter Breen said in a press release. "We hope this permanent injunction, with full attorney's fees, serves as a warning to other states that would seek to follow Illinois and try to silence pro-life viewpoints."