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BY E-MAIL

May 1, 2018

Chairman Sherman Mack
Committee on Administration of Criminal Justice
Louisiana House of Representatives
Box 94062 (900 North Third Street)
Baton Rouge, Louisiana 70804

Re: Senate Bill 181

Dear Chairman Mack,

As advocates for the constitutional and religious freedom rights of all, the undersigned faith-based, religious and civil rights groups stand united in opposing measures that restrict women's access to safe, legal abortion. Senate Bill 181 entitled, "Abortion. Prohibits abortions later than fifteen weeks after conception" ("SB 181"), poses a substantial threat to the reproductive health, constitutional rights, and religious freedom of the women in Louisiana. We therefore urge your Committee to oppose this legislation.

SB 181 would further restrict access to abortion in Louisiana. It bars abortion after 15 weeks except under circumstances to "... sav[e] the life, prevent impairment of a life sustaining organ or organs, or to prevent a substantial risk of death of the mother." This narrow medical emergency exception fails to account for threats to maternal health such as certain forms of cancer, serious mental illness, or reproductive coercion. Other than this exception, the bill prohibits all abortion after 15 weeks, including in cases of rape, incest, human trafficking or domestic violence.

This legislation would therefore harm women with serious health conditions or victims of violent crime, and it binds the hands of medical professionals who seek to provide comprehensive reproductive healthcare to their patients. Arbitrary gestational limits on abortion interfere with doctors' ability to use their advanced training and medical judgment to prioritize the health and wellbeing of women under their care. It is not the role of government to place a value judgment on the reasons a woman may seek care.

Furthermore, SB 181 does not account for the economic, emotional, or environmental factors that may lead a woman to seek abortion care. Our religious and moral values compel us to advocate for policies that empower those marginalized in our communities. Whenever bans or other restrictions on abortion are enacted, those most negatively affected are women without the financial resources to access safe care elsewhere. Severe abortion bans like SB 181 only compound the difficulties of families in our communities who are already struggling to take of their children or make ends meet.

There are few decisions more personal than choosing whether and when to become a parent. For many women, this process is informed and guided by faith. It is our not right—or that of our legislators—to supersede the religious and moral autonomy of women in Louisiana who seek abortion care. Accordingly, we believe that government should not obstruct a woman's decision to end a pregnancy unless it has a compelling state interest to do so. Rather, each woman should be free to pursue the care that is right for her, in consultation with her family, doctors, clergy and any others she chooses to involve.

South Central Region

3747 West Esplanade Avenue, Metairie, LA 70002, T 504.780.5602 F 504.780.5640 neworleans.adl.org

While there are some religious traditions that oppose abortion, there are other faiths that sanction or promote access to comprehensive reproductive healthcare as a matter of social justice.¹ Furthermore, there are adherents to faiths that doctrinally oppose abortion whose own religious or moral beliefs affirm the ability of each person to seek the care she needs.²

We respect this diversity of belief as a manifestation the freedom of religion, a core principle of our American democracy. However, legislation that arbitrarily restricts access to abortion care, as does SB 181, has the practical effect of imposing one particular religious belief on all people. The proper role of government in the United States is not to privilege one set of religious views over others, but to protect each person's right and ability to make decisions according to their own beliefs and values.

Indeed, in instances where a woman seeks an abortion prohibited by this legislation based on religious beliefs or justification, SB 181 would likely violate the Louisiana "Preservation of Religious Freedom Act" ("PRFA"). See LA Rev. Statutes § 13:5231, *et. seq.* PRFA prohibits any government entity or person acting under color of law from "... substantially burden[ing] a person's exercise of religion, even if the burden results from a facially neutral rule or a rule of general applicability."

The statute's definition of "[e]xercise of religion ... includes the ability to act or refuse to act in a manner substantially motivated by a sincerely-held religious belief, whether or not the exercise is compulsory or a central part or central requirement of the person's religious belief" (emphasis added). Moreover, PRFA's definition of "[b]urden" includes "... government, directly or indirectly ... [c]ompel[ling] conduct or expression which violates a tenet or belief of a person's religious faith."

The statute only permits a substantial burden on "a person's exercise of religion" where government can demonstrate "... that application of the burden to the person is both ... [i]n furtherance of a compelling governmental interest [and] [t]he least restrictive means of furthering that compelling governmental interest." This standard, known as "strict scrutiny," is the most stringent constitutional standard. When the strict scrutiny standard is applied, a government entity rarely prevails. See *Holt v. Hobbs*, 135 S. Ct. 853 (U.S. 2015); *Burwell v. Hobby Lobby*, 134 S. Ct. 2751 (U.S. 2014) (stringently applying the strict scrutiny standard in finding for plaintiffs under the federal Religious Land Use and Institutionalized Persons Act and Religious Freedom Restoration Act, which both employ the same standard as PRFA.)

Particularly in circumstances not covered by SB 181's narrow medical emergency exception or pregnancies resulting from rape, incest, human trafficking or domestic violence, we do not believe that the State could demonstrate the strict scrutiny standard where a woman asserts her sincerely held religious beliefs to obtain an abortion. We further believe that the legislation violates the right to privacy under the Fourteenth Amendment to the U.S. Constitution. See *Whole Women's Health v. Hellerstedt*, 136 S. Ct. 2292 (U.S. 2016). Indeed, on March 20, 2018, a federal district court, citing to the *Hellerstedt* decision and other U.S. Supreme Court precedents guaranteeing a woman's right to abortion, temporarily enjoined Mississippi's recently enacted 15-week ban on abortion, which is very similar to SB 181. See *Jackson Women's Health Org. v. Currier*, 2018 U.S. Dist. LEXIS 45080 (S.D. Miss. March 20, 2018).

¹ See "Where major religious groups stand on abortion," David Masci, June 21, 2016, Pew Research Center, available at <http://www.pewresearch.org/fact-tank/2016/06/21/where-major-religious-groups-stand-on-abortion/> (web-page lasted visited April 18, 2018).

² See "American religious groups vary widely in their views of abortion," David Masci, January 22, 2018, Pew Research Center, available at <http://www.pewresearch.org/fact-tank/2018/01/22/american-religious-groups-vary-widely-in-their-views-of-abortion/> (web-page last visited April 18, 2018).

Each woman is a moral agent who deserves dignity and respect. It is critical that she has as much time as she needs to make the best decision for her, in consultation with her doctor, family, clergy and others without the fear of arbitrary time restrictions. For many women, her health and wellbeing depends on it.

SB 181 is extreme legislation that would neither withstand legal scrutiny nor protect the health of Louisiana women. This law blocks a woman's access to safe healthcare options and unjustly denies her the freedom to make decisions according to her own beliefs and conscience.

The government simply has no business substituting its judgment for that of a physician or without a compelling state interest interfering in women's deeply personal decisions. In the future, rather than question the autonomy of the women of Louisiana, we, the undersigned coalition, ask that you support legislation and policies which show compassion for women and families, no matter their circumstances, and respect for each individual's religious liberty. We therefore urge the your Committee to oppose SB 181.

Sincerely,

Aaron Ahlquist
Regional Director
ADL South Central Region

Barbara Kaplinsky
President
NCJW Greater New Orleans

Angie Wiens Talbert
VP of Public Affairs & Government Relations
Planned Parenthood Gulf Coast

Angela Adkins
Legislative Director
Louisiana Now

Reverend Darcy Roake
Minister at Community Church Unitarian Universalist New Orleans
Member PPFA Clergy Advocacy Board

Rachel Brown
President
If/When/How: Lawyering for Reproductive Justice

Amy Irvin
Executive Director
New Orleans Abortion Fund

South Central Region