



**House  
Legislative  
Analysis  
Section**

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**CHOOSE LIFE FUND; UNPLANNED  
OR UNWANTED PREGNANCY  
SERVICES**

**House Bill 4759 with committee  
amendments  
Revised First Analysis (5-31-01)**

**Sponsor: Rep. Gary Newell  
Committee: Transportation**

***THE APPARENT PROBLEM:***

Many women, often young and unmarried, become pregnant each year and they face their pregnancies and the birth of their children alone, without the help and assistance of their unborn children's fathers, or of friends and family. Some of the women are victims of rape or incest, which further troubles their well-being during the period in which the fetus they carry comes to full term. Many of the expectant mothers are uninsured and without health benefits, or too poor to afford prenatal services and preventive health care that can protect their lives and those of their unborn children, as well as to ease their labor and delivery processes.

The prenatal care that poor women seek is customarily delivered by county health departments whose operations and services are overseen by county boards of commissioners. There, public health professionals work in public health clinics to provide the care the pregnant women need when motherhood is imminent.

According to committee testimony, there also are 140 crisis pregnancy centers located throughout the state. The crisis pregnancy centers are funded by private donations, and are private nonprofit service agencies. These centers, unlike county health department clinics, limit their services so that abortion information and services are not available to pregnant women. Instead, they provide free services that generally include reliable pregnancy tests, confidential consultations, information about options (including adoption and parenting one's baby), and material assistance with maternity and baby items. Some also provide parenting and life skill classes in "earn and learn" programs in which pregnant women earn maternity clothes, baby clothes, diapers, cribs, car seats, and other equipment when they attend classes.

In order to provide funding for centers like these, the State of Florida enables its citizens to purchase "Choose Life" specialty license plates, and the revenue from the sale of those plates is distributed to crisis pregnancy centers in that state. The program has been operating since August 2000, and already 20,000 plates have been sold. As the state's most popular plate and the fastest seller among an array of specialty plates offered during the past five years, the program has raised nearly \$500,000 during its first year of operation. However, a similar program in nearby Louisiana was blocked when a federal judge issued a preliminary injunction calling the "Choose Life" plates "very likely an unconstitutional restraint of free speech as it restricts the forum to only one view—that being the view of the state."

Legislation to establish a "Choose Life" specialty license plate has been introduced in the Michigan Senate as Senate Bill 466 (where it has been referred to the Senate Committee on Transportation and Tourism). Further, Senate Bill 466 is tie-barred to legislation that would create a "Choose Life Fund," which would enable state agencies to collect the revenue from the proposed plate's sales. The bill to create the fund has been introduced in the House, as House Bill 4759.

In an effort to increase pregnancy counseling options and the amount of available care for women whose pregnancies are unplanned or unwanted, and in doing so to reduce the likelihood of abortions, the administrator of the "Choose Life Fund" could disburse revenue raised from the sale of specialty license plates to counties. The counties, in turn, would distribute the funds to nonprofit non-governmental agencies such as those in the network of single- and multi-county crisis pregnancy centers that promote adoption, and that strongly discourage abortion.

House Bill 4759 (5-31-01)

## ***THE CONTENT OF THE BILL:***

House Bill 4759 would amend the Michigan Vehicle Code to create a Choose Life Fund within the Department of Treasury, to be administered by the Office of the Secretary of State. The bill is tie-barred to Senate Bill 466 so that it could not become law unless that bill also were enacted. (Senate Bill 466 would require the secretary of state to develop and issue a "Choose Life" vehicle registration plate. A person would pay an additional \$25 for this plate, and the donation would be deposited into the fund to be created under House Bill 4759.)

House Bill 4759 specifies that the state treasurer could receive money or other assets from any source for deposit into the Choose Life fund, and would direct investment of those funds, as well as credit to the fund the interest and earnings from fund investments. Money in the fund at the close of the fiscal year would not lapse to the general fund.

The bill also specifies that the secretary of state would be required to disburse money in the fund on a quarterly basis to each county, in proportion to the amount of donations received from issuing Choose Life vehicle registration plates in the county. Then, each county would be required to distribute the money received only to a non-governmental not-for-profit agency or organization that provided services and counseling to women who had unplanned or unwanted pregnancies. The agency or organization that received the money could be located within the county or in an adjacent county. However, an agency that received money could not charge a fee for the services or counseling provided. Further, an agency that received money would be required to provide an annual accounting of the use of the money to the county. Under the bill, money could not be distributed to an agency that was involved or associated with abortion counseling, referrals to abortion clinics, or providing abortion procedures.

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## ***BACKGROUND INFORMATION:***

Specialty fundraising plates. Customarily government works to provide for the health, safety, and education of citizens by providing programs and services paid for by citizens' tax dollars. In these circumstances, government bureaucracies seek maximum efficiency in their delivery of services, whereas those in the private sector sell products and seek to maximize their profits. During recent times, government

agencies have been encouraged by the social choice theorists in schools of public policy and the proponents of their theories, to adopt the customs and behaviors of businesses in the private sector. In doing so, government bureaucrats are advised to think and behave more like entrepreneurs--that is, to regard their services as products, to design and distribute those products in ways that satisfy consumer preferences, and to sell those products so that new streams of revenue flow into government coffers.

One product the Office of the Secretary of State provides to Michigan citizens is their annual license plate. Citizens buy the plate each year in order to lawfully drive their motor vehicles on the roads of this state and others. During the past decade, drivers have displayed a preference for customized license plates, and most especially plates that commemorate or support special events or affiliations in their lives. For example, during the 1997-98 fiscal year, 7,800 Michigan citizens bought Olympic specialty license plates, the proceeds from which fund the Olympic Training Center at Northern Michigan University, and an additional 1,400 citizens purchased various organizational plates. Then in 1999, the legislature passed laws to establish a new fund-raising project in the Office of Secretary of State. That project permitted the secretary of state to design and sell 21 specialty license plates, the revenue from which is earmarked for the state's 15 public universities, the Children's Trust Fund, the Michigan Veterans Memorial, critical non-game wildlife habitat, the Future Farmers of America Endowment Fund, lighthouse renovation, and the water quality of the Great Lakes and inland lakes and rivers.

## ***FISCAL IMPLICATIONS:***

The House Fiscal Agency notes that the bill would establish the Choose Life Fund within the Department of Treasury, and determine the collection and disposition of funds to and from the fund. Any resulting fiscal impact would likely be confined to administrative costs, and would probably be small. (5-22-01)

## ***ARGUMENTS:***

### ***For:***

This legislation would give Michigan Right to Life supporters a way to fund crisis pregnancy centers. According to committee testimony, the State of

Florida (which reportedly has an array of 51 separate specialty license plates available to drivers) began selling a specialty license plate to fund crisis pregnancy centers in August 2000. Since that time more than 20,000 plates have been sold, and more than \$300,000 has been distributed to crisis pregnancy centers. This specialty plate is more popular than half of Florida's many plate options, selling at a rate of about 120 each day. Michigan has a stronger Right to Life organization than does Florida, so sales in this state could be as great or even greater. According to committee testimony, between \$300,000 and \$500,000 in revenue is expected each year.

### **For:**

The network of 140 crisis pregnancy centers that promote adoption and actively discourage abortion are funded by private contributions. The centers operate without government assistance. In contrast, the 52 agencies in the state that provide comprehensive family planning through the federal Title X program do receive government assistance for a broader array of services. Many women who have crisis pregnancies prefer to get their prenatal health counseling and care from organizations that promote adoption but that rule out abortion as an option. This bill would strengthen that network of agencies, helping to enhance the 140 agencies by ensuring a source of additional revenue from specialty license plate sales.

### **Against:**

This legislation proposes a special fund for yet another specialty license plate whose sale proceeds would be directed by the secretary of state to the state treasurer, and then subsequently by the state treasurer to officials at the county level of government, where final disbursements would be made to private, nonprofit groups of volunteers who are organized as crisis pregnancy centers. Because the organizations are not government agencies, they would not be required to open their books to government auditors; their meetings to the public; or, their records to Freedom of Information requests. They would be exempt from these kinds of public oversight despite the fact that the state's taxpayers fund the Office of the Secretary of State and the Department of Treasury who would serve as the private organizations' collection agent. To ensure that the organizations use their funds in the manner intended, this legislation should be amended to enable an audit of the crisis pregnancy centers, and to require an annual report to the executive and legislative branches of government.

### **Against:**

A recent editorial in *The Detroit News* entitled "An Unwise License Plate Bill" (5-18-01) observes that the state should not be involved in setting up a fundraising license plate for pro-life counseling centers. The editors note that although similar plates exist for supporters of preserving wildlife habitat, for a children's defense fund, for preserving the state's historic light houses, for honoring veterans, and for preserving water quality, "in the instance of this legislation, House Bill 4759 and Senate Bill 466, the state Treasury Department would route funds raised by the Choose Life plate to counties, which would in turn hand them over to private, nonprofit pro-life pregnancy support centers. But unlike, say lighthouse preservation, abortion is a particular fraught public issue. Pro-lifers have fought to keep the state Medicaid program from paying for abortions. And while these plates and donations would be voluntary, they would still involve the state in administering funds for a pro-life cause."

### **Against:**

It is possible this bill would be found unconstitutional if challenged in a court of law. It could well violate the First Amendment through a principle known as viewpoint discrimination. Under this provision, a state may not create a forum (in this case a license plate), and then allow only one viewpoint to be expressed. Indeed, a federal judge temporarily blocked implementation of a similar bills adopted in Louisiana, asserting that the legislation aired only one side of a controversial debate in violation of free speech. That case, *Henderson v. Stadler*, 112 F.Supp.2d589 (E.D.La.2000) was filed by the Center for Reproductive Law and Policy against Louisiana's secretary of the Department of Safety and Corrections and the state treasurer after the legislature passed a bill to establish a Choose Life license plate, and a Choose Life fund. The District Court ruled in favor of the plaintiffs' First Amendment Freedom of Speech claim, but against its Establishment claim (ruling instead that the legislation had a secular purpose; it neither inhibited nor advanced religion; and, it did not foster excessive government entanglement in religion). In this vein and to the Freedom of Speech claim, the American Civil Liberties Union in its testimony noted that "the State can elect whether or not to permit political slogans on license plates. But once the decision has been made to permit one political slogan, constitutionally other competing ideas must be afforded the opportunity to utilize the state-sponsored forum. In other words, while there is no absolute right to place a political slogan on a state-

sponsored license plate, once the State has allowed one political slogan on a license plate, the Constitution does not permit the state to discriminate in the future on the basis of viewpoint.”

***POSITIONS:***

The Shared Pregnancy Women’s Center supports the bill. (5-23-01)

A representative of the Pregnancy Helpline located in Howell, Michigan testified in support of the bill. (5-23-01)

Right to Life of Michigan supports the bill. (5-23-01)

The Office of the Secretary of State is neutral on the bill. (5-23-01)

Planned Parenthood Affiliates of Michigan opposes the bill. (5-23-01)

The Michigan Conference of the National Organization for Women opposes the bill. (5-23-01)

The Michigan Abortion and Reproductive Rights Action League (MARAL) opposes the bill. (5-23-01)

The American Civil Liberties Union opposes the bill. (5-23-01)

The Triangle Foundation opposes the bill. (5-23-01)

Analyst: J. Hunault

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■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.