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SENATE BILL NO. 188

Offered January 13, 2010

Prefiled January 12, 2010

A *BILL to amend the Code of Virginia by adding in Chapter 5 of Title 32.1 an article numbered 8, consisting of sections numbered 32.1-162.15:1 and 32.1-162.15:2, and to amend and reenact § 3 of Chapter 755 of the Acts of Assembly of 2009, relating to limited service pregnancy centers.*

Patrons—Northam, Deeds, Edwards and Marsden

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 5 of Title 32.1 an article numbered 8, consisting of sections numbered 32.1-162.15:1 and 32.1-162.15:2, as follows:

*Article 8.**Limited Service Pregnancy Centers.**§ 32.1-162.15:1. Definitions.**As used in this article:*

"Abortion" or "abortion service" means any procedure intended to terminate a pregnancy, or any referral for such procedures.

"Contraceptive" or "contraception" means any drug, device, or procedure to prevent pregnancy that is approved by the U.S. Food and Drug Administration for such purpose.

"Factually and medically accurate information" means information that meets the current standard of care and is: (i) supported by research conducted in compliance with accepted scientific methods; (ii) recognized as accurate by leading professional organizations and agencies with relevant expertise in the field; and (iii) published in a peer-reviewed journal, if appropriate.

"Limited service pregnancy center" means a facility that is eligible to receive funds from the Choose Life Virginia Fund through Heartbeat International, Inc., as provided in § 3 of Chapter 755 of the Acts of Assembly of 2009, which provides information, assistance, or counseling related to pregnancy or adoption as an alternative to abortion for a fee or as a free service, does not provide abortions or contraception, and does not refer patients to providers of abortions or contraception, including emergency contraception. The term does not include a licensed health care provider or health care entity as defined in § 32.1-127.1:03.

§ 32.1-162.15:2. Registration of limited service pregnancy centers.

A. It shall be unlawful for any person to operate a limited service pregnancy center without first registering with the Department.

B. Every limited service pregnancy center shall:

1. Prominently display on the primary door through which the facility is entered in a place that is clearly visible to persons entering the facility, a notice printed on legal-sized paper in bold-faced type that is at least three-quarters of an inch in height and written in both English and Spanish, that identifies the facility by name and states that the facility is not a health care facility, that it does not perform or refer women for abortions, that it does not provide or refer women for contraception, and that the facility is not required to maintain medical confidentiality or medical records in accordance with the Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. § 1320d et seq., or § 32.1-127.1:03. Such notice shall not include any additional information;

2. Include a printed copy of the notice required in subdivision 1 together with any material distributed by the center; and

3. Certify annually to the Department of Motor Vehicles, in a writing signed by the members of the board of directors or a designated agent of the center, that the center adheres to all aspects of Heartbeat International, Inc.'s "Commitment of Care" and that the center provides only factually and medically accurate information about pregnancy, contraception, and abortion to a person seeking counseling, information, or assistance from the center.

C. Any person who believes that a violation of this article has occurred may file a complaint with the Department. The Department shall investigate the complaint and determine if a violation has occurred within 30 days of receipt of such complaint. Upon finding that a violation has occurred, the Department shall notify the Department of Motor Vehicles and Heartbeat International, Inc., of such finding and (i) the center shall be ineligible to receive funds transferred from the Virginia Choose Life Fund to Heartbeat International, Inc., for the purpose of making grants to pregnancy centers located in the Commonwealth pursuant to § 3 of Chapter 755 of the Acts of Assembly of 2009 for a period not to

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59 *exceed one year and (ii) the center shall return the full amount of any funds received from the Virginia*
60 *Choose Life Fund through Heartbeat International, Inc., to the Fund.*

61 *D. Any agent, employee, or volunteer of a limited service pregnancy center found to have violated*
62 *this section shall be liable for the imposition of a civil penalty of not more than \$500, which shall be*
63 *paid into the Virginia Choose Life Fund.*

64 *E. The Board shall promulgate regulations for the registration of limited service pregnancy centers*
65 *pursuant to this article.*

66 **2. That § 3 of Chapter 755 of the Acts of Assembly of 2009 is amended and reenacted as follows:**

67 § 3. Special license plates for supporters of the Choose Life Virginia Fund; fees.

68 A. On receipt of an application and payment of the fee prescribed by this section, and following the
69 provisions of § 46.2-725 of the Code of Virginia other than those relating to the fee for the license
70 plates and its disposition, the Commissioner of the Department of Motor Vehicles shall issue special
71 license plates bearing the legend CHOOSE LIFE to supporters of the Choose Life Virginia Fund,
72 prescribed in subsection B.

73 B. The annual fee for license plates issued pursuant to this section shall be \$25 in addition to the
74 prescribed fee for state license plates. For each such \$25 fee collected in excess of 1,000 registrations
75 pursuant to this section, \$15 shall be paid into the state treasury and credited to a special nonreverting
76 fund known as the Choose Life Virginia Fund established within the Department of Accounts. *Fines*
77 *collected pursuant to subsection D of § 32.1-162.15:2 shall also be paid into the Fund.* These funds
78 shall be paid annually to Heartbeat International, Inc., to be distributed in equal grants to pregnancy
79 center locations in Virginia that are tax exempt organizations under § 501 (c) (3) of the Internal Revenue
80 Code, *have registered with the Department of Health pursuant to § 32.1-162.15:2, and are officially*
81 *committed to Heartbeat International's "Our Commitment of Care" standards.* Choose Life Virginia Fund
82 distributed funds are to be used to provide services to pregnant women and women who suspect that
83 they may be pregnant in Virginia and may be refused within 60 days by return to the Choose Life
84 Virginia Fund. *Any limited service pregnancy center found to be in violation of § 32.1-162.15:2 shall be*
85 *ineligible to receive funds transferred from the Virginia Choose Life Fund to Heartbeat International,*
86 *Inc., for a period not to exceed one year, and shall be required to return the full amount of any funds*
87 *received from the Virginia Choose Life Fund through Heartbeat International, Inc., to the Fund.* The
88 Commissioner shall provide annually to Heartbeat International, Inc., a summary report for the annual
89 reporting period containing (i) Choose Life Virginia initial plate issuances and renewals (both counts and
90 dollars) and (ii) the return address to be used if a pregnancy center location wishes to refuse to receive
91 Choose Life Virginia funds. All other fees imposed under the provisions of this section shall be paid to,
92 and received by, the Commissioner of the Department of Motor Vehicles, and paid by him into the state
93 treasury and set aside as a special fund to be used to meet the necessary expenses incurred by the
94 Department of Motor Vehicles.

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