



**Written Testimony of Denise Burke, Esq.
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Before the House Committee on Judiciary
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Chairman Lynn and Members of the Committee, I am Denise Burke, Senior Counsel with Alliance Defending Freedom. ADF is the nation's leading nonprofit legal organization that advocates for religious liberty, free speech, life, and marriage and the family. We regularly analyze state legislation and its effect on constitutional freedoms.

House Bill (HB) 1416, the *Pregnancy Resource Center Freedom of Expression Act*, protects pregnancy resource centers from censorship and discrimination simply because they do not offer, refer for, or counsel in favor of abortion, chemical abortion drugs, or contraception. It prevents them from being singled out for censorship or discriminatory treatment simply because of their pro-life principles.

New Hampshire's pregnancy resource centers are critical, underappreciated resources that provide compassionate care and practical help to women and their families. They provide care, support, and education that improve maternal, child, and family health at no cost to taxpayers or to the women and families they serve.

According to a 2023 Knights of Columbus–Marist Poll, 91% of Americans support the work of pregnancy resource centers.

Unfortunately, pregnancy resource centers are all too often being attacked rather than affirmed in their mission. States and municipalities are increasingly considering legislation and local ordinances seeking to, for example, restrict the fundamental First Amendment rights of pregnancy resource centers, to force them to recruit and hire those who do not share their pro-life values, and to effectively undermine the positive impact of pregnancy resource centers on women, babies, families, and our communities.

The number of state and local government officials assailing the life-saving work of pregnancy resource centers has grown exponentially over the past few years as the legal and political landscape surrounding abortion has shifted. Notably, since 2022, at least 26 state legislatures¹ have introduced measures that would undermine pregnancy resource centers' autonomy and life-affirming work, and 6 have enacted such measures.² By comparison, in 2021, just one year prior to the Supreme Court decision overturning *Roe v. Wade*, only two states considered such measures.

The threat is also growing at the local level. Cities, including Columbus (OH), Pittsburgh, Cambridge (MA), New York City, and Seattle, have adopted or considered measures targeting the free speech and association rights of pregnancy resource centers.

Conversely, only two states maintain laws protecting pregnancy resource centers from discrimination and censorship: Missouri and Montana.

The goals of HB 1416 are simple. It protects pregnancy resource centers from censorship or discrimination. It ensures that they cannot be prohibited from providing pregnancy-related care, counseling services, or any other service related to pregnancy and postpartum care simply because they do not perform, counsel in favor of, or provide referrals for abortion, chemical abortion drugs, or contraception. It protects their rights of free expression and free association.

Importantly, the U.S. Supreme Court's 2018 ruling in *NIFLA v. Becerra* does not preclude the need for HB 1416. In that case, the Supreme Court ruled 5-4 that NIFLA, a national network of pregnancy resource centers, was likely to win its claim that the government cannot compel pro-life groups and individuals to express messages that conflict with their beliefs. This led to a permanent injunction preventing California from enforcing its unconstitutional law. The Court found that the requirement for pregnancy resource centers to post notices about state-funded "reproductive services" was an unconstitutional violation of the First Amendment's protection against compelled speech. It also found that a requirement forcing non-medical pregnancy resource centers to add large disclosures about their non-medical

¹ Arizona, California, Colorado, Delaware, Florida, Georgia, Hawaii, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New York, North Carolina, North Dakota, Oklahoma, South Dakota, Ohio, Pennsylvania, Texas, Virginia, and Vermont.

² California, Colorado, Delaware, Illinois, Michigan, and Vermont.

status in all advertisements, wrongly implying that they were unqualified to provide charitable services, was unconstitutional.

This was a tremendous victory for the First Amendment rights of pregnancy resource centers, but it did not stop state legislatures from considering—and even enacting—legislation that compels centers to speak messages that violate their core beliefs or that otherwise target their speech.

For example, in 2023, Illinois enacted Senate Bill (SB) 1909, predicated on the false assertion that the information pregnancy resource centers provide to clients was “deceptive.” Illinois agreed not to enforce the law after a court challenge. And just this year, New Jersey introduced Assembly Bill (AB) 3753 that mandates that pregnancy resource centers post signs indicating that they are not “licensed health care facilities.” This type of requirement was specifically ruled unconstitutional in *NIFLA v. Becerra*, but that has not stopped New Jersey legislators from pursuing its enactment.

Legislative attacks against pregnancy resource centers have included attempts to force them to refer for abortions and to recruit and hire those who do not share their pro-life values. For example, Illinois pregnancy resource centers have spent eight years challenging a state law requiring them to refer women for abortions. Earlier this year, HHS notified state officials that the referral mandate violates federal law.

And earlier this month, Michigan was sued after amending its employment law to define “sex” discrimination to include “the termination of a pregnancy.” Under the amended law, it is now illegal for pregnancy resource centers to recruit and hire only those employees who share their pro-life views. Going further, the law also requires pregnancy resource centers to offer abortion coverage in their health insurance plans, in direct conflict with their mission and values. The challenged law clearly threatens pregnancy resource centers’ ability to advocate for their pro-life views and to serve women and families in need consistent with their beliefs.

Pregnancy resource centers should not have to endure years of litigation to vindicate their constitutional rights. The *Pregnancy Resource Center Freedom of Expression Act* helps ensure that they are not singled out for unconstitutional mandates simply because of their pro-life principles.

HB 1416 allows New Hampshire to be proactive in protecting the critical work of pregnancy resource centers and ensuring that women have the choice and opportunity to access the care, material support, and educational options they offer both now and in the future.