News



The U.S. Supreme Court is seen in Washington Sept. 26. (CNS/Tyler Orsburn)



Carol Zimmermann

View Author Profile

Catholic News Service

View Author Profile

Join the Conversation

Send your thoughts to *Letters to the Editor*. Learn more

Washington — November 17, 2017
Share on BlueskyShare on FacebookShare on TwitterEmail to a friendPrint

The Supreme Court has decided to hear a case examining freedom of speech at crisis pregnancy centers.

The case, accepted Nov. 13, will consider if a California law that went into effect in 2016 violates the Constitution by requiring the state's 200 crisis pregnancy centers to inform their clients, in specific detail, about the availability of free or low-cost abortion and contraceptive services and provide a referral number for them.

The law in question, called the Reproductive FACT Act, says centers must post such notices in areas where they will be clearly seen on paper that is "at least 8.5 inches by 11 inches and written in no less than 22-point type." Centers also are required to disclose in their advertisements if they have medical personnel on staff. Some centers provide counseling and offer supplies of diapers, formula, clothes and baby items. Centers that fail to comply are subject to fines of $500 for a first offense and $1,000 for subsequent offenses.

Three pregnancy centers challenged the law in court saying it infringed on their First Amendment rights to freedom of speech and free exercise of religion.

The pregnancy center law was upheld last October by a panel of the U.S. Court of Appeals for the 9th Circuit that said the state could regulate professional speech because of its interest in safeguarding public health and to ensure that "citizens have access to and adequate information about constitutionally protected medical services like abortion."

It also said the required signs were simply to inform clients of the existence of these services and did not encourage or suggest that clients should use them.

This October, a California Superior Court judge granted a permanent injunction against the state attorney general preventing him from enforcing the Reproductive FACT law.

"Compelled speech must be subject to reasonable limitation," ruled Riverside County Superior Court Judge Gloria Trask in the Oct. 30 decision that provided injunctive relief statewide and prevented the law from being enforced.

"The statute compels the clinic to speak words with which it profoundly disagrees when the state has numerous alternative methods of publishing its message. … In this case, however virtuous the state's ends, they do not justify its means," the judge said.

"We are thrilled with Judge Trask's ruling, which is a huge victory for free speech," said Scott Scharpen, founder and president of the Scharpen Foundation, which operates the Go Mobile for Life pregnancy clinic. "The whole notion of being compelled to share information with our patients about abortion availability, which is contrary to our mission and purpose, is fundamentally wrong."

Ned Dolejsi, executive director of the California Catholic Conference, similarly told Catholic San Francisco, the archdiocesan newspaper, that he applauded the judge's ruling. He said the state's Catholic bishops oppose the legislation for pregnancy centers which he described as "a pure and simple violation of free speech and a violation of religious liberty."

The case before the Supreme Court is called National Institute of Family and Life Advocates v. Becerra. It will be the first abortion-related case heard by the court with President Donald Trump's appointee, Neil Gorsuch, on the bench.

Advertisement

A friend-of-the-court brief filed by the National Association of Evangelicals, the Christian Legal Society and the National Legal Foundation said that "abortion remains one of the most contentious issues of our public life" and that when courts appear to "be taking sides" on the issue, it requires the Supreme Court to step in to "assure uniform standards are applied on both sides of this issue."

Another friend of the court brief filed by Carenet, an affiliation organization for pregnancy resource centers, said it was "deeply concerned about California's decision to force pregnancy resource centers in California to become spokespersons for the abortion industry."

California's attorney general, Xavier Becerra, who will represent the state in the oral arguments, said in a statement that "information is power" and that "all women should have access to the information they need when making personal healthcare decisions."

Alliance Defending Freedom will represent the National Institute of Family and Life Advocates, a national nonprofit organization providing legal counsel, education and training for pro-life pregnancy centers. Thomas Glessner, the group's president, said in a statement that the case could have broad implications particularly on "similar unconstitutional laws in Illinois and Hawaii."

- - -

Valerie Schmalz, assistant editor of Catholic San Francisco, the archdiocesan newspaper, contributed to this report.