Written Statement of the Archdiocese of Washington
to the Committee on Government Relations

The Strengthening Reproductive Health Protections Amendment Act of 2019, B23-0434
Hearing Date: December 19, 2019

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Thank you and good morning Chairperson Todd, committee members and staff of the Committee on Government Operations. My name is Mary Forr, and I appreciate the opportunity to speak with you today on behalf of the Catholic Archdiocese of Washington. Like others here today and many others who could not attend, I come before you to voice our opposition to Bill 23-434. Contrary to its title, the Strengthening Reproductive Health Protections Amendment Act does nothing to strengthen reproductive health. Instead, the bill would remove all remaining protections, which would include baseline health and facility safety requirements, thereby jeopardizing the health and wellbeing of women and girls. Furthermore, the anti-discrimination language would prohibit religious employers from acting in accordance with their mission. Finally, the employment provisions regarding healthcare providers are already provided for by federal law, and therefore, are unnecessary.

Complete Deregulation of Abortion Creates Unsafe Conditions

With respect to the government noninterference provisions of the bill, currently, abortion is readily available in the District without limitation. Because of the status of our laws, the least restrictive in the nation, a woman or girl of any age may terminate at any stage in pregnancy, by a person without a medical license, without notifying anyone. However, several clinics are currently classified as ambulatory surgical centers, and as such, are subject to District government sanitary and safety regulations. The new section 105a of this bill, which states, "The District government shall not: (1) Deny, interfere with, or restrict, in the regulation or provision of benefits, facilities, services, or information, the right of an individual, including individuals under state control or supervision, to: (A) Choose or refuse contraception or sterilization; or (B) Choose or refuse to carry a pregnancy to term, to give birth to a child, or to have an abortion." will have the unintended consequence of making reproductive decisions – including not only terminating, but maternal health care in general – less safe for women, girls, and their children. At a minimum, this language is overly broad, vague, and ambiguous.

As you are well aware, in 2018, the Council created the Maternal Mortality Review Committee. The Council was rightly concerned that the District of Columbia had the **highest maternal mortality rate in the country—more than double the national average—with 40 women dying per 100,000 babies born,**[1] We applaud this effort. The provisions of B23-434, however, stand in direct contradiction to the work of this committee, which was formed to study and solve the maternal health crisis. A lack of any regulation surrounding maternal health care and abortion will lead to less sanitary and less safe conditions for all involved.

[1] https://journals.lww.com/greenjournal/fulltext/2016/10000/Health_Care_Disparity_and_State_Specific.25.aspx

Abortion, specifically, is an invasive surgical procedure, particularly in the cases of second-trimester and late pregnancy terminations that local facilities offer. There can be no reproductive justice if women and girls receiving abortions do not have the same protection of health standards as people receiving other forms of medical care do.

Though people may disagree on abortion, we all should be able to agree on the need to protect the life and health of women and girls. Failure to regulate reproductive health care does not make it safer for women and girls, but instead, opens the door for exploitation. Administration of medication, sanitary conditions, functioning sewage systems, reporting of suspected abuse of children or human trafficking, and medical staffing are municipal regulations. This bill would eliminate and effectively outlaw these types of regulations and restrictions, which safeguard women's health. Instead of "strengthening" protections and helping women, the overly broad and vague language of this bill will actually make abortions – and maternal health care in general – more dangerous for women, girls, and their children.

Employers Must Be Permitted to Act in Accordance with their Mission

Another concern with this Bill is that other provisions, particularly the new Subparagraph (E) of Section 211(a)(4), are vague and ambiguous. This subparagraph, which prohibits employers from treating employees affected by reproductive health decisions differently from any other employee, could be construed as prohibiting a non-healthcare providing religious employer (or other employers with moral convictions) from acting in accordance with the mission of their organization in their employment policies. The U.S. Supreme Court has long held that employers cannot be compelled to act in a manner that is contrary to the dictates of their faith. This section, however, could be construed to dictate employment policies that are contrary to the teachings or mission of employers. If any employee publically announces their own reproductive health decision that is not consistent with the mission of the organization, the organization must have the freedom to act so that all employees are working toward the mission. This is particularly problematic in instances where the employee in question interacts with children entrusted by their parents to the organization for the purpose of the children being educated in accordance with the teachings of the organization.

Furthermore, the definitions of "Health care professional" and "Health care provider" in Section 291(a) are drafted so broadly as to cover not only physicians, nurses, aides, clinic employees, counselors, and social workers, but also "*any other individual* involved in providing health care *in any manner*." (emphasis added). These definitions could be construed so broadly as to regulate employees of Catholic schools, Catholic Charities, and other Church ministries including pregnancy centers. Thus, once again, the Bill requires a religious employer, not typically classified as a healthcare provider, to hire and retain individuals who openly contradict its religious beliefs.[2]

[2] As applied to religious employers, the Bill's new provisions would also conflict with existing provisions of the Human Rights Act of 1977, including the section that allows religious institutions to engage in hiring practices that "promote the religious…principles for which it is established or maintained." D.C. Code § 2-1401.03(b). This Bill, if enacted, would substantially burden the ability of religious institutions to maintain their religious identity when providing health care services.

The Church Amendment Already Covers Discrimination in the Health Care Profession

The new Part J of the Bill, which would add a provision prohibiting discrimination against a health care provider is unnecessary and contrary to the longstanding federal rule, which protects the conscience rights of those who either choose to participate, or not to participate, in abortion and sterilization procedures. This subject-matter is already addressed by existing federal law, including the "Church Amendments," 42 U.S.C. § 300a-7, and other federal laws and regulations. The Church Amendments apply broadly to entities that receive various sources of federal funding, which would likely already cover most health-care providers in the District of Columbia.

However, this Bill differs from the Church Amendments in that it is one-sided. The proposed Section 292 *only* protects those who *participate* in sterilization procedures or abortion, unfairly providing them special favorable treatment. In contrast to the Church Amendments, the Bill provides no protection for the conscience rights of those who, on religious or moral grounds, *decline* to perform or assist in sterilization procedures or abortion. The Bill also fails to incorporate the provisions of the Church Amendments that protect providers who, on religious or moral grounds, decline to make their facilities available for abortions. *See*, *e.g.*, 42 U.S.C. § 300a-7(b). Thus, contrary to longstanding principles enshrined in existing federal law, the Bill grants special treatment to abortion providers, but fails to protect to protect the conscience rights of those who decline to participate in abortion.

Finally, the Bill, when viewed in its entirety and real-life application, appears to single out pro-life and religious "health-care providers"—which again is far too broadly defined—for disparate treatment, whether pro-life crisis pregnancy centers offering abortion alternatives, health clinics operated by religious institutions, or even religious elementary schools and high schools. The Bill would not protect the employment status of an employee at an abortion clinic who refused to participate in abortions, but it would potentially require a Catholic school with a nurse on staff to continue to employ someone who performed abortions on the side, thereby forcing the school to accept practices it teaches against. Thus, the Bill would impermissibly contravene the provider's sincerely-held religious and/or moral beliefs and would threaten the provider's overall mission and identity.

Conclusion

For all of these reasons, we oppose B23-434. Instead of this Bill, the more just answer to what women and girls really need are *real* choices that protect their full and equal participation in social, political and economic life. Let's redirect the debate toward positive outcomes for all concerned and focus on enacting policies that lessen the pressure on women and girls to choose between their careers and their children. Let's reexamine our policies and attitudes in workplaces and institutes of learning to support those facing an unplanned pregnancy and address basic needs such as housing, child care, education, health care, flex time, transportation, telecommuting solutions, and maternity benefits.