

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

JOINT COMMITTEE ON WOMEN'S ISSUES AND
CIVIL RIGHTS

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November 18, 2008
Start: 10:00 am
Recess: 02:48 pm

HELD AT: Council Chambers
City Hall

B E F O R E:
HELEN SEARS
Chairperson

COUNCIL MEMBERS:
Speaker Christine C. Quinn
Charles Barron
Letitia James
Melissa Mark-Viverito
James S. Oddo
Jessica S. Lappin
Daniel R. Garodnick
Diana Reyna
Domenic M. Recchia Jr.
Mathieu Eugene
Michael C. Nelson
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A P P E A R A N C E S

COUNCIL MEMBERS:

John C. Liu

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Kaneisha Grant
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Helen Rosenthal
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Carrie James
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April Gay
Expectant Mother

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Intern
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Janice Pemberton
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Art Lovely
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Robert Maurice Maresca
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Charles Wright
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Sean Degidon
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Gerald Maglio
Heath Care Administrator

Agnes Hu
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Ann Gilmartin
Pro-Life Clinic Counselors

Rocco Carlucci
Citizen

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2 CHAIRPERSON SEARS: Good morning
3 everyone and thank you for being here. My name is
4 Helen Sears. This morning I'm chairing the joint
5 committee, the Civil Rights Committee and the
6 Women's Issues Committee. We're holding this
7 hearing this morning with my colleagues in the
8 Civil Rights Committee and in the Women's Issues
9 Committee on Intro. 826, a Local Law that
10 strengthens the prohibition of activities that
11 prevent access to reproductive health care
12 facilities. The right to access reproductive
13 health service is an important personal right
14 recognized by the city and protected by both state
15 and federal law. In 1994, the City Council acted
16 to protect this right by amending the Human Rights
17 Law to prohibit interference with a person's
18 access to reproductive health care services and to
19 ensure that those harmed by such conduct could
20 seek redress in the courts. Despite this measure,
21 evidence shows that reproductive health care
22 facilities, although no longer bombarded as they
23 were in the early 90s, still experience
24 substantial protest activity. Some facilities
25 report that their entrances have been blocked by

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2 protestors and that patients, staff and others are
3 regularly harassed and intimidated. The current
4 city law requires prosecutors to show a
5 defendant's intent to prevent an individual from
6 obtaining or providing reproductive health care
7 services. All of these arrests and prosecutions
8 require a complainant. The difficulty of
9 establishing intent and obtaining a complainant
10 that will testify to such private matters impedes
11 the prosecution of offenders. If enacted, Intro.
12 826, would strengthen the protections afforded to
13 those seeking and providing reproductive health
14 services by eliminating the need for intent to
15 make an arrest or to prosecute. Additionally,
16 protestors interfering with the operation of a
17 clinic do not violate the current law unless they
18 physically damage the facility. Intro. 826 would
19 allow the clinic to complain if protestors
20 willfully interfere with its operation. Arrests
21 could also be made based solely on the observation
22 of a police officer if a protestor is knowingly
23 obstructing or blocking the premises of the
24 clinic. Please understand that the Council
25 recognizes the First Amendment right to peacefully

1 protest and express one's views. The proposed
2 legislation does not infringe upon the rights of
3 protestors to peaceably organize, pray, or voice
4 their opinions. This legislation, and I emphasize
5 this, does not promote abortion. We're not here
6 today saying we're for abortion or we're not for
7 abortion. It's not our function in government and
8 it's not the function of the two joint committees.
9 I'm sure that everyone here is happy to know that
10 the number of abortions in our country has been
11 declining for many years. We hope that the
12 numbers will continue to drop. This legislation
13 is targeted to address the safety and welfare of
14 women invoking their right to reproductive care,
15 the staff of clinics who provide such care and
16 bystanders that enter or find themselves near a
17 reproductive clinic. Before we move on to our
18 first speaker, I want to thank the staff for
19 putting all this together. I have Rachel Cordero,
20 who is counsel to the committee. I'm going to
21 introduce my colleagues. To my right, Jimmy Oddo
22 from Staten Island and Jessica Lappin from
23 Manhattan. The Speaker has joined us. You
24 sneaked in I think. Our Speaker Christine Quinn
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2 to my left; Charles Barron from Brooklyn and Dan
3 Garodnick from Manhattan. I think we had Diana
4 Reyna. She's in and out, but she'll be back if
5 she's not there. I'm going to ask the Speaker if
6 she would like to have a few words before we call
7 upon our first speaker. Thank you.

8 SPEAKER QUINN: Thank you very
9 much, Chairperson Sears. Helen, thank you very
10 much for chairing this join committee.
11 Chairperson Seabrook gives his regrets. He had a
12 family emergency he had to take care of and was
13 not able to be with us today. Thank you very much
14 for stepping in, Helen. Good morning and thank
15 you everyone for coming to what I believe is a
16 very important public hearing this morning. As
17 the first female Speaker of the New York City
18 Council, I'm very proud and happy to be here today
19 to discuss a critical women's health issue.
20 Before we begin, I'd like to take a second to
21 recognize some key individuals and organization
22 for their help in facilitating today's hearing on
23 this important piece of legislation. Thank you,
24 as I said to the chair of the Women's Committee,
25 Helen Sears, and to the chair of our Civil Rights

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2 Committee, Larry Seabrook. I also want to thank
3 all of my colleagues for being here today, but in
4 particular I want to thank Council Members Jessica
5 Lappin and David Yassky for their leadership on
6 this issue. I also want to thank our
7 extraordinary partners in our goal to protect and
8 improve women's reproductive health care: NARAL
9 Pro Choice New York, in particular their president
10 Kelli Conlin; Planned Parenthood New York City,
11 in particular their president Joan Malin; and also
12 Anne Robinson, Planned Parenthood's vice president
13 for clinical services. I also want to thank the
14 New York Civil Liberties Union for their advice
15 and guidance to make sure we did everything
16 appropriately within the confines of the First
17 Amendment. I want to also thank Dr. Emily's Women
18 Health Center, the Center for Reproductive Rights,
19 the National Latina Institute for Reproductive
20 Health, the National Abortion Federation, the
21 Brooklyn Ambulatory Surgery Center, the Phipps
22 Family Practice and Choices Women's Medical Center
23 for coming here today. Last, but certainly not
24 least, I'd like to give a huge thanks to my staff
25 who have worked tirelessly on this legislation.

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2 Thank you with the biggest thanks to our Women's
3 Issue outreach coordinator Danielle Castaldi-
4 Micca, deputy legislative director Alex Pustilnik,
5 Health Committee counsel Adira Siman, Civil Rights
6 Committee counsel Julene Beckford, Sarah Brannen,
7 Damien Butvick, Joan Povolny, and Rachel Cordero
8 for all of their work. The reason all of this
9 work has been done and the reason we're here today
10 is because of what has been brought to our
11 attention. Many of us would like to think the
12 days of women being harassed on their way to
13 reproductive and women's health clinics is over.
14 That that type of harassment has stopped. It was
15 very clearly brought to our attention, in
16 particular by the very courageous and wonderful
17 staff at Dr. Emily's Clinic that that is not over.
18 Sadly, on many days in different neighborhoods in
19 our city, women throughout our five boroughs are
20 vulnerable to harassment, intimidation and
21 coercion when they're trying to access legal
22 reproductive health care in their city. Harassing
23 and intimidating a woman as they enter and exit a
24 reproductive health clinic is a clear violation of
25 both a woman's right to access care and that

1 clinic's right to provide services in our city. I
2 want everyone in this room to take a minute and
3 think about how difficult the decision to end a
4 pregnancy must be. You've made this difficult
5 decision. Then imagine you're walking up to a
6 health care clinic and protestors begin to
7 surround and follow you. We know this is
8 happening in our city. They're shoving graphic
9 and bias flies into your hands and they're forcing
10 explicit pictures into your face. They're
11 violating your personal space, they're screaming
12 at you, they're yelling the word murderer in your
13 face and making it difficult for you to enter the
14 clinic or the building where the clinic is. As I
15 said, in 2008, we'd love to think that this was
16 something of the past, a history lesson I just
17 shared with all of us. But that's not true. No
18 matter what side you stand on as it relates to
19 this issue, I know all of us believe as New
20 Yorkers that we cannot allow this type of
21 intolerant behavior to go on in our city. This is
22 why we're here today, to discuss the clinic access
23 bill, a critical piece of legislation that I
24 believe will give our city's women the respect and
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2 dignity they deserve when they're seeking legally
3 assured reproductive health care. Through the
4 implementation of this clinic access bill, health
5 clinic staff can have protestors arrested who
6 willfully interfere with a clinic's operation.
7 Think of it. There is a clinic access law on the
8 books in our city. It's average. This is New
9 York. We're not going to settle for average and
10 we want the best protections we can provide for
11 women. That's what this bill will do. Think of
12 it. Right now there is no law on the book that
13 allows a clinic provider to call the police and
14 have an arrest made when clinic operations are
15 being prevented. Additionally, this clinic access
16 bill will allow police to arrest protestors they
17 see blocking clinic entrances and exits as well as
18 parking lots and driveways. That last provision
19 is critically important in the boroughs outside of
20 Manhattan. But think of it, what other type of
21 building or service would we allow people to block
22 the entrance and exits and now allow police to
23 arrest them if they were so interfering with
24 someone's ability to conduct their business or do
25 their work. We wouldn't allow it and we shouldn't

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2 allow it at women's health care clinics. As
3 Chairperson Sears said, this is not a measure to
4 obstruct or outlaw peaceful and respectful methods
5 of protest. We've worked hard to make sure that
6 this bill allows that to continue and isn't a
7 constraint on the First Amendment. Now,
8 obviously, we fully support and respect people's
9 ability to utilize their First Amendment rights
10 and we are going to continue to protect that
11 right. But we are not going to allow women to be
12 harassed and have coercive behavior go on in our
13 city and prevent their ability to access legal
14 reproductive health care. Our city is the most
15 diverse city in the world. It's one that's based
16 on the concepts of tolerance and respect. Respect
17 for ideas, respect for individual choices, and
18 respect for people's ability to have their own
19 physical in which they can conduct their lives.
20 No one has the right to infringe on somebody's
21 personal space, their individual right to make
22 choices and no one has the right to stand in
23 someone's way, literally or figuratively, and
24 prevent them from getting the reproductive health
25 care they and their family have decided they need.

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2 This bill today will make sure that when a woman
3 walks down a street in any of our boroughs, there
4 might be people somewhere demonstrating
5 appropriately, but there will be no one who
6 prevents her or her nurse or her doctor or her
7 health care provider from going in and out of the
8 building where they need to go to provide legally
9 allowed reproductive health care in our five
10 boroughs. I want to again thank everyone who has
11 worked long and hard on this piece of legislation
12 to make sure that the clinic access law of the
13 City of New York is as strong and appropriate as
14 it should be. Thank you, Madame Chair.

15 CHAIRPERSON SEARS: Thank you,
16 Madame Speaker. We're joined by Domenic Recchia
17 from Brooklyn, Michael Nelson from Brooklyn and I
18 believe Letitia James from Brooklyn. Thank you
19 for being here. Council Member Lappin?

20 COUNCIL MEMBER LAPPIN: Thank you,
21 Madame Chair and thank you, Madame Speaker. I'm
22 so proud to be a member of this body today. This
23 is a very important piece of legislation to me. I
24 cherish my First Amendment rights. As an American
25 I feel very strongly about my First Amendment

rights. I stand on street corners handing out fliers more than most. As a woman and a mother, I cherish my health care. I have a right, just like every other woman in this city, to access safe and legal health care and to make choices about my health. I have been a clinic escort. I took the training from Planned Parenthood a few years ago and I spent a Saturday morning volunteering outside of the Bleecker Street Clinic. I was yelled at, screamed at and my photo was taken as a way to try to intimidate me for being there as a volunteer. There were protestors with signs and yelling and screaming at the patients at the clinic who were both women and men. Just the fact that we need to have volunteers standing outside of clinics to be a welcoming presence is a statement in and of itself. To have volunteers to make the patients feel comfortable and welcome and have somebody that they can reach out to as they're walking into the clinic while they're being yelled at and while they're being protested I think is a very strong statement. That experience showed me firsthand that there needs to be a safe buffer zone for patients accessing these

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2 clinics. I just wanted to make an important
3 point. Not every woman entering a health care
4 clinic is having an abortion. They may be going
5 there for their annual checkup. They may be going
6 there for contraception. There may be men going
7 there for contraception. They're going there for
8 their basic health care, because for a woman
9 reproductive health care is basic health care.
10 Every person entering a health care clinic in New
11 York City has a right to do that and to do it free
12 of harassment.

13 CHAIRPERSON SEARS: Thank you very
14 much. I'm going to call our first panel. It's
15 Karen Agnifilo, she's the general counsel to the
16 Office of the Criminal Justice Coordinator. With
17 here is Chelsea Chaffee. She's the legislative
18 counsel to the Office of the Criminal Justice
19 Coordinator. Thank you for being here.

20 KAREN AGNIFILO: Good morning,
21 Speaker Quinn, Chairperson Sears and members of
22 the City Council. My name is Karen Agnifilo. I
23 am general counsel to John Feinblatt, who is Mayor
24 Bloomberg's Criminal Justice Coordinator. I am
25 happy to be testifying here on behalf of the

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2 administration today. Thank you for the
3 opportunity to be heard. I'm testifying today on
4 behalf of the administration to discuss Intro.
5 826, a bill that we support. This bill balances
6 the rights of New Yorkers to access reproductive
7 health care services with the constitutional
8 rights of individuals to peaceably protest and
9 express their views. This bill would clarify an
10 existing law and facilitate its enforcement.
11 Currently it is a misdemeanor under Local Law to
12 engage in three types of conduct. First, the
13 current law prohibits physically preventing
14 another person from entering or exiting a
15 reproductive health care facility or otherwise
16 obstructing the premises in which the facility is
17 located, such as by blocking a doorway. Second,
18 the existing law prohibits following or harassing
19 another person or engaging in course of conduct
20 that places another person in reasonable fear of
21 physical harm, such as making verbal threats or
22 physical violence. Third, the current law
23 prohibits physically damaging a reproductive
24 health care facility so as to significantly
25 interrupt its operation. This could include

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2 tampering with locks on facility doors or setting
3 off the fire alarm or sprinkler system. To be
4 guilty of a misdemeanor under the current law for
5 committing any of these acts, a person must have
6 acted with the intent to prevent another person
7 from obtaining or providing reproductive health
8 care services or counseling. This means that law
9 enforcement has the burden of proving two separate
10 elements. First that the person committed the
11 prescribed acts and second, that they did so with
12 the specific intention of preventing someone from
13 receiving services. Intro. 826 strengthens this
14 current law in several important ways. First, the
15 bill amends the existing intent requirement. What
16 this means is that law enforcement will now only
17 have to prove one element, that the person
18 committed the prescribed acts. It will no longer
19 have to prove that they intended to prevent
20 someone from receiving reproductive health care
21 services or counseling. This change will help
22 facilitate enforcement of this law, both for
23 police officers who are called to the scene and
24 the assistant district attorneys who will
25 ultimately prosecute these cases. As you pointed

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2 yourself, it will no longer require in many
3 instances that a client has to come forward and
4 share the sensitive information and go through the
5 criminal justice process, something that not
6 everyone would like to go through. Intro. 826
7 enhances the already existing protection against
8 disorderly conduct or harassment within a 15-foot
9 zone around the entrance or exit of a reproductive
10 health care facility. In this zone, a person
11 cannot follow and harass another person, or engage
12 in a course of conduct that places another person
13 in reasonable fear of physical harm. Individuals
14 will be permitted to peaceably exercise their
15 First Amendment rights inside of this zone by
16 holding signs, passing out literature and
17 attempting to speak to individuals entering these
18 facilities. However, conduct that constitutes
19 harassment within this zone will not be tolerated
20 and will be penalized. Defining a delineated zone
21 will further enable police officers to effectively
22 enforce this law. Additionally, whereas under
23 existing law, a person must have caused physical
24 damage to a reproductive health care facility so
25 as to significantly disrupt its operation to be

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2 guilty of the misdemeanor, Intro. 826 allows for
3 enforcement when someone has merely willfully
4 interfered with the facility's operation without
5 having to demonstrate that its operation was
6 significantly disrupted or that physical damage
7 was caused. We believe that this bill strikes the
8 appropriate balance between protecting
9 reproductive health care facilities and the rights
10 of their clients, while at the same time ensuring
11 that others may peaceably and freely exercise
12 their First Amendment rights. Thank you for the
13 opportunity to speak today. I'll be happy to take
14 your questions.

15 CHAIRPERSON SEARS: I think we'll
16 hear from Chelsea Chaffee first.

17 CHELSEA CHAFFEE: I don't have
18 prepared testimony.

19 CHAIRPERSON SEARS: I have just one
20 or two questions and then I'll turn it over to my
21 colleagues if they do. Before I do, I think that
22 my colleague Dan Garodnick wishes to make a
23 statement. What would be an example of an intent
24 requirement?

25 KAREN AGNIFILO: An intent

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requirement?

CHAIRPERSON SEARS: Under the current law. And then what we do under the new law.

KAREN AGNIFILO: Under the current you require two things. It has to require both the intention to do something whereas it could be blocking an entrance or doing something to the facility or to the client. But it also requires the second element, which is to try and affect the rights of the reproductive services. So it's the two different elements. This new law removes that second element and only requires the first action. In other words, a police officer could see something and could bring an action and testify that they saw this harassment or I saw this conduct without having to prove that the intention was also to try and prevent the services of the reproductive care facility.

CHAIRPERSON SEARS: What does it mean to significantly disrupt the operation of a reproductive health care facility?

KAREN AGNIFILO: Again, that would be a case by case basis, but that would be a much

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2 higher burden to prove. A court would have to
3 examine what would significantly disrupt its
4 operation. For example, we could see a court
5 saying, well tampering with the locks might not
6 have significantly disrupted the operation because
7 you were still able to get in and operate.

8 Whereas, here you're actually interfering with the
9 operation by doing that. We think that would be a
10 much more enforceable law, given the types of
11 things you could see. Or someone tripping a fire
12 alarm or something that, doing something to the
13 facility in order to interrupt its operations, as
14 opposed to significantly disrupt. You could see a
15 judge saying that would require maybe being
16 putting out of business for a day or two or
17 something like that. So this way law enforcement
18 could more easily enforce the conduct that would
19 occur to these premises.

20 CHAIRPERSON SEARS: I have some
21 more, but I'll return later. We have the Speaker
22 that has a question, Dan Garodnick and Charles
23 Barron. So we'll yield to the Speaker first.

24 SPEAKER QUINN: Thank you. Just
25 one quick question. I want to thank you and Mr.

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2 Feinblatt and your staff for your help and
3 guidance when we were drafting this legislation as
4 well as the folks at the NYPD. I think this is
5 fairly clear from your testimony, but just to be
6 clear on the record. You, on behalf of the
7 administration, believe this law is a good one, is
8 necessary and something that will help the City of
9 New York do a better job protecting women as
10 they're trying to health care and clinics
11 throughout the city as well as protect staff and
12 make sure people have the ability to go to and
13 from work and to get the health care that they
14 need.

15 KAREN AGNIFILO: Yes, we support
16 this legislation. It certainly helps clarify the
17 existing law. In the situations where law
18 enforcement and prosecution is necessary, this
19 absolutely helps the situations.

20 SPEAKER QUINN: Thank you very
21 much. Thank you, Madame Chair.

22 CHAIRPERSON SEARS: Thank you. Dan
23 Garodnick has a question. We have several
24 questions from our colleagues. So I'll ask you to
25 get to the point and keep it brief. Thank you.

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2 COUNCIL MEMBER GARODNICK: Thank
3 you, Madame Chair. I, too, can be very brief. I
4 am a co-sponsor of this legislation and very proud
5 to be part of it. I just wanted to explore just
6 the converse of something that you said. The
7 intent requirement is there today. So you need
8 intent plus one of those specific acts. So if
9 somebody physically prevents entry today, and you
10 don't know whether there is or is not intent, that
11 would not be a misdemeanor under the law today.
12 Is that right?

13 KAREN AGNIFILO: Correct.

14 COUNCIL MEMBER GARODNICK: And if
15 somebody followed or harassed a person of
16 physically damaged a facility so as to
17 significantly interrupt its operation without
18 knowing what one's purpose was there specifically,
19 it would not be a misdemeanor under the law today.

20 KAREN AGNIFILO: It wouldn't be
21 under this current law that we're talking about.
22 There might be other charges, other Penal Law
23 charges that could be brought, such as criminal
24 mischief in the Penal Law if there's some kind of
25 significant damage to the property or the

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2 premises, but those are different laws that may or
3 may not apply. If you're talking about laws that
4 apply to reproductive health care facilities, what
5 you just described, for example, would be a
6 violation, not a crime, not a misdemeanor, without
7 proving specific intent to try and prevent seeking
8 services of a reproductive health care facility.

9 COUNCIL MEMBER GARODNICK: Under
10 the proposed law, who would be able to make a
11 complaint about protestors' conduct around a
12 facility?

13 KAREN AGNIFILO: It could from the
14 clinic itself. It could be a police officer. It
15 could be an anonymous 911 call that the police
16 come and they see if themselves and so the police
17 bring the complaint on behalf of the city.

18 COUNCIL MEMBER GARODNICK: That's
19 in contrast to the current law?

20 KAREN AGNIFILO: In order to prove
21 that that person was trying to prevent the
22 services, you have to prove that those services
23 were trying to be sought. That's the difference.

24 COUNCIL MEMBER GARODNICK: Thank
25 you very much. I think this helps.

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CHAIRPERSON SEARS: Thank you.

Charles Barron?

COUNCIL MEMBER BARRON: Thank you very much. From one who does a lot of protesting and certainly would always want to protect the right of those who are protesting, I, too, think this is a good law. I think it's good because of the fact that in many other instances and many other facilities and places that you can protest and do things, we do things sometimes to intently get arrested. But in this instance it does border on some serious harassment and denial of people's rights, women's rights to get the services that they choose to get, no matter what one's position is on the issue. But I think it would be important if you could just reemphasize, for those of us who are concerned about the right to protest, if you can put more emphasis on that to assure people that there's nothing wrong with peacefully and lawfully protesting. But when it borderlines on harassment and blocking services, that's what this bill is getting at. I think it would be good if you could just emphasize that a little more.

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2 KAREN AGNIFILO: You're absolutely
3 correct in the way you put it. This bill does
4 absolutely nothing to restrict First Amendment
5 rights in any location, even within the 15-foot
6 zone. You have a right to exercise your First
7 Amendment rights peacefully and this bill is
8 content neutral. So whatever your views are, you
9 can express them. What this bill does though is
10 it takes it one step further. It doesn't
11 prescribe conduct that borderlines on harassment,
12 it prescribes actual harassment. So you have to
13 do something more than just expressing your views.
14 You have to actually be harassing someone,
15 threatening someone, annoying someone, it can be
16 physical harassment, it can be verbal harassment,
17 it can be doing a combination of things that
18 constitute harassment. It's what you're doing and
19 how you're doing it and the way you're doing it.
20 When it becomes harassment that's when it becomes
21 a violation of this law. When you're specifically
22 trying to harass a person as opposed to expressing
23 your views in general.

24 COUNCIL MEMBER BARRON: Let's say
25 some people came to the entrance and opened up

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2 books and decided to read their books here. We're
3 not trying to block anybody but we just stopped
4 here for a moment to just read our literature.

5 KAREN AGNIFILO: I think what would
6 happen in that situation is someone would ask them
7 to move. If they refuse to move then they are
8 actually intentionally blocking a doorway and you
9 can't do that.

10 COUNCIL MEMBER BARRON: And if a
11 person is not coming through yet, or let's say a
12 person sees it from a block away and says I'm not
13 going there because it looks like something is
14 going on, does this bill protect that person's
15 right to have a peaceful entrance?

16 KAREN AGNIFILO: Absolutely.
17 Again, it takes away that requirement that you
18 have to have a person that they're trying to
19 prevent from accessing services. So, for example,
20 before there is any clients that arrive, a nurse
21 or a doctor or someone else who works at the
22 facility could see that there are people blocking
23 entrance and refusing to leave when asked and
24 they're clearly acting intentionally to try and do
25 that. They could call the police and they could

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2 have that situation taken care of under this new
3 law without having to have anyone actually have
4 their rights blocked. It's just trying to do that
5 is what would be effected in this situation.

6 COUNCIL MEMBER BARRON: Thank you
7 very much.

8 CHAIRPERSON SEARS: If I may follow
9 up with a question on Council Member Barron's
10 testimony. Will the police be trained
11 additionally whenever they get their instructions
12 and in their training as to exactly what
13 constitutes harassment? Because I think probably
14 one of the worst things that could happen is for
15 police to be called and to constantly have a
16 misinterpretation and not have something
17 effective. What is the next step in actually
18 defining for the police what this constitutes? Is
19 it in the books to somehow train the police?

20 KAREN AGNIFILO: Absolutely. The
21 police have ongoing training and they continue to
22 have ongoing training. This will certainly be a
23 part of their ongoing training whenever there are
24 new laws. But harassment is not a new concept in
25 the Penal Law. Harassment exists in many other

1 situations as well. It's defined in the
2 Administrative Code, in the Penal Law, and Case
3 Law. It's something that the police are very
4 familiar with as a concept and as a term, which is
5 one of the reasons this bill actually is also
6 going to be very helpful for them because it's
7 taking a concept they're very familiar with and
8 they know how to already work with and applying it
9 to a specific situation.
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11 CHAIRPERSON SEARS: We are also
12 joined by Dr. Eugene, Mathieu Eugene from
13 Brooklyn. Council Member Jimmy Oddo from Staten
14 Island has a question.

15 COUNCIL MEMBER ODDO: Thank you,
16 Madame Chair. I'd just like to follow up on the
17 last point. It's good to see you again. I was
18 concerned that I can't find the definition of
19 harassment within this bill. Just to follow up on
20 the point that you made, you're saying that
21 harassment is defined in other parts of the
22 Administrative Code that can be extrapolated for
23 this.

24 KAREN AGNIFILO: Harassment is
25 located in the Penal Law. I had a feeling you

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might ask me that so I had it tabbed here.

COUNCIL MEMBER ODDO: Me personally or someone else?

KAREN AGNIFILO: Someone. It's located in Penal Law Section 240. That's where it describes harassment. There's also Case Law that interprets what that means.

COUNCIL MEMBER ODDO: In the State Law that deals with clinic access, harassment is actually defined. Is that correct?

KAREN AGNIFILO: In the Penal Law or in the Case Law?

COUNCIL MEMBER ODDO: In the actual statute.

KAREN AGNIFILO: In the actual statute it describes harassment. There is no definitions section that actually lists the word harassment or says definition. But it does describe it. It talks about intentionally and repeatedly harassing another person by following such person in or about a public place or places, or by engaging in a course of conduct, or by repeatedly committing acts.

COUNCIL MEMBER ODDO: So

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essentially it defines it.

KAREN AGNIFILO: Correct.

COUNCIL MEMBER ODDO: In the federal law, the Free Access to Clinic Entrance Act, also does it essentially or overtly define harassment?

KAREN AGNIFILO: It's similar to the state law in that it's defined both statutorily and in Case Law. But the statute is descriptive similar to the State Penal Code.

COUNCIL MEMBER ODDO: The clause to willfully interfere with the operation of a reproductive health care facility, can you define that for me? I'm troubled by the way it's open ended. To me it reeks of being vague.

KAREN AGNIFILO: I think you have to have the intention of willfully interfering with the operations. So it's something you have to intentionally do. It's not accidental for example. It's something that you're going to do to try and interfere with the operation.

COUNCIL MEMBER ODDO: So is singing the Ave Maria willfully interfering with the operation of reproductive health care facilities?

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2 Is saying the rosary? Is handing out baseball
3 cards? What constitutes that definition?

4 KAREN AGNIFILO: Again, those are
5 all very case specific. So, given your example,
6 singing the Ave Maria in front of the facility
7 would in my view not affect that. But if you were
8 to somehow pipe in some kind of mechanical loud
9 speaker into the facility and turn it up so many
10 decibels that no human being could actually
11 physically be inside there while you're singing
12 the Ave Maria, that could be construed as
13 willfully interfering with the operation. Again,
14 it's very, very case specific and fact specific.

15 COUNCIL MEMBER ODDO: So I should
16 not be troubled by the clause as is. Forgive the
17 term, I don't mean to be prejudicial in the term
18 but, other pieces of legislation are as vague as
19 this is? I mean we have other examples of that or
20 is that troubling to you?

21 KAREN AGNIFILO: Are you done?

22 COUNCIL MEMBER ODDO: Yeah, I'm
23 sorry.

24 KAREN AGNIFILO: I was waiting for
25 you to finish. Harassment also in the Penal Law

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2 is open ended in that way. It's because as smart
3 as the lawyers are who work on drafting
4 legislation, you can't anticipate every single
5 scenario or every situation that could come up.
6 So it's important to be clear but both open ended
7 so that it can cover conduct as it occurs.

8 COUNCIL MEMBER ODDO: You talked
9 about the need for removing the mens rea of
10 intent. Essentially when you remove intent you
11 have strict liability. I'm not sure if this is a
12 fair question to you. If it's not, you can tell
13 me. Can you give me other examples where we in
14 the council have removed intent or the Bloomberg
15 administration have supported pieces of
16 legislation where we removed the intent and we
17 were all happy about that?

18 KAREN AGNIFILO: I feel like I'm in
19 law school again. You're asking me law school
20 questions.

21 COUNCIL MEMBER ODDO: Believe me,
22 the hives on me right now indicate my uneasiness
23 with going back to law school as well.

24 KAREN AGNIFILO: This doesn't
25 completely remove intent, because the original

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2 bill actually has two separate intentions. This
3 one just takes away the second one. You still
4 have to have intentional conduct. You still have
5 to do something. So you're not removing the
6 intent of the crime. This is not a strict
7 liability offense. You still have to
8 intentionally commit the acts. You just don't
9 have to do the second intention part. The
10 intention to prevent services for example. You
11 just have to intentionally do the act that are
12 prescribed here such as the harassing or the
13 blocking.

14 COUNCIL MEMBER ODDO: The benefit
15 as my colleagues would see it of removing intent
16 is what then?

17 KAREN AGNIFILO: Because, for
18 example, if you are intentionally trying to harass
19 someone, or intentionally trying to block access
20 to a reproductive health care facility and that's
21 under both the current law and the proposed
22 legislation. But say the client of the health
23 care facility does not want to testify or go
24 forward, or say there is no client that you know
25 of, there's no person there. Say they don't want

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2 to participate in the criminal justice process,
3 how can you prove that the actor who intentionally
4 was harassing or obstructing the entranceway of
5 the facility, how can you prove that they were
6 intentionally also trying to prevent the
7 reproductive services of that person who is trying
8 to get those health care services? That second
9 part is what you need to have a complainant for.
10 That's what this removes. But it does not at all
11 affect the intention still to try and commit these
12 prescribed acts.

13 COUNCIL MEMBER ODDO: My friends,
14 Speaker Quinn and Council Member Lappin told about
15 their own personal experiences and what's been
16 told to them about what's happening outside of
17 these facilities and the need for a new piece of
18 legislation. Is that the experience of the
19 administration and do you have empirical data
20 which demonstrate that this in fact is happening?

21 KAREN AGNIFILO: My understanding
22 that when these situations arise that the police
23 department are called in fairly early on and on a
24 local level the precincts have very good
25 relationships with the reproductive health care

1 facilities and they try and take care of these
2 situations in a non-criminal prosecution sort of
3 way. They try to resolve them informally as they
4 do in many other situations where you have people
5 expressing differing views coming together. That
6 is how it's generally handled. In situations,
7 however, where it does rise to the level of
8 criminal conduct, this new legislation actually
9 makes in enforceable. The other current law makes
10 it much more difficult for the police to enforce
11 when it does rise to that level.

13 COUNCIL MEMBER ODDO: I absolutely
14 hear what you just said, but I just think for the
15 record that I should put on there that according
16 to stats from the Division of Criminal Justice
17 Services, ten people have been arrested in the
18 entire state since 2003 under the Penal Law that
19 you refer to. Five of those arrests were made in
20 New York City and six people have been convicted
21 across the state for them from the city. I
22 understand your point. You'll explain why those
23 numbers aren't larger, but I think that needs to
24 be put on the record to counter the comments of
25 how frequent an occurrence this is. I thank the

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2 Chair Lady for her indulgence. I couldn't help
3 but be somewhat amused by my good friend Charles
4 Barron's willingness to accept a curtailment on
5 the free speech. But then I thought about this
6 council in the early 90s when we passed the first
7 clinic access bill and it struck me as a staff
8 person then that the people who were the strongest
9 proponents of the clinic access bill at the time
10 were the strongest opponents of the aggressive
11 panhandling bill. I've been struck ever since of
12 the inconsistency. So maybe I shouldn't be
13 surprised. Thank you, Madame Chair.

14 CHAIRPERSON SEARS: Council Member
15 Oddo. That's very nice but you have to keep it
16 short. Council Member Nelson I think has a few
17 questions.

18 COUNCIL MEMBER NELSON: Actually a
19 statement, Madame Speaker. I was confused because
20 I think some opponents were applauding what should
21 have been proponents. But at least everybody is
22 listening. I have to excuse myself in a moment.
23 For personal reasons I must be up at Columbia
24 Presbyterian Hospital, but I just feel compelled
25 to make a statement. I'm happy to be co-sponsor

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2 of 826. Whether you're pro-life or pro-choice, we
3 can put this aside for the moment. Everybody in
4 their hearts feels that they're doing the right
5 thing. There's such a compelling argument that
6 can be made, I believe, that it is wrong, morally
7 wrong, to harass somebody, hurt somebody, frighten
8 somebody as they're trying to do something they
9 feel is right for themselves. This is just so
10 important to me. As a man, I don't believe I will
11 be utilizing the facilities myself, but if you
12 were to do so, and I believe in dear lord, my god
13 so fervently, but I do not believe that god would
14 want somebody to hurt somebody. I don't even mean
15 physically. We know it's going in some extreme
16 cases to murder, very rarely, and other type of
17 pain or damaging the building. But it just a
18 strong argument to be made that if you believe
19 that the god that you believe in wants you to
20 upset people, hurt people or frighten people, I
21 believe you should make an appoint with the god of
22 your choice, I believe is everybody's god
23 personally, make a quick appoint and have a
24 discussion and find out if what you think is right
25 for you to do is truly the right thing to do to

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2 ever hurt somebody, physical of course not. I'm
3 sure you would agree. But even mentally, just
4 seek your own counsel. I have to leave. Thank
5 you. Thank you, Madame Chair.

6 CHAIRPERSON SEARS: Thank you,
7 Councilman Nelson. We have a question from
8 Councilman Recchia.

9 COUNCIL MEMBER RECCHIA: I have a
10 question, going back to my colleague, Jim Oddo,
11 about the intent issue. The way I understand it,
12 you still the intent. But you're saying that
13 there's two parts of the intent. The intent to
14 prevent services.

15 KAREN AGNIFILO: Correct.

16 COUNCIL MEMBER RECCHIA: So the two
17 differences with the new law is the intent to
18 prevent services and that has to happen within 15
19 feet.

20 KAREN AGNIFILO: The existing law
21 requires two different intentions on the part of
22 the actor. One is to intend to do something
23 generally. Say it's blocking an entrance, or
24 you're intending to engage in some conduct. The
25 second one is you're doing that conduct with the

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2 intention of trying to prevent someone from
3 obtaining reproductive services.

4 COUNCIL MEMBER RECCHIA: The
5 services?

6 KAREN AGNIFILO: Correct. This new
7 proposed legislation takes away that second part.
8 You still have to intentionally engage in conduct.
9 So you have to intentionally be harassing or
10 blocking a doorway or acting disorderly. You
11 still have to be intentionally doing those things.
12 Just you don't have to prove that you're doing it
13 to try and prevent a person from going in to get
14 services.

15 COUNCIL MEMBER RECCHIA: From going
16 to get the service. But now, also, if you read on
17 into the law it talks about 15 feet.

18 KAREN AGNIFILO: The 15 feet
19 requirement only covers harassment. It's not
20 about the other conduct. So there's where you
21 can't harass someone within 15 feet. Currently
22 harassment alone in the Penal Law is a violation.
23 It's not a misdemeanor. If you were to harass
24 someone on the street just anywhere walking
25 outside, that is a violation. What this does it

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2 is brings that same conduct of harassment, if you
3 do it within 15 feet, in that zone of the
4 reproductive health care facility, that elevates
5 that same conduct from a violation to a
6 misdemeanor.

7 COUNCIL MEMBER RECCHIA: If you're
8 within the 15 feet and you're protesting or doing
9 whatever you're doing, then you could be arrested
10 and get charged with a misdemeanor.

11 KAREN AGNIFILO: Only if you
12 harass. You can be within the 15 feet and
13 peaceably exercise your First Amendment rights.
14 You can speak, you can hold signs, you can sing,
15 you can pray, you can exercise your First
16 Amendment rights however you see fit. But you
17 cannot harass a person. That's the difference.

18 COUNCIL MEMBER RECCHIA: And then
19 you're saying that we look to the Penal Law 240
20 for the definition of harassment?

21 KAREN AGNIFILO: That in
22 conjunction with Case Law. Case Law also
23 interprets it a little more specifically.

24 COUNCIL MEMBER RECCHIA: It's not
25 really clear on the definition of harassment.

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It's up to the interpreter.

KAREN AGNIFILO: And are you asking me a question?

COUNCIL MEMBER RECCHIA: Yes.
Because what I see here is a problem in what you can and cannot do. The last thing we want to do is take away people's rights. It's not clear by this new law on what you can and you cannot do. If you would like to protest, pro or con, for or against, it's not clear. You're saying that you have to go look up in the Penal Law and the Case Law to find out the harassment. That's the problem that I have with this bill. It's not clear. It's not clear to the people who wish to express themselves. It's not clear. For us as legislators to say that you have to look up 240 to find harassment or go look up the Case Law, well you could find Case Law and all kinds of different harassment for conduct that you think is not harassment but you think it is. So what I think we're doing here is that we have to clean up this bill because it's not clear. There's an issue with the harassment part of the bill. The second part is that in the first bill you could be

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charged with a misdemeanor. Correct?

KAREN AGNIFILO: Correct.

COUNCIL MEMBER RECCHIA: And in the second bill you could be charged with a misdemeanor.

KAREN AGNIFILO: Correct.

COUNCIL MEMBER RECCHIA: Now why are you saying that's a B misdemeanor in this new bill?

KAREN AGNIFILO: If I said B misdemeanor, I misspoke. They're both misdemeanors.

COUNCIL MEMBER RECCHIA: They're both unclassified misdemeanors in both bills.

KAREN AGNIFILO: Correct.

COUNCIL MEMBER RECCHIA: But in the bill doesn't it say it could be charged with a B misdemeanor?

KAREN AGNIFILO: The bills, as I understand them, for the first offense there's one level of penalty and then the second one there's a second level of penalty. There's a lesser fine and lesser imprisonment the first time you're convicted of it. The second time I think it's up

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to one year imprisonment and a greater fine.

COUNCIL MEMBER RECCHIA: Where is the different levels laid out?

KAREN AGNIFILO: That's located in the bill.

CHAIRPERSON SEARS: Councilman, if I can interrupt for one moment. It's my understanding and maybe you can clear up some things. Because the intent and harassment is confusing. My understanding that in the current law and what is proposed in this law is the same language. Now, can you please define that if it is the same language, then Councilman, there is no difference. If it is not, you might want to zero in on what is the language that has changed. I think that could bring us to some point.

KAREN AGNIFILO: The terms follow and harass are used in both laws. It's the same language.

CHAIRPERSON SEARS: It's not any different in the law. So if that's cleared up and if there's any confusion about that, I think we should stay with that for just one second. Is that clear, Councilman? Because it's the same

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language. It hasn't been altered in any way.

COUNCIL MEMBER RECCHIA: Hold on.
Let me just get my notes back here.

CHAIRPERSON SEARS: I think this is
an important point to clear up because we
shouldn't leave this dangling. We'll give you a
minute to get to where you want to be with that.

COUNCIL MEMBER RECCHIA: Just let
me finish up. I'll come back with that issue.

CHAIRPERSON SEARS: While you're
doing that, if it's all right, I'll call on
Letitia James and we'll come back to you.
Councilwoman, if you would like to pose your
question.

COUNCIL MEMBER JAMES: Thank you.
I recognize that this is a balancing test, a
balancing act and you have to balance the right of
individuals who seek to exercise their First
Amendment right with those who are seeking to get
reproductive services. As someone who has
chaperoned and walked constituents into these
services in the Borough of Brooklyn, I recognize
that I have been the subject of harassment.
Harassment quite simply, under the statute, means

1 when you suffer from reasonable harm. When you
2 believe that an individual is acting in an
3 intentional manner that would result in you
4 feeling like you have been harmed, that their
5 conduct is harmful. There's two statutes in the
6 Penal Law currently. It's Section 240-25 and 240-
7 26. Section 240-25 is a harassment in the first
8 degree. It's a B misdemeanor, which means that it
9 carries 60 days in jail. Section 240-26 is
10 harassment in the second degree, which is a
11 violation, a crime which is a violation and not a
12 crime under the statute. It's comparable to a
13 traffic ticket. In fact, there is some case law.
14 For my colleagues, the case that I cite is rather
15 instructive. It says that evidence that did not
16 establish that the defendant intended to harass
17 her husband when she picketed his office
18 protesting his lack of support. It obviously was
19 not harassment. That case is People versus
20 Jemurzor [phonetic]. As someone who recognizes
21 that all that you are doing is removing a hurdle,
22 one hurdle, so that individuals can go forward and
23 have their rights protected under the law is
24 something that I strongly support. Let me also go
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2 on to say that I have known constituents who
3 wanted to file charges but for personal reasons
4 decided not to file charges because they wanted to
5 protect their privacy. This statute that's
6 proposed would give the right of the clinic to
7 file charges. Currently a clinic cannot file
8 charges. To me, that is instrumental. The fact
9 is that you are now giving the right of a clinic
10 to serve as a complainant, as a complaining
11 witness. Right now the hospital or someone in the
12 hospital cannot serve as a complaining witness.
13 There are sometimes instances, and I know of one,
14 where young ladies, particularly the young girls
15 who I see in the back row and up there who look
16 like my constituents, do not want to step forward
17 and basically serve as a witness. They do not
18 want to go forward and have their life before a
19 judge or in a court of law. So someone else
20 should step in their shoes. I should be given
21 that right to step in their shoes when I witness
22 someone harassing them. This statute does just
23 that. What's interesting is individuals who would
24 oppose this would oppose the fundamental right,
25 something that is sacred, and that's the right of

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2 privacy. The privacy of all young women to
3 protect their bodies and so that their bodies will
4 no be instruments of politics or instruments of
5 campaigns, or instruments to whatever. It's
6 basically a right of privacy. All that this
7 statute is doing is just removing a hurdle.
8 That's all that we are doing. It's really
9 difficult to prove intent. As an attorney, it is
10 very difficult to prove an intent. Just like it's
11 difficult to prove the intent to discriminate.
12 You can't prove it. Or the intent to hate. You
13 can't prove it. It's very, very hard. Because
14 you could never demonstrate and there's never
15 evidence sufficient to prove mens rea. So I'm
16 happy and confident, I'm happy and support the
17 fact that you have removed a hurdle and you have
18 made it easier for women to go forward and for
19 clinics and hospitals and individuals such as
20 myself who care about reproductive rights in the
21 City of New York so that we could be protected.
22 So I thank all of the individuals who are here to
23 support. All of those who do not support, I
24 protect your right to protest, but I also protect
25 the right of young ladies who come to my office

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2 who have nowhere else to go and who basically want
3 to be protected. I thank you and I support and I
4 hope that all of my colleagues in the City
5 Council, particular the men, will stand strong and
6 support this statute. Thank you.

7 CHAIRPERSON SEARS: Thank you. We
8 have been joined by David Yassky from Brooklyn and
9 John Liu from Queens. Before I call on David
10 Yassky, Charles Barron seems to have a few words
11 to say.

12 COUNCIL MEMBER BARRON: Yes, I do.
13 I just wanted to say to Council Member Oddo, it's
14 interesting how you have such brilliance in your
15 inquiry and your lawyering knowledge and then when
16 you come to a very fundamental thing like First
17 Amendment rights versus harassment, you lose it.
18 So there's no way that I would deny anyone's First
19 Amendment rights. This bill doesn't do that. For
20 you to be confused on that is interesting. There
21 are probably some hidden views on this issue
22 period. But anyway, I just wanted to say that. I
23 just wanted to say that.

24 COUNCIL MEMBER ODDO: Madame Chair,
25 I'm going to take a point of personal privilege.

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COUNCIL MEMBER BARRON: Madame
Chair, calm him down.

COUNCIL MEMBER ODDO: Are we going
to allow that? Did I get disrespectful with any
of the witnesses? I did not.

COUNCIL MEMBER BARRON: Tell him to
stop talking. I got the floor.

COUNCIL MEMBER ODDO: Do you want
to go back to yesterday, Charles, we'll go back to
yesterday.

COUNCIL MEMBER BARRON: I've got
the floor. I got the floor.

SPEAKER QUINN: Council Members,
stop.

COUNCIL MEMBER BARRON: Well, you
stop him because I'm the one who has the floor. I
didn't finish making my point.

SPEAKER QUINN: Charles, you have
made your point.

COUNCIL MEMBER BARRON: I didn't
finish making my point. I did not interrupt him
and I'm not going to allow his interrupting to
look like Charles Barron is out of control.

SPEAKER QUINN: Charles, can I say

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something?

COUNCIL MEMBER BARRON: He spoke
and no one said anything.

SPEAKER QUINN: Wait. This hearing
is not about me, Helen Sears, Charles Barron, or
Jimmy Oddo. It's about a piece of legislation and
finding the right balance. People should avoid
making references to each other.

COUNCIL MEMBER BARRON: Well he did
that first.

SPEAKER QUINN: Okay, and you have
made your point.

COUNCIL MEMBER ODDO: And mine was
directing on the record.

COUNCIL MEMBER BARRON: He did that
first.

COUNCIL MEMBER ODDO: It wasn't
some hidden innuendo and reference and implication
that you said about me, Charles.

COUNCIL MEMBER BARRON: You
shouldn't have mentioned my name.

COUNCIL MEMBER ODDO: Suddenly we
can't speak to each other after three and a half
years?

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COUNCIL MEMBER BARRON: No, we can.
When I speak back then be quiet and listen.

SPEAKER QUINN: Can I just say something.

COUNCIL MEMBER ODDO: Charles, we can speak back to each other, but don't imply something that I have some hidden agenda here.

COUNCIL MEMBER BARRON: I can say whatever I want to say. Well don't imply that I'm denying First Amendment rights.

COUNCIL MEMBER ODDO: I didn't imply that.

COUNCIL MEMBER BARRON: Oh, yes you did.

COUNCIL MEMBER ODDO: I certainly did not imply that.

COUNCIL MEMBER BARRON: Yes, you did.

COUNCIL MEMBER ODDO: Charles, I just said it's interesting how inconsistent it is.

COUNCIL MEMBER BARRON: Yes, you did.

CHAIRPERSON SEARS: I'm taking a recess for five minutes. Stay where you are, but

1 we're in recess. We're in recess. Five minutes.
2 I just have a comment to make. As Chair of this
3 committee I apologize to Charles Barron and to all
4 of you there because it is wrong for any of us to
5 ever use the name of a colleague when they're
6 making a statement. Some of you may have agreed
7 with my colleague on that. I disagree. It was my
8 responsibility to stop that right then and there
9 and we would not have had what we had. It went by
10 me so fast that I really apologize because I would
11 have stopped it right then and there. It is not
12 right for us to do that. I hope that all of the
13 committee hearings that are held in this chamber
14 will take such a policy. Because I have sat in
15 hearings. I'm on nine committees and I chair this
16 and another and there are times when that happens.
17 I've been in hearings when there has been
18 discourse among colleague, colleague and
19 colleague. That is not going to happen when I
20 chair anymore. Out of a courtesy to a colleague
21 we allow them to go on, but then it's a
22 discourtesy to another. So publicly, Charles, I
23 apologize to you because I'm chair of this
24 committee and I should not have allowed it to go
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on.

COUNCIL MEMBER BARRON: I accept Madame Chair. And it's not about Jimmy Oddo or Charles Barron, it's about women and their right to access reproductive services. I apologize for any disruption.

CHAIRPERSON SEARS: Thank you very much. With that, we'll go on to David Yassky.

COUNCIL MEMBER YASSKY: Thank you, Madame Chair. I really just want to thank you and thank Speaker Quinn, who I know was here earlier, and the administration for proceeding forward on this. I'm sensitive to the issues raised by eliminating an intent requirement and making what it is, in effect, a strict liability offense. Generally we're reluctant to do that because we want a culpable intent to go with punishment. But you know what, here I have no problem whatsoever because what we're doing is simply telling folks who do want to be disruptive that's the reality on the ground, that they can't get cute by saying they don't intend to do X and Y. We're giving the police a very constrained and very carefully defined ability to say to people to move out the

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2 way, period. No argument. I think we need to do
3 that. I have in my district a reproductive health
4 facility at which one can commonly find people
5 standing in front of the door. Their goal is to
6 make it difficult for people to access
7 reproductive health services. That's the goal.
8 That's not a legitimate goal. We have to meet
9 that determination with a governmental
10 determination to allow women to access
11 reproductive health, as is their right, as should
12 be their right. This is an unfortunately
13 necessary, but an absolutely necessary step to
14 take. I thank the administration for working so
15 collaboratively on it. I hope that we will pass
16 this at our earliest opportunity. Thank you,
17 Madame Chair. I think we've had enough applause
18 for a moment. We're going to have to move on.
19 Councilwoman Diana Reyna has a question. That
20 will be the last question and we'll move on to the
21 next panel.

22 COUNCIL MEMBER REYNA: Thank you,
23 Madame Chair. I just wanted to understand the
24 arguments as far as whether or not we're
25 diminishing the rights of people to protest and

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2 where in the language that is being proposed by
3 this legislation does it state any type of
4 watering down First Amendment rights?

5 KAREN AGNIFILO: This legislation
6 in no way diminishes any First Amendment rights or
7 waters them down or changes First Amendment rights
8 in any way whatsoever.

9 COUNCIL MEMBER REYNA: And
10 therefore, currently on the sidelines, if this
11 legislation were to pass the protestors who would
12 be on the premises and a woman trying to access
13 the clinic were to find protestors and feel like
14 there's an intimidation, immediately what or how
15 does this law or change of law protect that
16 individual?

17 KAREN AGNIFILO: A protestor would
18 have to either knowingly block the individual from
19 entering the facility.

20 COUNCIL MEMBER REYNA: Can you just
21 stay right there? As far as block is concerned,
22 the intent of a protestor giving a flyer, is that
23 considered blocking the client from seeking
24 services?

25 KAREN AGNIFILO: Not unless they

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2 are standing in the doorway and now allowing the
3 person to walk through the door. No.

4 COUNCIL MEMBER REYNA: As that
5 client approaches the door and somebody else comes
6 and gives them a flyer, will that be considered
7 harassment?

8 KAREN AGNIFILO: No.

9 COUNCIL MEMBER REYNA: So at what
10 point will harassment as far as blocking be
11 considered harassment?

12 KAREN AGNIFILO: There are separate
13 proscribed conduct in this proposed legislation.
14 One has to do with knowingly blocking the person
15 from entering, blocking access to the facility.
16 Another has actually blocking the doorway of the
17 facility. And another has to do with harassing
18 the person. So those are separate conducts.

19 COUNCIL MEMBER REYNA: Can you just
20 give me a scenario? Because right now I find it
21 very disturbing to think that a woman would have
22 to be escorted to receive reproductive services,
23 health services, even if it's just to seek
24 information. For there to be the need to have a
25 body guard is what this particular change of

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2 legislation is trying to address, is it not? Is
3 there going to be the need for an escort upon
4 passing this legislation?

5 KAREN AGNIFILO: My understanding
6 of escorts, and I'm not an expert by any means, is
7 it also has to do with emotional support and
8 informational support. It's also just having
9 someone to go with you. So an advocate, if you
10 will, on certain times on behalf of the client as
11 well.

12 COUNCIL MEMBER REYNA: But it also
13 diminishes the emotional aspect of being able to
14 walk through without being confronted on whether
15 or not seeking information or health services is
16 appropriate at that moment. So that as a client
17 entering into the facility, when I go to the
18 doctor I don't have people telling me don't go
19 there. When I go to the doctor I'm able to go
20 freely in and out. It's important that I
21 understand if women's rights are going to be
22 protected by this legislation to the point where
23 protecting their access as soon as they park their
24 car in front of this facility and understanding
25 how the change in legislation is going to allow

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2 that. The explanation that Letitia James gave was
3 far more eye-opening to mention the fact that
4 we're removing a hurdle. I want to understand
5 what that hurdle is so that people in the public
6 who are listening to this debate understand that
7 hurdle and understand why this is so important.

8 KAREN AGNIFILO: I think the hurdle
9 that we're all referring to is under the current
10 law it's very difficult. It has more to do with
11 law enforcement and prosecution. Under the
12 current law it's harder to arrest someone or
13 prosecute someone for conduct because in many
14 instances it requires the cooperation of the
15 client of the health care facility. So in other
16 words, the women who is seeking reproductive
17 health care services in many instances would be
18 required to have to participate in the law
19 enforcement process. That's something that not
20 everyone would like to do, especially in matters
21 that can be considered, such as health care and
22 reproductive health care. What this new bill does
23 is it makes it so that law enforcement can
24 prosecute these cases with the same exact facts as
25 before but they can prosecute them without, in

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2 many instances, the need of the testimony and
3 cooperation and pressing charges of the individual
4 who is seeking the reproductive health care
5 services. That's the hurdle that it's removing.

6 COUNCIL MEMBER REYNA: I am the
7 client walking into the clinic and under the
8 current law I'm being what would be considered
9 harassed. I would not be able to call the police
10 and they would not be able to take my complaint.

11 KAREN AGNIFILO: Under the current
12 law, if you were harassed in front of a
13 reproductive health care facility, the police
14 could called and the person could be arrested, but
15 for a prosecution they would need you to testify.
16 You would have to actually, if the case ever went
17 to trial, sit in front of a jury and tell your
18 story that you were going to a reproductive health
19 care facility to seek services there. So you
20 would be involved in that process. The proposed
21 legislation would now make it so that given the
22 same exact scenario, that same person is going
23 into the facility being harassed, the police are
24 called. That person no longer needs to
25 participate in the criminal justice process and

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2 testify in that regard. So that's the hurdle
3 that's being removed. It protects the privacy of
4 the individual seeking the services.

5 COUNCIL MEMBER REYNA: It's my
6 understanding that it also will allow for another
7 entity to witness what has occurred and be able to
8 speak on behalf of that individual.

9 KAREN AGNIFILO: That is correct.

10 COUNCIL MEMBER REYNA: That is the
11 basic and most important aspect. Not just the
12 protection of privacy of the individual who is
13 placing the complaint, but the ability to continue
14 prosecution because someone else can speak on
15 behalf of what they had witnessed.

16 KAREN AGNIFILO: That is correct.

17 COUNCIL MEMBER REYNA: Thank you
18 very much.

19 CHAIRPERSON SEARS: Thank you very
20 much. That concludes this panel. I want to thank
21 you. We've had a lengthy and contentious a little
22 bit. But thank you for being here. Our next
23 panel is a panel of five. They are the following:
24 Dr. Emily Women's Health Care, Kimberly Walker.
25 Is Kimberly here? All right, if you'll come to be

1
2 part of the panel. David Friedman [phonetic]?
3 Yes, you're part of the panel. Rebecca Simons,
4 MD, are you here? Merle Hoffman? So we have our
5 panel.

6 SPEAKER QUINN: Madame Chair, if I
7 could just cut in for one second. I just want to
8 apologize to the members of the public who are
9 here that we had to recess the hearing. A good
10 thing about the New York City Council is that it
11 is passionate. A bad thing is sometimes that
12 passion, myself included, boils over. This is an
13 incredibly important topic. We are going to get
14 through this topic and in my hope, but obviously
15 it's up to all of my colleagues and myself, my
16 hope is we'll get through this topic and we will
17 change the law in the City of New York to make it
18 stronger to protect the rights of women and their
19 health care providers to access and provide health
20 care. That said, I think clearly the fact that
21 we're discussing this law as it relates to this
22 topic and the emotion that chamber speaks to how
23 emotional an issue this is, how important an issue
24 this is, how critical this issue to many people's
25 lives and how necessary it is to have appropriate

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2 constructs around protecting people's right to
3 access this care. Perhaps we made our point in
4 not exactly the manner we had planned but perhaps
5 the point was made nonetheless. I want to thank
6 everyone from the public again for being here. I
7 want to thank all of my colleagues for returning
8 to the hearing because I think all of us being
9 back here shows that the subject matter is the
10 most critical thing. Certainly I think that will
11 be most clearly dramatized by, no disrespect to
12 any of the other panels, but by the health care
13 providers we will hear from now. Thank you,
14 Madame Chair and thank you, all of my colleagues.

15 CHAIRPERSON SEARS: Thank you. You
16 may go in any order that you choose. State your
17 name for the record. We'll start with you.
18 Because we have so many panels, we're going to
19 give two minutes each and we're going to go by the
20 clock. So if you have very, very lengthy
21 testimony, I'm going to ask you to condense it.
22 Your name?

23 MERLE HOFFMAN: My name is Merle
24 Hoffman and I am founder and president of Choices
25 Women's Medical Center, one of the first and no

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2 currently the largest licensed women's medical
3 facility in the country. Since 1971, two years
4 before Roe v. Wade, Choices has been providing
5 reproductive health care to millions of women in
6 the five boroughs and tri-state area for abortion,
7 family planning, gynecology, prenatal care and
8 mental health services. I have been on the front
9 line of the struggle for reproductive justice in
10 this city and in this country for the last 38
11 years. As a psychologist, I have counseled and
12 held the hands of countless women as they
13 experience the most powerful and vulnerable
14 moments of their lives, their abortions. As an
15 organizer, I organized the first pro-choice civil
16 disobedience action at St. Patrick's Cathedral in
17 New York City, co-found the National Abortion
18 Federation and the New York Pro-Choice Coalition.
19 I have debated all the leaders of the religious
20 right, including Jerry Falwell. I have faced
21 personal death threats. My clinic has had
22 multiple bomb threats. I have been unfairly
23 closed down. Janet Reno had to send armed guards
24 to protect me against my landlord's threats to
25 bulldoze my space. I have had federal marshals

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2 guarding me and the clinic for three months after
3 the physician murders in Pensacola. I have had to
4 take my landlord to federal court under Face the
5 Freedom of Access to Clinic Entrances for
6 constructive eviction because I got no relief from
7 the New York City Landlord Tenant Courts. I'm
8 currently fighting another eviction action as I
9 speak. Every day patients at my facility have to
10 pass by people who scream at them that they are
11 murdering their babies and if they are black that
12 they are desecrating the legacy of Martin Luther
13 King. Every day patients have to walk through a
14 gauntlet of psychological abuse. Every day
15 counselors have to deal with this emotional
16 blowback to their patients. Your proposed
17 legislation is critical because it allows local
18 law enforcement far more leverage than what is now
19 in place. I'd like to finish this. I spoke to
20 Dicandi [phonetic] and she said I could read it.
21 It's really important.

22 CHAIRPERSON SEARS: You spoke to
23 whom?

24 MERLE HOFFMAN: Just two more
25 minutes, okay?

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2 CHAIRPERSON SEARS: Well, I think
3 though if you're doing that then everybody else.

4 SPEAKER QUINN: I'm going to say
5 it. You're going to need to wrap up.

6 MERLE HOFFMAN: To wrap up, all I
7 have to say is that I think the clinic is wise,
8 strategic, and prescient to offer this bill. I
9 think it is critical for women's lives, for their
10 reproductive health, for the freedom in this city
11 and in this country. I urge its passage and I
12 urge New York to continue to be the leader on this
13 issue.

14 CHAIRPERSON SEARS: Thank you.

15 SPEAKER QUINN: Ma'am, you should
16 stay at the table because there might be questions
17 asked of you.

18 KIMBERLY WALKER: For the record,
19 my name is Kimberly Walker and I am here
20 representing Ambulatory Surgery Center of Brooklyn
21 in support of passing a new Clinic Access Bill in
22 relation to prohibition of activities to prevent
23 access to reproductive health care facilities. I
24 hope I can finish this in two minutes. The
25 Ambulatory Surgery Center of Brooklyn, referred to

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2 as ASC, is a New York State licensed Article 28
3 Facility certified to provide ambulatory surgery,
4 primary care, cancer detection, diagnostic
5 radiology, family planning and diagnosis treatment
6 of venereal disease. ASC received its operation
7 certificate in June 1993 and is Joint Commission
8 accredited. Since its inception, ASC has provided
9 termination of pregnancy services, GYN services,
10 primary care services and has a significant number
11 of patients with HIV disease who receive essential
12 care at the facility on a daily basis. In 2007,
13 we received a recognition by the AIDS Institute of
14 the New York State Department of Health as having
15 complied with a myriad of standards and monitoring
16 of outcomes. As a licensed health care provider
17 also in the sensitive business of offering
18 termination of pregnancy services, we continuously
19 struggle with the presence of anti-abortionists
20 who protest immediately at our front door,
21 oftentimes inhibiting access in egress of all
22 patients, not just those planning to or having
23 undergone abortions. This persistent harassment
24 has materially harmed our ability to attract
25 patients and physicians to utilize this licensed

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2 and accredited facility to provide quality health
3 care across a broad spectrum of services. Due to
4 adverse business conditions brought on by these
5 aggressive anti-abortion activists, it is evident
6 that protestors are not merely expressing their
7 displeasure over a woman having an abortion, but
8 intimidating and harassing people who are using
9 the facility for other reasons as well. Some of
10 these services that the center currently provides
11 are everything from podiatry to gastroenterology,
12 HIV care, pain management and vascular. While we
13 recognize that the access of termination of
14 pregnancy services is extremely important, we have
15 also experienced considerable resistance from
16 patients, employees and physicians who prefer to
17 not just be subjected to this harassment but the
18 exposure of the extremely distasteful signs
19 displayed at the entrance of the facility and
20 partially down the sidewalk. I'd like to submit
21 some of these pictures if I may.

22 CHAIRPERSON SEARS: Just sum up
23 please. I'm sorry, I know it may seem that you've
24 been waiting and I'll give you the extra time.
25 But we have so many and I think if you can stick

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2 to the legislation. I think what has been
3 expressed is the difficulties of those going to
4 the clinics. So all of you, those who will
5 testify, if you can stay with exactly what the
6 issue is today, which is this proposed legislation
7 and if you're for or not for it and the reasons
8 why you are supporting, if you could condense it
9 to that. I interrupted you. So if you can just
10 sum up, that would be fine.

11 KIMBERLY WALKER: We take serious
12 issue in the behavior and the actions of these
13 protestors. These people should be prosecuted.
14 For example, grabbing patients by the arms,
15 touching them in inappropriate ways, badgering and
16 listening to the rhetoric and showing them the
17 literature, chasing them down as far as three
18 blocks away from the facility, physically forcing
19 patients to read their distasteful materials,
20 calling them names like baby killers and telling
21 them that if they have an abortion they are
22 breaking the law, telling them that they're going
23 to hell and they'll be arrested. This new law
24 will make it difficult for these words to be said
25 and heard. Their veritable camp outside, it

1 includes these large posters that are attached to
2 public telephone poles. They use a police
3 barricade right now as a scaffolding to hold their
4 posters and pictures that clearly states New York
5 City Police Department, which suggests that it's
6 being supported by the New York City Police
7 Department. These so-called regular protestors,
8 it has been suggested that they are paid to be
9 outside and protest. This is not individuals
10 exercising free speech. They're not interested in
11 resolution. This would cost them their income.
12 The current law makes it difficult for the police
13 to determine whether the law is being broken and
14 it's difficult to enforce because of the intent
15 requirement. The local police precinct and has
16 favored the protestors and the community expense
17 by overlooking these protestors parking in front
18 of fire hydrants everyday, signage that clutters
19 the sidewalk, incorporating this police barricade,
20 physically obstructing and blocking the person,
21 following them, and willfully interfering.

23 CHAIRPERSON SEARS: You have to sum
24 up please.

25 KIMBERLY WALKER: The police

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2 officer that was appointed to our facility for
3 many years, she had a bible in her police buggy as
4 well as protesting with them. She had to be
5 removed. It's very difficult to get our employees
6 and our physicians into the facility. In
7 conclusion, our testimony is asking for your
8 assistance in clearly defining this law, in
9 resolving an urgent matter that affects the
10 viability of our business. ASC strongly supports
11 this new clinical bill. In doing so, the Brooklyn
12 community and the rest of New York would be met
13 relative to the aspect of care and equal
14 protection would be ensured and the city
15 government would be exercising its responsibility
16 for the safety of patients.

17 CHAIRPERSON SEARS: Thank you very
18 much.

19 KIMBERLY WALKER: Thank you very
20 much.

21 CHAIRPERSON SEARS: If you have any
22 written testimony, please give it to the sergeant-
23 at-arms so that it will be recorded for the
24 hearing. The next to give testimony?

25 DR. EMILY'S: There's a problem.

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2 In two minutes I can't do anything. I will say
3 one paragraph if that's all you're allowing me.

4 SPEAKER QUINN: Identify yourself
5 for the record.

6 DR. EMILY'S: I'm from Dr. Emily
7 Women's Health Center. To tell the truth, the
8 first time I saw an abortion protestor, I was
9 proud to be an American, to be in a place where
10 diverse views can be heard. I felt that way right
11 up to the time when one of these self-righteous
12 fanatics knocked me to the ground unconscious so
13 that I could no longer hear the shouts of baby
14 killer ringing in my ears. I would now like to
15 provide some reasons, just as my colleague here
16 did and before her, for the things that are
17 actually happening the field. There is actually
18 no question as to whether somebody's messing with
19 you or not. You feel it. There's no question.
20 But the police were so blocked, they were
21 virtually impotent in taking care of anything.
22 What happened to me was actually something that
23 the old law would cover, but the police didn't get
24 there in time. Now the police are going to be
25 unfettered in the sense that the people who come

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2 to protest will know that there is something to be
3 afraid of. That when they cross the line there
4 will be consequences. The police will be able to
5 arrest them. That clinic staff can bring charges.
6 That patients will see that their complaints are
7 being taken care of. These are not small things.
8 These are huge. The police would stand there and
9 look at you and say there is nothing I can do.
10 Finally now the police will be able to react to
11 what's going on, on the ground. If that's all the
12 time that I'm being given then I'll take it.

13 CHAIRPERSON SEARS: You have about
14 14 seconds. Use them up.

15 DR. EMILY'S: It's a concern for me
16 because it's hard to take four years and squish it
17 down.

18 CHAIRPERSON SEARS: But you're
19 getting your message across though. You really
20 are.

21 DR. EMILY'S: Yeah, but I had to be
22 knocked over the head to do that.

23 CHAIRPERSON SEARS: But your
24 statement should be given to us so that it's in
25 the record because it will be most effective.

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Just sum up if you can.

DR. EMILY'S: Then I will. You stop me when you have to. One of the things we have found is that protestors don't treat everyone exactly the same way. You see, they are afraid of the big tall dudes with attitude who look dangerous and might be carrying. So the protestors leave them alone. Their favorite targets are small women who speak only Spanish, no English and are probably illiterate in both languages so those women can't read our signs. One of their very favorite things is to stand in front of the clinic door and tell them in Spanish that there's no doctor there and they lead them to go down the block or around the corner endlessly. Again, now these are things that the police will be able to arrest for. When they stop FedEx. When they stop UPS. When they won't let them in the door. When they won't let them go on. These are all things that are stopping the operations of our clinic.

CHAIRPERSON SEARS: Thank you.

DR. EMILY'S: So basically what this law does is simply allow the police to arrest

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2 for things that are happening.

3 CHAIRPERSON SEARS: Thank you very
4 much. The next one giving testimony. Please
5 state your name. If you have any testimony,
6 please give it to the sergeant-at-arms because
7 it'll be included in the record. State your name.

8 DAVID FRIEDMAN: My name is David
9 Friedman.

10 CHAIRPERSON SEARS: Two minutes.

11 DAVID FRIEDMAN: I'm a
12 gynecologist. I have a private practice that
13 happens to be located in the Ambulatory Surgery
14 Center in Brooklyn. I've had the practice for
15 many years. I've recently moved it into that
16 office. One of the problems that I face is I've
17 had these longstanding patients, many of them from
18 Bensonhurst, Dyker Heights, and Staten Island.
19 They've been coming to me many years. A lot of
20 them are not coming for anything to do with
21 termination of pregnancy, and some of them are.
22 They get harassed just the same. I provide a full
23 range of women's health services; breast health,
24 pap smears, cancer prevention, and I do lots of
25 surgeries. The protestors really do not select in

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2 our instance who they're going to harass and who
3 they don't harass. Recently I had a very nice
4 little old lady from Bensonhurst come in. They
5 grabbed her arm. They gave her some literature,
6 which I have some here I'd like to submit. The
7 patient was really scared. It took a good 10 or
8 15 minutes to calm her down. By that point we had
9 to first then start getting around to giving her
10 care. Then I had to worry that she might not come
11 back. So I think if we had laws in place that
12 would ensure that everybody coming to my office,
13 which is basically what this building is, is
14 protected and they will not be discouraged from
15 seeking care, I think it would be a service from
16 all New Yorkers.

17 CHAIRPERSON SEARS: Thank you very
18 much. Next?

19 REBECCA SIMONS: My name is Rebecca
20 Simons. I'm a family physician at the Institute
21 for Family Health. Thank you very much for the
22 opportunity to present this testimony today in
23 support of 826. All women in New York should have
24 the right to access reproductive health care
25 services in a safe and confidential environment.

1 A woman's decision to seek any type of
2 reproductive health care is her own. When she is
3 unable to do so in a safe and private way, she may
4 effectively be unable to get that care. One of my
5 colleagues, a provider of comprehensive
6 reproductive health care for well over a decade
7 recalls the story of a young woman in precisely
8 this situation. Samantha, which is of course not
9 her real name, was the 30-year-old mother of a
10 six-month-old. She worked days and her husband
11 worked nights. They had no help with child care.
12 Samantha had lost custody of two other kids from a
13 previous relationship because of neglect and
14 abuse. She was an unhappy and angry woman and
15 very distrustful of the medical system. She got
16 into fights with clinic staff. We started to have
17 concerns about her six-month-old early on because
18 she came for visits with a puzzling rash on the
19 baby's body. It looked a bit like eczema, but
20 some of the lesions could have also been burns.
21 In the midst of treating the baby and handling the
22 potential abuse situation, Samantha became
23 pregnant. After full options counseling she
24 decided to have an abortion. My colleague
25

1
2 suggested she come to Planned Parenthood on a day
3 that she herself worked so that the procedure
4 could be done by a provider already familiar to
5 the patient. Samantha never showed. Several
6 months later she came back to the office, by then
7 six months pregnant. She had been too frightened
8 by the protestors and was unable to bring herself
9 to walk across their intimidating picket line. So
10 this overburdened, angry and unhappy woman had
11 another baby girl shortly thereafter. She stopped
12 coming to our health center after other fights
13 with staff over appointment times. So we don't
14 know how those kids are doing. Needless to say
15 it's extremely worrisome. Clearly, it's the most
16 vulnerable women who are affected by a lot of
17 these protestor issues. That, to me, as a family
18 doctor who takes care of women and their families,
19 is what's most concerning. Thank you.

20 CHAIRPERSON SEARS: Thank you very
21 much. We have a question from the Speaker and
22 then I will have one question.

23 SPEAKER QUINN: Thank you. I'm
24 sorry about the length of time of testimony. I
25 know we had hoped that some of you might be able

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2 to speak a little bit longer. But given the fact
3 that we have 60 people who want to testify today,
4 we had to cut back. I know we originally had
5 suggested maybe five minutes, but I know Danielle
6 had to tell folks it was only two. So we
7 apologize, but we want to make sure everyone and
8 all opinions get heard on the record. But thank
9 you for your deference. I'll just open this
10 question to whoever would like to answer it.
11 Earlier a statement was made, which I think is a
12 quite illuminating one. It was a statement about
13 how many people have been arrested under the
14 existing law. The fact that that number isn't
15 that high but we hear a lot of reports is what in
16 fact brought us to look to see if the law on the
17 books, which was intended to be very effective,
18 but sometimes you write things and then the real
19 life experience is different. You've given us
20 some examples of what happens in front of your
21 clinics or your practices. If you were to give us
22 one additional example of what happens that now
23 can't get addressed, what would that be. I think
24 that's important for us to know something that's
25 preventing your ability to do work, but wouldn't

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2 end up in an arrest statistic just because it's
3 not technically illegal or enforceable or
4 whatever. Just make sure the mike is on.

5 DR. EMILY'S: This is a peculiar
6 one because in our clinic we have a parking lot
7 and sometimes women go for a walk and they're
8 thinking about stuff. We have protestors who
9 offer the patients water to drink. Kind, huh?
10 Women who are going to have pain relief for the
11 abortion procedure, in PO, they're not allowed to
12 have anything to drink because it can cause
13 aspiration. They could get an infection. They
14 can lose their lives. They're doing it
15 deliberately to hurt women because pro-life has
16 nothing to do with women. They don't mean women's
17 lives. They have a very particular agenda, which
18 is very small and is the only thing that they're
19 interested in. So that's an example of something
20 that they can finally be arrested for because,
21 again, the patient happened to be an illegal
22 immigrant who couldn't create the compliance
23 herself. I had no legal standing in court so I
24 couldn't do it. All of those things are now going
25 to be changed. Were they within 15 feet? You

1
2 bet. It sounds peculiar, but it's very serious in
3 terms of the lives of our patients.

4 SPEAKER QUINN: Thank you. That's
5 the kind of info we wouldn't know aside from a
6 clinic provider.

7 CHAIRPERSON SEARS: Thank you. I
8 just have one question for a gynecologist. As was
9 stated earlier, reproductive facilities provide
10 many services. You do that. When the protestors
11 have been outside your facility, how much has your
12 practice been damaged by not being able to provide
13 the other services that you provide?

14 DAVID FRIEDMAN: Thank you for
15 asking that question. I am in the process now of
16 looking into this because it's very serious. I
17 moved my office there very recently. My patients
18 like me, they trust me, they come to me.
19 Universally they express that they might not want
20 to go to that office. They're afraid of the
21 protestors. It's really a struggle to get them to
22 come in for things that have nothing to do with
23 abortion. They may have an abnormal pap smear.
24 They may need a procedure to prevent cancer. They
25 may need a mammogram. It's sometimes hard to get

1
2 them to come in. Thank you very much. I think
3 that that's a very major point that needs to be
4 made and not just have the facilities related to
5 abortion. There are many other services at
6 women's services. As chair of the Women's
7 Committee, I can tell you, the services are
8 numerous, they're short, they're difficult for
9 women to get to them. The harassment for women in
10 all kinds of areas is very, very strong. So I was
11 very sensitive to when you made that comment. I
12 think in order for women to have the progress, we
13 need to be very sensitive to those issues. I
14 thank you all very much.

15 CHAIRPERSON SEARS: I'm sorry,
16 Councilwoman Reyna has a question.

17 COUNCIL MEMBER REYNA: Thank you,
18 Madame Chair. I just wanted to go back to the
19 scenario. I'm sorry, I didn't quite get your
20 name.

21 CHAIRPERSON SEARS: That's Dr.
22 Emily's and Dr. Emily's does not give their name.

23 COUNCIL MEMBER REYNA: I just
24 wanted to address the scenario that you had given
25 because I'm particular interested in

1

2 understanding--

3 [Pause]

4 COUNCIL MEMBER REYNA: The current
5 law would not protect that client, despite the
6 fact that it was within 15 feet. Do you mean to
7 tell me that if a police officer were to be called
8 and she made a complaint there would be no arrest?
9 It's my understanding that there would be an
10 arrest.

11 DR. EMILY'S: A couple of things.
12 First of all, the police had to see it. They told
13 us that they had to see it. If they didn't see it
14 that that was the first block that they had. The
15 patient had to want to do, the patient had to
16 agree to go through the process of a criminal
17 investigation. She was an illegal immigrant. She
18 would not do it. I don't blame her. And so she
19 couldn't do it. She couldn't be the complainant.
20 I couldn't do it.

21 COUNCIL MEMBER REYNA: The law does
22 not recognize you currently.

23 DR. EMILY'S: The old law doesn't.
24 The new law says that we, the clinic, would be
25 able to bring the case. First of all, when we

1
2 called the police, the police would be able to
3 arrest that person and then that person can go
4 through the judicial proceedings and the clinic
5 could bring the complaint or the charges. I'm not
6 a lawyer, so I'm not sure exactly what the correct
7 terminology. Basically, the case would get to
8 court. One of the problems is that because the
9 police were so neutered, so to speak, they had to
10 see. Because we all want to protect everybody's
11 rights, I understand what the problem was. The
12 law wasn't specific enough to what they needed to
13 do in order to be able to do it. What this law
14 does is it makes the protesters responsible for
15 crossing the line. That had never happened
16 before. Did it interfere with the operation of
17 the clinic? Yes, it does. Then that's simple.
18 Did the police have to see it? No. Can the
19 clinic bring the charge? Yes. And we will do
20 that.

21 COUNCIL MEMBER REYNA: And one step
22 further. I'm sorry. Just to make sure that we
23 take it from the arrest level to the prosecution
24 level. At the prosecution level, will there need
25 to be a witness on both the client as well as the

1
2 clinic rendering the services? Or would neither
3 need to be there because at this point with the
4 proposed law, the police officer would be able to
5 testify and say on both of your behalf and neither
6 of you would have to be there to say services were
7 disrupted and the client was harassed?

8 DR. EMILY'S: The clinic would have
9 standing. With the old law, the clinic had no
10 standing. Only the woman who was trying to get an
11 abortion had standing to say they prevented my
12 getting an abortion.

13 COUNCIL MEMBER REYNA: And it's not
14 just abortion. This is about women's health
15 services. So I just want to be very clear here
16 because we're talking about more than just one
17 particular line of service.

18 MERLE HOFFMAN: You say it's not
19 only one service. But if you do only one abortion
20 in a multi-serviced environment, you're an
21 abortion clinic. So for instance, Ambulatory
22 Surgery and Choices, who are both licensed
23 surgical facilities that can do multiple
24 outpatient surgery, nobody wants to come there
25 because they do abortions.

1
2 KIMBERLY WALKER: Well because of
3 the protestors.

4 COUNCIL MEMBER REYNA: Don't speak
5 off the mike.

6 KIMBERLY WALKER: They do not
7 discriminate. Patients coming for all women's
8 health services, including women's health or
9 anything from podiatry to gastroenterology, they
10 do not discriminate. They harass all of our women
11 and all of our men. We have an extensive HIV
12 practice. They harass all of the men just the
13 same.

14 COUNCIL MEMBER REYNA: I needed to
15 get a clearer understanding as to what is
16 experienced now and what would change, and in
17 particular how that change will have a reaction as
18 we apply the law. Right now we focus on what's
19 happening, but how does the law improve things is
20 what I'm trying to look at.

21 MERLE HOFFMAN: And it's extremely
22 important to improve and strengthen what's here.
23 Just for a point of information, all of the
24 murders of abortion providers, physicians and
25 clinic escorts, et cetera, happened during

1
2 Clinton's term. All of the high extreme violence
3 happened during Clinton's terms. So while a
4 majority of this country is awash in this
5 jubilation of the election of a pro-choice,
6 progressive president, we have to be very aware
7 that this can fuel the fires of rectitude,
8 righteousness, anger, helplessness, disengagement
9 from the right, which will then in fact create, I
10 am thinking, even more radical anti-choice
11 actions. So that creates a timing factor of this
12 bill and why I say that the council is so
13 prescient and strategic to actually protect us
14 more strongly now because we're going to need it.

15 COUNCIL MEMBER REYNA: I appreciate
16 that point.

17 CHAIRPERSON SEARS: Councilwoman,
18 is your question answered?

19 COUNCIL MEMBER REYNA: My question
20 is answered. She's just trying to clarify one of
21 my points.

22 KIMBERLY WALKER: I think all of my
23 colleagues would agree. We don't wish to silence
24 anyone. But we take serious issue in the behavior
25 and the actions of these protestors.

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COUNCIL MEMBER REYNA: Thank you.

CHAIRPERSON SEARS: Thank you.

Councilman Oddo has a question.

COUNCIL MEMBER ODDO: I need some clarification on what the clinics will have standing to do. You just mentioned one thing. The previous witness spoke about how the existing law requires intent to do something in general and also intent to prevent someone from receiving reproductive services. Now, under this bill, you would do away with the need to prove that that person intended to stop the person from getting reproductive services. So, trying to reconcile all of that, you believe this bill gives the clinics standing to say what exactly?

DR. EMILY'S: I'm not sure that I see things exactly the way you stated them. The way it was explained to me is that the police had to see it in order for it to have standing. In order to arrest somebody, the way that they could say that there was intent was because they saw it. So that's what the difference was. Now the police won't have to be there anymore. Look, we have the chart of a patient. We have the information about

1
2 the patient. If we take the example of water,
3 that patient didn't get a procedure because she
4 drank water. We are not going to endanger
5 anybody's life because we don't do that. If
6 you're asking me would there be evidence, yes
7 there is evidence. Because of the way the law
8 was, the police weren't able to react to what was
9 going on.

10 COUNCIL MEMBER ODDO: Thank you,
11 Madame Chair.

12 CHAIRPERSON SEARS: There is just
13 one point that I would like to make. With all due
14 respect to the panel, because I think some of the
15 issues that you're raising are actually within the
16 law that need to be defined that way. What is the
17 violation? There are various violations for that.
18 So as I understand the shift is from the
19 individual who would file the compliance to the
20 facility that could make that so that the one who
21 is being offended can remain anonymous through all
22 of this. So the question, I think, in terms of
23 the facility would be, depending on what the
24 violation is, and that would depend probably on
25 the police and the different violations. I think

1
2 that might be the issue. Council Member Barron
3 has a question. May I say that we have many more
4 panels.

5 COUNCIL MEMBER BARRON: I just
6 wanted to be clear. I don't understand why in the
7 first place that you even had to have the police
8 there. Because any other compliance on harassment
9 in any other situation, the police they don't have
10 to be there. If someone is harassed and they go
11 to the precinct and say that I've been harassed
12 then the police take those complaints and they go
13 ahead and determine so valid litigation. It was
14 just unfair in your instance that the police would
15 have to be there. So I think this law puts you
16 and protects women and puts them in the same place
17 as everybody else. That if I am harassed and I go
18 complain to the police department, they take it
19 and based upon what I say and what the other
20 person says, it's dealt with. So this law is not
21 even doing anything special. It's just getting
22 fairness and equality in the application of
23 preventing a harassment for women who are trying
24 to access reproductive services.

25 MERLE HOFFMAN: By giving the

1
2 clinic standing or anyone else standing to bring
3 this complaint, you're not placing the burden on
4 the victim, which is the woman or child who just
5 wants to go in and to get services.

6 COUNCIL MEMBER BARRON: Exactly.

7 MERLE HOFFMAN: So you're not
8 blaming the victim.

9 COUNCIL MEMBER BARRON: That's the
10 critical part of this new piece of legislation.
11 Everybody's First Amendment rights are still
12 exercised, but it gives the clinics and a right to
13 access reproductive services without harassment.

14 CHAIRPERSON SEARS: That is the
15 main difference, Councilman. I think that's what
16 may be a difference of opinion at some point.
17 With that, I'm going to thank you.

18 SPEAKER QUINN: Madame Chair, if I
19 could just say one thing. It's not really a
20 question. I just want to particularly thank the
21 folks from Dr. Emily's Health Clinic. Because
22 whatever opinion anybody has on any issue, one of
23 the key things for us and the city council is to
24 hear directly from New Yorkers. That's how we
25 often hear what's happening out on the streets in

1
2 our five boroughs. That's how we often hear how
3 laws are or are not working. The folks from Dr.
4 Emily's Clinic reached out to NARAL and then NARAL
5 reached out to us. So I want to thank both the
6 clinic and NARAL. We wouldn't have known to the
7 degree we came to understand how challenging it
8 was to implement the existing law. I think for
9 anybody to call and say this problem is happening,
10 can you engage government in helping us is
11 sometimes a risk, because that can backfire
12 sometimes. I just want to thank everyone at Dr.
13 Emily's Clinic for being so concerned at your work
14 and your patients that you took that risk to say
15 what was happening to you. It was really that
16 risk that brought us to today and what I believe
17 will be a better state of affairs in our city. So
18 thank you.

19 DR. EMILY'S: But I just need to
20 say, and this is really important, that only
21 Speaker Quinn did something. There were many
22 people before you and after you actually who we
23 spoke with. No, Speaker Quinn, what's important
24 is who heard us, I think, and who actually created
25 something that will allow the police to do their

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2 job. This is huge. Thank you very much.

2

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CHAIRPERSON SEARS: Thank you.

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SPEAKER QUINN: Thank you very

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much.

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CHAIRPERSON SEARS: Our next panel

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is Kelli Conlin, who will go first. Sharon Lau,

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are you here Sharon? Celine Mizrahi? Sonia

9

Ossorio? I'm going to ask Kelli Conlin to go

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first. Please, if you have written testimony, see

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that the sergeant-at-arms has it. We're sticking

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to the two minute because we must move on,

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although what you have to say is very important.

14

Identify yourself for the record. If you have a

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very lengthy testimony, I'm really asking you to

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just kind of pull it together so you get the main

17

points across. Thank you.

18

KELLI CONLIN: Good morning. My

19

name is Kelli Conlin, president of NARAL Pro-

20

Choice New York. I would first like to take this

21

opportunity to thank Speaker Quinn, Chairman Sears

22

and our many friends and allies in the New York

23

City Council. Doesn't being able to access health

24

care without intimidation sound like common sense?

25

I think so. Unfortunately, to protestors who

1
2 regularly band together to prevent women from
3 doing that, it's not. Imagine getting off the
4 subway, having made the personal decision to
5 terminate a pregnancy. You climb the stairs onto
6 the street and you are confronted by a line of
7 anti-choice protestors blocking your way. You
8 nervously try to walk past the crowd but they
9 follow you to the doors of the reproductive health
10 facility. As they move closer to you, you become
11 increasingly fearful. You try to step aside, but
12 they push forward, surrounding you and try to
13 intimidate you into turning around. This isn't a
14 scene from Somewhere Else, USA. Women throughout
15 the city's five boroughs encounter harassment,
16 intimidation and coercion when they try to access
17 legal reproductive health care. Such behavior
18 should not stand in New York. We therefore
19 proudly support the Clinic Access Bill that
20 ensures women will receive the respect and dignity
21 they deserve when seeking reproductive health
22 care. This Clinic Access Law will prohibit anyone
23 from preventing access to reproductive health care
24 services, physically obstructing or blocking
25 another person from entering a clinic, following

1 or harassing another person within 15 feet of a
2 facility, behaving in a way that places another
3 person in reasonable fear of physical harm, or
4 damaging a reproductive health care facility.
5 Additionally, it protects providers and clinic
6 workers, allowing them to perform their vital jobs
7 without fear. To be clear, and I'm wrapping up,
8 this bill does not inhibit or punish peaceful
9 protest or prayer vigils. Instead, it ensures
10 that women and clinic workers can access and
11 provide legal medical care without fear of
12 harassment and intimidation. There is no other
13 legal health service that people are blocked from
14 accessing. There is no legal health situation
15 where strangers feel entitled to impose their will
16 on someone else. Passage of the Clinic Access
17 Bill will ensure that women can access any type of
18 reproductive health care service without threat or
19 intimidation because harassment is not acceptable.
20 Not in New York. No anywhere. We need this law
21 to stop it. Thank you.

22
23 CHAIRPERSON SEARS: Thank you very
24 much. The next one that is speaking? State your
25 name and remember, if you have written testimony,

1
2 the sergeant-at-arms would like a copy.

3 SONIA OSSORIO: Hello. My name is
4 Sonia Ossorio. I'm president of the National
5 Organization for Women here in New York City. I
6 want to thank the Council for having these
7 hearings on such a very, very important topic.
8 First and foremost, New York, as we all know, has
9 been a beacon for women's rights and reproductive
10 rights. This bill will only further enhance that.
11 As Merle so eloquently pointed out, the next four
12 years, anything could happen and we could be under
13 assault. It is already happening in our clinics
14 here in the city. The things that have been
15 outlined in this bill, expanding the definition of
16 clinic entrances and exits, the 15-foot harassment
17 free zone, broadening who can rightfully file
18 civil actions, and most importantly allowing law
19 enforcement to do their job and prosecute is
20 vitally, vitally important for women to be able to
21 seek their reproductive health care needs here in
22 our city. In so many of the bills that the
23 National Organization for Women has worked on in
24 the last few years, that last component is
25 critical. To be able to give law enforcement the

1
2 tools to move forward on tracking, whether it's
3 protestors or human traffickers, so that women
4 don't have to be in the line of fire in terms of
5 being witnesses, in terms of having their lives
6 threatened and go on to rebuild their lives and to
7 focus on what's ahead for them. I know there's
8 been much testimony here today and there are many
9 people who still want to speak. But the National
10 Organization for Women fully supports this Clinic
11 Access Bill and we are here to help you see it
12 through in any way that we can. Thank you.

13 CHAIRPERSON SEARS: Thank you very
14 much. Next?

15 SHARON LAU: Good afternoon. I'm
16 Sharon Lau. I'm the director of clinic defense
17 and research for the National Abortion Federation.
18 NAF is the professional association of abortion
19 providers in the United States and Canada. Our
20 members include health care professionals at 400
21 clinics, doctors' offices and hospitals across
22 those two countries. NAF has been compiling
23 statistics on violence and harassment since 1977.
24 Serious anti-abortion crimes, such as shootings,
25 arsons, and bombings have been at an all-time low

1 recently, thanks in part to the federal FACE law
2 and other state and local laws addressing clinic
3 violence. However, despite the success of clinic
4 staff, law enforcement and the national advocacy
5 groups, clinic violence continues to impact the
6 lives of women and reproductive health care
7 providers throughout North America, including New
8 York City. In the past 18 months alone, clinics
9 across the United States have been the targets of
10 arsons, attempted bombings, attempted arsons and
11 blockades. In addition, patients and staff endure
12 all the things that have already been noted so
13 well earlier. New York, unfortunately, has a long
14 history of clinic violence and harassment,
15 including the tragic murder of Dr. Slepian in
16 Amherst and arsons at New York City clinics. Laws
17 such as the one proposed by the council help keep
18 everyone safe. Clinic staff, patients and lawful
19 protestors have the right to exercise their
20 constitutional rights free from harassment or
21 violence. Numerous other communities across the
22 United States have recognized the need for and
23 enacted similar type of legislation. Most
24 recently places as diverse as Oakland, California;

1
2 Pittsburgh, Pennsylvania; and the state of Montana
3 have enacted law addressing clinic harassment and
4 violence. Our statistics and experience show us
5 that when laws such as these are put into place
6 and all laws are consistently enforced, the risk
7 of escalation is reduced and communities at large
8 are safer. Thank you very much for this important
9 bill.

10 CHAIRPERSON SEARS: Thank you.

11 Pretty close on target.

12 CELINE MIZRAHI: Good afternoon and
13 thank you for the opportunity to speak. My name
14 is Celine Mizrahi. I am the legislative counsel
15 at the Center for Reproductive Rights. For the
16 last 16 years, the Center for Reproductive Rights
17 has used legal strategies to promote and defend
18 women's access to reproductive health care
19 services in the U.S. and around the world. We
20 believe that effective clinic access protections
21 are critically important to protecting
22 reproductive rights and health care access. We
23 support the proposed amendment to the current
24 Clinic Access Law. The center's work allows us to
25 get a national picture of the barriers that

1
2 prevent women from accessing reproductive health
3 care services and especially from accessing
4 abortion care. Efforts to stop women from getting
5 abortions around the country are relentless and
6 come from many fronts, including clinic by clinic
7 attacks on access. As we hear from clinics around
8 the country, protestors block driveways and
9 doorways and health care providers face threats
10 and even assaults. When protestors step beyond
11 their protected speech rights to interfere with
12 women's ability to access abortion services, the
13 impact on women can be even more pressing than the
14 impact of the hundreds of restrictive state and
15 local laws that we see introduced each year, many
16 of which are enacted. New York City, on the other
17 hand, has been a leader in protecting women's
18 access to reproductive health care services. The
19 city has policies and programs in place that
20 require hospitals to provide emergency
21 contraception for sexual assault victims and that
22 require abortion provider training for OB/GYN
23 residents trained in public hospitals, among
24 others. In addition to these policies, the city's
25 current Clinic Access Law shows that New York

1
2 recognizes the importance of preventing protestors
3 from going beyond their protected speech rights to
4 physically interfere with women seeking
5 reproductive health care. The proposed changes to
6 the Clinic Access Law will make this law more
7 effective, enforceable and more respectful of
8 women's privacy and confidentiality by making the
9 law's scope clear and the law enforcement's
10 authority clear. The proposed amendment to the
11 Clinic Access Law will maintain New York City's
12 proven leadership in protecting the rights of its
13 women. We urge the City Council to adopt the
14 proposed changes. Thank you.

15 CHAIRPERSON SEARS: Thank you. Do
16 my colleagues have any questions? I see we are
17 joined by Melissa Mark-Viverito from Manhattan.

18 SPEAKER QUINN: One quick thing.
19 I'm sorry. Just a question for anybody, but I'll
20 start with Kelli. As I said before, and you're
21 very kind in your comments. Thank you. We only
22 found out about the problem at Dr. Emily's Clinic
23 because they reached out to NARAL and then you
24 guys reached out to us. How frequently do you get
25 calls of that nature?

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2 KELLI CONLIN: We don't have a log
3 but I will say that from time to time our office
4 is inundated with calls. I know it's only
5 anecdotal evidence but it really has been the
6 consistent drum beat of providers calling our
7 offices and pleading with us to reach out to
8 public officials. That really got our attention
9 where we felt like it was important to bring it to
10 the Council because it became more and more
11 obvious that the current law is not effective for
12 many of the reasons that others have brought up.
13 I mean, quite frankly, a young woman who's just
14 trying to access medical care is not interested in
15 becoming part of the law enforcement system, part
16 of judge, jury, pleading her case. Everyone has
17 different situations, but all of us when we seek
18 to access medical care are in one of our most
19 vulnerable states and it's very, very important
20 that people's privacy is protected. It's so, so
21 important that this is passed because really there
22 is a problem in New York. I will just say to add
23 on that there are many local officials across the
24 country that see all of you on the council as
25 leaders. But on this particular issue you should

1
2 take comfort in the fact that many other cities
3 have done similar kinds of bills to protect its
4 citizens.

5 SONIA OSSORIO: If I may add, at
6 the National Organization for Women we do have a
7 help line for women. The calls that we get mostly
8 come from women. Many of them from young girls.
9 Just recently one that I field when I was in the
10 office by myself was a young girl who had the
11 courage to make her appointment and went down to
12 the clinic and ended up leaving. Then she was on
13 the phone just crying. Now she had to start over
14 again. So these are the kinds of calls that we do
15 get. People are also calling and finding if there
16 are any funds that they could access to go to a
17 hospital somewhere else rather than having to deal
18 with some of the clinics.

19 CHAIRPERSON SEARS: Council Member
20 Barron has a question.

21 COUNCIL MEMBER BARRON: I just
22 wanted to know if you know of any clinics or
23 services in the clinics that are threatening not
24 to be available anymore because of a lack of
25 enough utilization of them because of this kind of

1
2 problem? Or even if it's not happening immediate
3 if things continue the way they are, could it lead
4 to something like that?

5 SONIA OSSORIO: I think the more
6 this problem goes unaddressed and unabated, the
7 more likely it is that clinics will simply say
8 it's too difficult to be in this profession.
9 Already you see providers having to take just
10 unimaginable steps to protect themselves and their
11 families, both in this city and across the
12 country. I think it's really the job of public
13 officials and all of us as advocates to make sure
14 that people who do this courageous work are
15 protected to the extent of the law and to the
16 extent that we can. It's really a difficult life
17 and I applaud them immensely. Being the mother of
18 two children, I can't imagine them going to school
19 and being harassed or having my workplace harassed
20 constantly. I just think that this law will go a
21 long way in helping providers to feel protected
22 and feel good about going to work in the morning.

23 CHAIRPERSON SEARS: Thank you very
24 much. Thank you for being here. Our next panel
25 is Philip Reilly, Michael J. Reddy [phonetic],

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2 Steven McDonald and Florence Maloney. Thank you.
3 If you have testimony, be sure the sergeant-at-
4 arms has it. And also Mary Duvall [phonetic], I'm
5 not pronouncing it correctly so you have to help a
6 little bit. Is there a Mary in the house? Are
7 you Mary? He'll hand them out to us. Thank you.
8 You may start. I have to say it's good to see
9 Steven McDonald here. I see him at the 110th
10 Precinct on our national night out. State your
11 name. We're going to stay within the two minutes.
12 So if it's very, very length, as I've said before,
13 if you could pin down.

14 MSGR. PHILIP REILLY: I would hope
15 that I could at least do the page I gave to you.
16 They asked me to come and to give a statement of
17 two pages, which I did. So I'd like at least to
18 do that. Because we have been here for two and a
19 half hours, to get a little balance here.

20 CHAIRPERSON SEARS: I understand
21 that. It's an issue.

22 MSGR. PHILIP REILLY: Good morning,
23 dear Speaker and members of the City Council. My
24 name is Monsignor Philip Reilly, the director of
25 the Helpers of God's Precious Infant. For the

1
2 past 20 years, here in the City of New York, no
3 matter what the weather and in spite of my yearly
4 struggle with facial skin cancer surgery, I have
5 been standing daily for hours outside the places
6 where abortions are performed to offer prayers,
7 information and help to the women approaching
8 these places. It has been my constant experience
9 that no woman comes to these places because she
10 wants to kill an unborn child. She comes because
11 she has problems and they are real. There are
12 right and wrong answers to human problems.
13 Obviously, I do not believe that having an
14 abortion is the right answer, for it will not
15 bring back yesterday for the woman in difficulty
16 and allow her to go on with her life. Indeed, I
17 witness on a daily basis that abortion not only
18 results in the unjust shedding of the innocent
19 blood of our youngest brothers and sisters, but
20 also causes painful mental and spiritual problems
21 for the women. Although the first reaction for
22 women after an abortion is relief because she says
23 thanks be to god, my womb is empty. Later the
24 same woman will say, oh my god, my womb is empty
25 and then begins the pain in her head and her heart

1
2 that remains with her beyond tomorrow. I have
3 witnessed on a daily basis that there are two
4 victims when an abortion is performed. Women
5 deserve better and so I try to offer them the
6 better way that will result in the life of the
7 unborn child and peace for the mother. Any law
8 that would hinder mothers from receiving the right
9 answer by discouraging good citizens from offering
10 that answer due to a chilling fear of an unjust
11 punishment if they should exercise their First
12 Amendment rights would be a travesty of law. I
13 believe that the approval of the amendment under
14 consideration would be a source of great suffering
15 for many women tomorrow, indeed have a chilling
16 effect on good citizens in the exercising of their
17 First Amendment rights. Indeed, I am one of the
18 million disappointed citizens who approved the
19 referendum on term limits to find out only
20 recently that the votes of the citizens were
21 meaningless because of special interest groups.
22 Sadly, I believe Intro. 826 is, again, not
23 expressing the will of your constituents, but only
24 of special interest groups. For I don't know how
25 otherwise in good faith the Intro. 826 amendment

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2 could say that the council concludes that the
3 current law does not adequately protect
4 reproductive health care for those seeking
5 abortions. I'm not aware of any of the Helpers or
6 others violating the law or any record of their
7 arrest or violations. Why then should you
8 reasonably increase the penalties in the law when
9 the present law is not being violated. For me
10 then it is clear the only reason would be to
11 create fear and intimidate the average citizen who
12 believes in the sacredness of the life of the
13 unborn from exercising his or her First Amendment
14 rights. That scandalously shouts out the hidden
15 hand of special interest groups again making a
16 mockery out of democracy. According to the 1970
17 U.S. Census Bureau, the population of the City of
18 New York in 1970 was eight million people. With
19 the influx of immigrants and the natural increase
20 in births, one would project that 30 years later
21 the population would be at least 12 million in the
22 city. Yet, according to the United States Census
23 in the year 2000, the population of New York City
24 was the same as 1970, namely eight million people.
25 How could this be? The answer is clear according

1
2 to the Vital Statistics of the New York State
3 Department of Health, which indicates that since
4 the passing of the New York State abortion law in
5 June of 1970 to the present time, 3.8 million
6 abortions have taken place in the city of New
7 York. That's equivalent to half of the people in
8 this city. With numbers like that, how can we
9 possibly speak about the difficulties of the
10 people in this city having access to so-called
11 abortion procedure.

12 CHAIRPERSON SEARS: Monsignor, I'm
13 going to have to ask you--

14 MSGR. PHILIP REILLY: [interposing]
15 No, I just want to finish. According to the 2005,
16 New York State Vital Statistics, although the
17 amounts of abortions, thanks be to god, has
18 continued to drop, the rate of abortions remains
19 tragically high. For example, I counsel in the
20 County of Kings, where in 2005, for every 1,000
21 white babies that were born, 371 were aborted.
22 For every 1,000 Spanish babies born, 623 were
23 aborted. For every 1,000 black babies born, 1,298
24 were aborted, namely 65 out of every 100 black
25 babies were aborted. With numbers like these to

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2 speak of difficulties of access to abortion
3 facilities is beyond reasonable belief. To me
4 these numbers shout out that there is little or
5 nothing of true counseling being done in the so-
6 called abortion clinics. The women are not shown
7 the sonogram. They are not informed of free
8 health to them to carry the child to term.

9 CHAIRPERSON SEARS: Mr. Monsignor,
10 could you address the legislation? That's what I
11 would like you to do. If you could speak to the
12 legislation.

13 MSGR. PHILIP REILLY: This is the
14 legislation.

15 CHAIRPERSON SEARS: Well, no, not
16 the statistics. You need to really address the
17 legislation.

18 MSGR. PHILIP REILLY: Indeed, some
19 clinics even have escorts on the sidewalk outside
20 the clinics whose job is to prevent the woman from
21 hearing the sidewalk counselors who are telling
22 her that help is available through the wonderful
23 New York State PCAP program. They even have
24 guards in the entrance whose job is to take or
25 encourage the woman on the way into the clinic to

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2 throw into the garbage the materials given them by
3 the counselors that provide information of where
4 they can get help to keep their unborn children.
5 Indeed, in this past election, both candidates
6 agreed that together we should do all we can to
7 lessen the number of abortions by helping the
8 mothers to keep their unborn infants. This
9 amendment will do the opposite. I ask you to
10 reject it. Believing all legitimate authority
11 ultimately comes from god, I teach people that
12 lawmakers should be respected and obeyed. On the
13 other hand, may I remind you that since your
14 authority does come from god, on some future
15 tomorrow each lawmaker will surely have to stand
16 alone before that same god to be judged on how you
17 used your power. As Martin Luther King so
18 eloquently said, the law may not make you love me,
19 but by god, it should make you respect me. Today,
20 more and more the group most discriminated against
21 around the world is the voiceless, helpless unborn
22 infants. They need your help that their very
23 lives be respected and protected by law. I pray,
24 I plead that each of you, before finally deciding
25 your support or non-support of this amendment will

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2 seriously reflect that each of us in some future
3 tomorrow will stand alone before the lawmaker and
4 judge to give an account on how we treated god's
5 precious infants and their mothers. Thank you for
6 your time.

7 CHAIRPERSON SEARS: Thank you,
8 Monsignor. We'll go now to officer McDonald.
9 Officer McDonald?

10 STEVEN MCDONALD: Madame Chair,
11 Madame Speaker and members of the Council, I was
12 an outsider looking in up until several years ago
13 when I met friends of Monsignor Reilly. Then as a
14 casual observer I came to know the good work that
15 he did. So far this morning I've heard nothing
16 that resembles the work that the Helpers of God's
17 Precious Infants do. They're very respectful of
18 the law as it was written. Monsignor Reilly
19 contacts the local precincts to have supervising
20 officers and rank and file to be there so that
21 nothing is done outside of the law and that no one
22 seeking reproductive health services ability to go
23 into the building or to leave the building would
24 be in jeopardy. I'm against Intro. 862. I would
25 hope that you would give the pro-life movement a

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2 chance to better explain their position and what
3 they would hope to do for the law to protect those
4 women and men who are looking to make available
5 the services in the clinic. I've never seen any
6 of you there on those mornings that I've been with
7 Monsignor. Again, I've heard many
8 mischaracterizations of our activities the days
9 that we're there praying and singing. I would
10 offer to Madame Speaker and Madame Chairwoman and
11 the members of the Council to come with us on
12 those days that we're praying just to see what
13 goes on there and how I don't believe we need this
14 increase in penalties and a different description
15 of the law for the health care service, the
16 reproductive services and the protesting that does
17 go on there. I would tell you this past Saturday
18 we were outside the clinic in Brooklyn and
19 compared to our peaceful protestations and those
20 who were there countering our prayer vigil, that
21 was scary. That was loud. That was threatening.
22 We were not. So please, do this before you do
23 anything on this legislation. Monsignor Reilly
24 has helped many people of all different colors and
25 backgrounds in the 30 plus years that he's been

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2 doing this work. And I would say the Catholic
3 Church has been the leader in this cause. Please
4 come see what happens before you enact this
5 administrative code change. Thank you.

6 CHAIRPERSON SEARS: Thank you very
7 much. Thank you. Next to give testimony?
8 Identify yourself please. We're going back on the
9 clock.

10 FLORENCE MALONEY: Good afternoon.
11 I'm Florence Maloney. I'm with the Helpers of
12 God's Precious Infants and also with a group
13 called Rachel's Helpers, which I will include in
14 my statement. I have served as a lead facilitator
15 for a service called Rachel's Helpers for the past
16 ten years. Rachel's Helpers is an non-
17 denominational outreach program for women who had
18 one or more abortions. It is affiliated with the
19 Helpers of God's Precious Infants and a postulate
20 led by Monsignor Philip Reilly, who is its
21 executive director. The principle work structure
22 of Rachel's Helpers is in small group, consisting
23 of five or six facilitators and a similar number
24 of group participants. A bible study program,
25 forgiven and set free, is followed over a period

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2 of 11 weeks. The program, contained in eight
3 chapters, refers to scriptures from the Old and
4 New Testaments, which guides the participants
5 through a process of spiritual and emotional
6 healing. The facilitators support discussion
7 within the group related to the readings as they
8 touch upon the abortion experience. In our
9 current society, the psychological damage which so
10 many women endure after an abortion is denied for
11 the most part. Our society tells them to get over
12 it and to move on. However, women know that they
13 have been profoundly changed by the abortion
14 experience. The deliberate destruction of one's
15 own child--

16 CHAIRPERSON SEARS: [interposing]

17 If I can interrupt, it would be good and helpful
18 if you stayed directly to the legislation.

19 FLORENCE MALONEY: I have to do
20 this in order to get to the legislation.

21 CHAIRPERSON SEARS: I know but you
22 need to condense. So if you can get directly to
23 the legislation, because that's why we're here
24 today.

25 FLORENCE MALONEY: I'm skipping the

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2 important part. The critical part is that
3 Rachel's Helpers has served women of all different
4 ages, from teens to seniors, from different walks
5 of life, from different races and from different
6 ethnicities. Some have suffered from substantial
7 emotional problems, complicated with bouts of
8 severe depression. The abortion experience
9 further increased their feelings of worthlessness,
10 futility and desperation. I am here to speak to
11 this council today to help its members to
12 recognize and to understand the losses and the
13 damage suffered by women who are victims of
14 abortion in New York City.

15 CHAIRPERSON SEARS: I want you to
16 direct your testimony to the legislation.

17 FLORENCE MALONEY: As the abortion
18 seeks to prevent--

19 CHAIRPERSON SEARS: [interposing]
20 You must do that.

21 FLORENCE MALONEY: Finishing up.
22 As the abortion industry seeks to prevent sidewalk
23 counselors from offering counsel and assistance,
24 not protest. That's a key difference. That's all
25 I heard this morning was protestors. We are there

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2 to offer counsel and assistance to vulnerable
3 women. The industry likewise refuses to recognize
4 the enormous toll it has taken and continues to
5 take each day. So to conclude, I believe the time
6 is long overdue for the reality of post-abortion
7 trauma to be known. More counseling of women is
8 needed, not less. That counseling cannot be
9 provided by a self-serving industry directly in
10 conflict. Sidewalk counselors are unpaid
11 volunteers who have only the best interests of
12 troubled women in mind. Sidewalk counselors need
13 to be supported. Restrictions would serve the
14 abortion industry only. Thank you very much.

15 CHAIRPERSON SEARS: Thank you very
16 much. If you can confine your testimony to the
17 legislation.

18 MARY DUVALL: I'll do my best.

19 CHAIRPERSON SEARS: No, no, you've
20 got two minutes. We well recognize what God's
21 Helpers do and that is not the issue. Because the
22 work they do is tremendous and they are helping
23 and there's no question about that. But what
24 we're here for today is there's a legislation
25 proposed and it's that hearing. So you could be

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2 very helpful if you directed your testimony as to
3 why you think the legislation is not good or why
4 you think it is. That's what we need to conclude
5 with today is why all of you are here and why you
6 support or you do not support this proposed
7 legislation. Everything else is important and I
8 can tell you that this committee is very sensitive
9 to the issues that you are raising. We're not
10 insensitive to the work that is being done for
11 those that are opposed to abortion. We're not
12 insensitive to that. We also have a role and
13 we're going to deal with that. So I'm asking you;
14 you've got two minutes to address this
15 legislation. You can be very helpful with that.
16 Thank you.

17 MARY DUVALL: You're not trying to
18 make me nervous are you?

19 CHAIRPERSON SEARS: No, no, not at
20 all. I want to hear your comments on the
21 legislation. That's why we're here.

22 MARY DUVALL: Thank you. I'm Mary.
23 I'm also with Helpers of God's Precious Infants.
24 So much has been said about abortion protestors
25 physically striking, shoving, restraining,

1
2 grabbling, et cetera. To highlight the main point
3 so what I was going to say is that we are not
4 protestors. We are not demonstrators. We're
5 highly trained before we go out. We don't send
6 people out there that are not trained. We stress
7 not to block anyone. We don't approach the women
8 in twos. That's intimidating. We try to approach
9 the woman one at a time. If she says, get away
10 and leave us alone, we're not going to force it.
11 We may encourage her to take a pamphlet from which
12 the abortion people snatch right away from them.
13 So that's one of the main points. We do not
14 threaten, intimidate or in any way harass the
15 women, but we do try to encourage them and we do
16 try to get the literature to them. That is one of
17 the main points. We also pray for the abortion
18 clinic workers. We're not against anyone, but we
19 are for the life of the unborn. And Monsignor
20 Reilly succinctly defended that. That's the main
21 point is that those children are being killed
22 mercilessly and the women incur a lot of damages
23 themselves. That's already been stated. Some of
24 the things we might say, and I need to say this
25 because all of these points being made about

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2 threat. It's never too late to change your mind.
3 God loves you. That's what's being said from our
4 group. Another succinct point is there's no
5 arrests. I'm always at Dr. Emily's. The reason
6 there's no arrests is because we are not breaking
7 the law. I stress to all people that I train to
8 stay out of the driveway, get out of the doorway.
9 I might hand something to a girl going in, but we
10 do not stand blocking a doorway or a driveway and
11 I stress that continuously. One thing that we
12 learned is we are law abiding. We're not there to
13 violate the laws. We're there to work within the
14 confines of them. The police department are there
15 as a neutral presence. They're only too willing
16 to tell us what we have to do and remind us and
17 also to the other side. So they're like a neutral
18 presence. And there have been no arrests. The
19 last point I want to make is that the abortion
20 clinic providers have a vested interest, which is
21 financial. That's it. Thanks.

22 [Pause]

23 CHAIRPERSON SEARS: You are saying
24 and you're separating yourselves from protestors
25 because there are protestors. That is a fact.

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2 You are saying, and I just want it straight for
3 the record, that you don't belong in that category
4 and you don't belong in that classification. I
5 think that's an important distinction.

6 MARY DUVALL: I just want to say
7 one thing. Make no mistake though, if the
8 abortion clinic providers who have a vested
9 financial interest are the persons that could
10 accuse us, that point may quite accurately be
11 blurred.

12 CHAIRPERSON SEARS: I do have to
13 correct you on one thing though. These clinics
14 provide more than abortion. They provide women's
15 services. I have to tell you that as chair of the
16 Women's Committee, I am a strong advocate for
17 women's services. That includes everything.
18 Everything from, as you heard, from a mammography
19 to gynecological checkups. So I think that when
20 you're talking about abortion and you're talking
21 about women's services in a clinic, and I'm
22 speaking for myself now and not for the committee,
23 I think there needs to be a complete distinction
24 about that. Because women's services are not
25 being given as they should. They are far between

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2 and when they get into a clinic they are harassed.
3 They're going in for gynecological checkups.
4 You've heard testimony that a doctor's practice is
5 really suffering from that. Well, he may be
6 suffering, but the people that are not going in
7 who need these exams are suffering for that.
8 Women need to have their checkups. They need to
9 do everything. The distinction that you made
10 though is an important one. I think though that
11 what this bill is talking about is women's
12 services. It's talking about getting into clinics
13 and being able to have peace of mind getting into
14 those clinics. Because when they go in, man,
15 woman, whatever, you don't know why they're going
16 in, as was testified earlier. You do not know
17 what the services are that they are seeking.
18 They're not going through that door and telling
19 you that they're getting a gynecological checkup.
20 They're not telling you they're going in for an
21 abortion. I feel very passionate about that.

22 MSGR. PHILIP REILLY: May I briefly
23 speak?

24 CHAIRPERSON SEARS: I know that we
25 have to go.

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2 MSGR. PHILIP REILLY: You're
3 talking the Ambulatory Surgery Center. I am there
4 every day. You talk about the men and women that
5 come there for AIDS as though they're afraid of
6 us. God knows that's not true. All of them, they
7 have received rosaries from us. They actually
8 pray for the women going there that they would
9 able to choose life. Anytime a woman or any
10 person is coming there for another reason,
11 immediately we say god bless you and if you know
12 somebody that needs help, take it. The idea that
13 we're harassing. The other thing is that the
14 administrator did say to me that 80% of the income
15 here comes from abortions. So while they mention
16 other things and other areas, he did say 80% of
17 the income comes from abortions. He told me that
18 himself. So I would have to presume most of the
19 people coming there are for abortions. As soon as
20 I realize they're not, we let them go. We talk to
21 them. I tell the people that anytime a person
22 says no, to let them go. We're trying to convert
23 them, we're not trying to witness that this is
24 wrong or right. We're trying to touch the heart.
25 So you must let them be free. They must

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2 experience love and give them help. That's the
3 approach we do.

4 CHAIRPERSON SEARS: Charles Barron
5 has a question for the panel.

6 COUNCIL MEMBER BARRON: I just
7 would like to say from hearing your testimony and
8 I certainly appreciate your right to do what
9 you're doing. I see no reason why you would be
10 against this law. The reason being is because
11 you're not doing anything that would violate this
12 law here. Everything you're saying with the
13 sidewalk counseling, you're not trying to block
14 and you're not trying to prevent services.
15 There's nothing you have testified before us that
16 this law would stop you from doing exactly what
17 you're doing. Even if the clinicians inside are
18 the ones that can now raise the complaint, that's
19 not for you, that's for those who are harassing
20 and for those who are blocking and for those who
21 are creating havoc by those who have decided to
22 make a very tough decision in their life. As a
23 matter of fact, I think they might even appreciate
24 some of the sidewalk counseling if it's a positive
25 thing for them making this tough decision. But

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2 when it reaches to harassment and blockage, if
3 you're not doing that, this law does not stop your
4 First Amendment right to provide sidewalk
5 counseling. I just wanted to make that very, very
6 clear.

7 MSGR. PHILIP REILLY: I would hope
8 so because the truth is, indeed, thousands of
9 women take the help and come back out and thank us
10 later. That's a fact.

11 COUNCIL MEMBER BARRON: Right.
12 Exactly.

13 FLORENCE MALONEY: If I might just
14 add one sentence here, the big problem is the
15 identification is going to be given to the
16 provider. The defense has to be of the person who
17 is accused. There's going to be a lot of
18 ambiguity there. Somebody who is offering help
19 and somebody who, as you called, protesting.
20 There's a big difference. A different service and
21 a different purpose. But in the actual enactment
22 of what you're talking about in legislation,
23 there's a huge area for persecution.

24 COUNCIL MEMBER BARRON: That's
25 absolutely correct. But let me just say this very

1
2 quickly that any law can be abused. The court of
3 the law will determine whether someone is abusing
4 that law or not. That could happen with any law.
5 But I doubt seriously that if a woman going into
6 the clinic sees what you're doing as a positive
7 for them that they would now go inside the clinic
8 and say that I want these folks arrested. If
9 someone abuses it and does that, then like any
10 other law, that will be something that has to be
11 taken up in the courts. But I think there's
12 nothing in this law that would prevent you from
13 doing what you're doing.

14 MSGR. PHILIP REILLY: The only
15 thing I was fearful of would be that the abortion
16 provider simply would accuse us falsely. What
17 defense do we have if you don't have to have a
18 witness or someone doesn't have to come forth as
19 claiming it to be true, that it's just on their
20 word then I'm arrested?

21 MARY DUVALL: Councilman, may I
22 make one comment? One of the reasons that we're
23 here is that in actual health care you would not
24 be allowed to pressure a patient to get on your
25 side to take a lawsuit. The problem at Dr.

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2 Emily's is the women don't want to press charges
3 because they don't feel threatened or harmed.
4 That is going to allow the clinic providers to
5 make a lot of false claims. The police got tired
6 of coming there because their claims very
7 frequently are not true and they can't be
8 substantiated. That's why we're here with this
9 bill because they couldn't get over with the bill
10 that they had before because we were not breaking
11 the law.

12 COUNCIL MEMBER BARRON: In all due
13 respect to you, I think there are women who could
14 make those charges who don't make the charges
15 because they're fearful and because they are being
16 harassed. There are women that need to be
17 protected and that's what this law does.

18 MSGR. PHILIP REILLY: And I would
19 say if they do make those claims, I have no
20 problem with that, but I do want that person who
21 has been harassed to be the one to make the claim
22 so I can defend myself on guilty or not guilty.

23 COUNCIL MEMBER BARRON: But it's
24 easy for you to say, Father, but when it's an
25 immigrant person or it's a person that has

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2 problems and needs more protection and would be in
3 more trouble if they make the complaint. It's
4 easy for you to say that. You're not a woman.
5 You're not an immigrant. You're not being
6 harassed. So it's easy for you to say, Father, in
7 all due respect of who you want to be the
8 complainant. But we need to protect women and I
9 think this law does that.

10 CHAIRPERSON SEARS: Before we wrap
11 up, I'd like him to ask his question.

12 COUNCIL MEMBER ODDO: Following up
13 on, and in hopes of finding common ground with the
14 previous council member who spoke and dovetailing
15 with the last statement by Monsignor. The
16 distinction is between those people who are
17 breaking the law currently, who are going outside
18 the confines of the law, who are doing the wrong
19 law and the folks from Monsignor Reilly's group
20 and others who are offering their alternatives.
21 The concern is, I think you expressed it and then
22 the Monsignor expressed it, and my concern and the
23 reason for my very specific questions about
24 language is that an imprecisely written law will
25 impact all activity. The bad people doing the

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2 wrong thing and the good people at the table who
3 are doing in their minds what they think is the
4 right thing. I'm not one to throw out slippery
5 slope and chilling effect but that's the question
6 at hand. I think the previous Council Member
7 alluded to that initially about the distinction.
8 I think that's what you're concerned about. An
9 imprecisely written law is not going to catch the
10 folks who are doing the wrong thing. Based on the
11 previous testimony from some of the other
12 witnesses, I believe the wrong thing is happening.
13 But it's going to impact all activity. It makes
14 it too easy to stop all activity. That's my
15 concern.

16 CHAIRPERSON SEARS: Thank you.
17 Thank you, Mr. Councilman. Thank you very much
18 for being here. We do have to get to the next
19 panel.

20 MSGR. PHILIP REILLY: Thank you for
21 listening and you're attention. God bless you.

22 CHAIRPERSON SEARS: Thank you very
23 much.

24 SPEAKER QUINN: Thank you.

25 CHAIRPERSON SEARS: I'm going to

1
2 call in this order: Ami Sanghvi, Joan Malin and
3 Anne Robinson and Jo Southern [phonetic]. Ami, if
4 you could start and give your name. All who have
5 testimony, we must stick to the clock. Two
6 minutes. I'm sorry. I know when it comes and
7 people say there's a little flexibility here and
8 there. We have five more panels and it's just not
9 fair. The room could be empty when the last panel
10 comes and I think that's not fair. Condense your
11 testimony. I think we've heard a lot and a lot of
12 reiterations about the issue. So if you can
13 address the legislation, you see the pros or the
14 cons with it, that could be very helpful and it is
15 helpful. So just deal with that. Introduce
16 yourself. If you have testimony, the sergeant-at-
17 arms will have it.

18 AMI SANGHVI: Thank you. My name
19 is Ami Sanghvi and I'm a staff attorney in the
20 Reproductive Rights Project of the New York Civil
21 Liberties Union. I would like to thank the City
22 Council members for inviting the NYCLU here today.
23 In light of NYCLU's long history of vigorously
24 defending and balancing sometimes competing
25 constitutional concerns, the NYCLU is uniquely

1 positioned to provide testimony on this bill.
2 They NYCLU believes that the right to decide
3 whether to continue or terminate a pregnancy is
4 fundamental to women's equality, dignity and
5 personal autonomy. However, we also recognize
6 that issues associated with reproductive health
7 care are controversial. We value and encourage
8 dialogue around those issues and would contest any
9 unlawful attempt to censor that dialogue. For
10 that reason, the NYCLU has always carefully
11 considered the impact of measures to protect
12 access to reproductive health care facilities and
13 have opposed measures that violated protected free
14 speech rights. We believe that the Clinic Access
15 bill strikes the appropriate balance between free
16 speech and the right to access reproductive health
17 care. Despite existing laws at the city, state
18 and federal level, which criminalize blocking
19 clinic entrances, various problems have been
20 reported with the enforcement, as we've heard
21 today. While there's a need to strengthen the
22 existing law, it is essential that the mayor's
23 office and the police department focus on
24 adequately training law enforcement and ensuring
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2 robust enforcement of the law. While it is
3 critical for the government to safeguard access to
4 clinics, it is also necessary to ensure that
5 measures intended to do so not impinge on
6 protected First Amendment activity. In examining
7 whether a particular measure withstands
8 constitutional scrutiny, the first inquiry is
9 whether a given measure implicated protected
10 speech or expression. If the measure is content
11 neutral, which this one is, the inquiry is whether
12 the measure is narrowly tailored to serve a
13 significant government interest and whether it
14 leaves open ample alternative channels to
15 communication. This proposal does that. First,
16 the primary concern of the provision is conduct
17 rather than speech. That is an important
18 distinction. And if the bill prohibits conduct
19 that has expressive value, such as a peaceful sit-
20 in, the provision does not run afoul of the
21 Supreme Court's established tests. The only
22 provision of the bill that has been discussed is
23 the follow and harass language and we believe that
24 this language will continue to be understood
25 narrowly and in fact there will be no violation of

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2 the First Amendment rights. I will wrap up. To
3 be very clear, and what should calm the concerns
4 of the panel before me, the proposed legislation
5 does not prohibit prayer vigils, sidewalk
6 counseling, leafleting either within the 15-foot
7 zone or elsewhere. This bill is narrowly tailored
8 to serve significant government interests and the
9 bill is a very good balance in safeguarding
10 reproductive rights as well as the diversity of
11 views of all New Yorkers. Peaceful protest
12 activity is permitted anywhere and we have
13 prepared a lengthier legal analysis which we have
14 submitted in written form.

15 CHAIRPERSON SEARS: That will be in
16 the record, and that will be very helpful. Next,
17 please identify yourself.

18 JOAN MALIN: Thank you. My name is
19 Joan Malin. I'm the president and CEO of Planned
20 Parenthood of New York City. I'm pleased to be
21 here today in support of and to provide testimony
22 for Intro. 826, the Clinic Access Law. I first
23 want to thank the committee members and Council
24 Member Helen Sears and Speaker Christine Quinn for
25 your leadership of issues regarding women's

1 health. It means a great deal to us at Planned
2 Parenthood. On behalf of Planned Parenthood New
3 York City's board, staff and especially our
4 clients, I say thank you. Planned Parenthood has
5 been providing reproductive health care services
6 for over 90 years here in New York City. In 2007,
7 we provided reproductive health care services to
8 more than 42,000 women, men and adolescents at our
9 2 health care centers in the South Bronx, Downtown
10 Brooklyn and in Manhattan at Bleecker Street. We
11 provide our services for anyone who needs us,
12 regardless of their ability to pay. The
13 overwhelming majority, more than 85% of our
14 services are basic preventive health care services
15 for women. Our administrative offices are co-
16 located with our clinic on Bleecker Street. So
17 everyday I pass the women and men who have come to
18 us to seek help and reliable affordable health
19 care. I share the sidewalk with their partners,
20 friends and family members who have come to lend
21 emotional support. Many days I, too, navigate my
22 way past picketers and protestors dedicated to
23 making our job as difficult as possible. Many of
24 them are peaceful, but nevertheless, it is a very
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1
2 difficult gauntlet that we must transpire. I want
3 to be clear at the outset that I am a fervent
4 believer in freedom of speech and the right to
5 protest. I have actually personally used that
6 right many times in the last eight years and I
7 would be the last person to try and diminish that
8 in any way. But I also believe that every person
9 has the right to access health care free of
10 harassment and intimidation. It is this
11 commitment that makes me proud to support Intro.
12 826. I applaud you all for crafting this
13 legislation that strengthens current laws,
14 protects individuals' access to reproductive
15 health care while at the same time respecting
16 First Amendment constitutional rights. One final
17 comment that I would like to make, and again, my
18 colleague from NYCLU said it as well. That if
19 this legislation is to be successful, we also need
20 to look for the support and partnership of the New
21 York City Police Department. They will need to
22 have training, monitoring and accountability
23 around this issue and we at Planned Parenthood, we
24 welcome the opportunity to work with this. I'm
25 now going to turn it over to my colleague and vice

1
2 president, Anne Robinson, who oversees our
3 clinical services.

4 ANNE ROBINSON: I'm honored to have
5 the opportunity to testify in support of Intro.
6 826. Over the years, our clients and staff have
7 experienced periods of intense harassment and
8 intimidation. I can recall one such period in
9 particular, beginning in 2003 and escalating in
10 2005. In the fall of 2005, the New York State
11 attorney general filed a lawsuit, Spitzer versus
12 Cain, under the FACE law, which is the Federal
13 Freedom of Access to Clinic Entrances law, as well
14 as FACE's New York State counterpart and a New
15 York State Law concerning public nuisance.
16 Spitzer versus Cain grew out of repeated protests
17 by two demonstrators at our Manhattan Center, the
18 Margaret Sanger Center. The two protestors
19 engaged in verbal abuse, physical obstruction of
20 the clinic, confrontations, physical threats and
21 sometimes physical assaults. I'm happy to report
22 that in February of '06, the U.S. District for the
23 Southern District of New York, issued an opinion
24 and an injunction finding in favor of the state.
25 We are grateful for the support that we received

1 from the AG's office. However, it was not an easy
2 process. Had Intro. 826 been available in 2003,
3 our health center would have had legal options
4 that could have led to an easier and potentially
5 quicker solution. It would have been easier for
6 our clients and for the police. Under Intro. 826,
7 intent would not have to be established in order
8 for protestors to be arrested and prosecuted for
9 violating the law. As a result, it would have
10 been easier for police to make an arrest. In
11 addition, the health center could have made a
12 complaint to the police without a statement from a
13 patient based on the fact the protestors were
14 willfully interfering with the operation of the
15 clinic. More than 14 years ago, Planned
16 Parenthood launched a clinic escort program to
17 make our clients feel supported when entering our
18 clinic. Each month we train volunteers and
19 activists to become escorts. We have over 50
20 active volunteers that give their time to help
21 protect the safety of our clients. Unfortunately,
22 even with our escort program, many clients are
23 still intimidated, harassed, and shouted at by
24 vehement protestors. The protestors often follow
25

1
2 our clients directly to the door and sometimes
3 block the entry. We're fortunate that our budget
4 allows for safety features that for the most part
5 discourage extreme protest activity.

6 CHAIRPERSON SEARS: Can you please
7 sum up.

8 ANNE ROBINSON: I'm wrapping up.
9 We're keenly aware that many clinics in New York
10 City are small and operate on limited budgets.
11 The litmus tests of this law's success is whether
12 it protects the smallest clinic in the city and
13 not only the largest. This is where the city
14 Clinic Access legislation comes in. Thank you.

15 CHAIRPERSON SEARS: Thank you very
16 much.

17 JO SOUTHERN: Thank you. I'm Jo
18 Southern, speaking on behalf of the Brooklyn Pro-
19 Choice Network. There has been a great deal of
20 discussion this morning about concepts, such as
21 freedom of choice, freedom of religion and First
22 Amendment. But this bill is not really about
23 concepts, it's about real people, real patients at
24 reproductive health facilities. I would like to
25 presume to speak for them, on the basis of our

1
2 group having had to spend 18 continuous years
3 every weekend standing around outside clinics as
4 escorts, helping patients and gathering
5 information. Very briefly imagine that you're
6 going into a clinic for outpatient surgery.
7 You're, of course, a little bit nervous, want it
8 over with, and a partner is with you. If you're a
9 young woman going to a reproductive health clinic,
10 whether for an abortion or something else, you're
11 often very stressed by the situation that brought
12 you there. As you walk up you're startled by the
13 sidewalk display of gory posters and then a
14 perfect stranger, sometimes in religious garb, is
15 within inches of you, right by your face, walking
16 insistentlly right next to you saying things like:
17 mom, don't kill your baby; won't you reconsider;
18 how far along are you; look at this picture, this
19 is what your baby looks like now; here, take this
20 pamphlet and think it over. When you finally do
21 glance at the pamphlet, it has yet more gory
22 pictures. Sometimes of a procedure that is not
23 even performed at this clinic. You have just met
24 the sidewalk counselors, as they call themselves.
25 They may not technically be protestors, but effect

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2 is not the same as intent. There may also be
3 people praying on the sidewalk next to yet more
4 gory displays. By our estimates, this happens at,
5 at least eight New York City clinics. An
6 additional number receive large periodic prayer
7 vigils right in front of them, facilitated and
8 escorted by the NYPD. People sometimes ask, well
9 why don't the patients file complaints? Why don't
10 they even just say get out of my face and go away
11 to the counselors? Once in a while they do, but
12 very rarely. They're generally young women,
13 almost always women of color by the way, and often
14 immigrants. They've been taught to be polite and
15 to deal with unpleasantness by ignoring or
16 avoiding it. They just want to get away.

17 CHAIRPERSON SEARS: Can you sum up
18 please?

19 JO SOUTHERN: Yes, I'm about to.
20 The effects of what goes on produces guilt. It
21 produces in effect, harassment, although that may
22 not be its legal intention. Now, to 826, why do
23 we need this bill? We need it because the
24 existing legislation in many ways has been
25 successful. But those laws were designed for an

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2 era when the main threat was physical blockades
3 designed at shutting things down and physical
4 danger. Nowadays, rather than risk arrest and bad
5 publicity, anti-choice activist, such as our
6 predecessors here--

7 CHAIRPERSON SEARS: [interposing]

8 You must conclude.

9 JO SOUTHERN: --target the patients
10 themselves. They set up a social and
11 psychological barrier. We ask whether this bill
12 would remove all of the interference going on with
13 restricting access and the answer is no because
14 its prohibitions incorporate very high standards
15 in line with the design of it being narrowly
16 tailored. However, it will, and this is why we
17 support it, it will clarify the definition of the
18 premises; it will assist providers in establishing
19 boundaries; it will establish a small but
20 objective and measurable zone which has specific
21 prohibitions and this will allow the complainants
22 to assist the NYPD in enforcing this legislation.

23 CHAIRPERSON SEARS: You have to
24 conclude. I'm sorry, but we have many more
25 panels.

1
2 JO SOUTHERN: We support this
3 legislation because it provides an excellent
4 building block. We would like to thank the City
5 Council for bringing it forward.

6 CHAIRPERSON SEARS: Thank you. I
7 just have one question because I think one of you
8 addressed it. The panel before, persuasively,
9 said that they are not protestors. They are
10 peaceful demonstrators. You mentioned prayer, you
11 mentioned rosaries and all kinds of things that
12 this bill does not stop. They have every right to
13 do that. So you somehow made some reference to
14 associating some of that with what some of the
15 protestors do. Maybe you need to clarify that
16 because this bill does not stop prayer. It does
17 not stop the rosaries. They are peaceful
18 demonstrators. I have seen them. I've seen them
19 in Grand Central Station. I've seen them in many
20 places because I do get around the city. So I'm
21 asking you to address that because you're
22 addressing that.

23 JOAN MALIN: From our perspective
24 we are fully in support of peaceful demonstrations
25 and folks who want to come in front of the clinic

1
2 and to protest in a peaceful way that does not
3 restrict access to our services and does not
4 intimidate or harass our clients. As I spoke in
5 my testimony, we obviously are in support of
6 freedom of speech. We think this bill does create
7 the proper lines that allow for access to our
8 services, not harassment and yet allows people to
9 protest as they need to.

10 CHAIRPERSON SEARS: I think one of
11 the things is that the very fact that it's removed
12 from the individual to the facility is in the case
13 of peaceful demonstrators intimidating in itself.
14 That is what I get from some of the testimony.
15 Can you address that?

16 JO SOUTHERN: I'm sure they
17 perceive it this way. From our perspective, they
18 may be peaceful, but their goal is to restrict
19 access using peaceful means and guilt and fear
20 rather than actual physical blockages. So we want
21 to talk a little bit--

22 CHAIRPERSON SEARS: [interposing]
23 Well that's what you're saying. That's not what
24 they said. I'm not going to take your hearsay for
25 what we had from their testimony. Thank you.

1
2 AMI SANGHVI: I just wanted to make
3 one point that as an organization that looks very
4 carefully at First Amendment protected speech and
5 that takes that extraordinarily serious, this bill
6 does not harm any protected free speech protected
7 by the First Amendment. An individual is
8 absolutely free to express his or her self
9 regardless of whether they oppose or support the
10 reproductive health services that a person is
11 receiving at that facility. I want to be very
12 clear that we also interpret this proposed
13 legislation as not prohibiting peaceful protest
14 activity, prayer vigils, sidewalk counseling,
15 leafleting, even within the 15-foot zone as long
16 as it is peaceful and it does not run afoul of the
17 many cases the Supreme Court has heard on this
18 issue.

19 CHAIRPERSON SEARS: Thank you.

20 JOAN MALIN: I just want to add
21 that since we had our decision in 2006, for the
22 most part we have many peaceful protestors and it
23 doesn't create an issue on a day-to-day basis.
24 But it's when these principals are violated that
25 we object to.

2 CHAIRPERSON SEARS: Thank you very
3 much. Does Councilman Barron have a question?
4 Thank you. Our next panel is Chris Slattery,
5 Christina Simmons, Julian Sierra [phonetic] and
6 Kaneisha Grant [phonetic]. Are they all here?
7 Do you have any testimony? Again, please see that
8 the sergeant-at-arms has it. Stay to the clock.
9 Perhaps Mr. Slattery wishes to start?

10 CHRIS SLATTERY: Good afternoon.
11 My name is Chris Slattery.

12 CHAIRPERSON SEARS: I have to say
13 thank you for waiting so long, all of you. I know
14 that you've been very patient.

15 CHRIS SLATTERY: No problem. My
16 name is Chris Slattery and I am the founder and
17 president of Expectant Mother Care. I founded the
18 largest network of crisis pregnancy centers and
19 alternative to abortion offices in New York City.
20 We have ten centers in the four boroughs and we
21 also have been out in front of Dr. Emily's for two
22 years with a mobile clinic where we counsel and
23 talk with young girls and women. Three of them
24 are here with me and there are three upstairs and
25 I'd like them to get to testify later. We are not

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2 at Dr. Emily's or any of the other clinics that we
3 go to, to protest. We are there to talk to these
4 young ladies. We are there to reach out to them
5 in love and in compassion because we care about
6 them and their futures. We love them. In the 24
7 years that I've run Expectant Mother Care, we have
8 counseled and served 95,000 girls and women, most
9 of whom are pregnant. At Dr. Emily's we're
10 counseling about 1,000 girls face to face per
11 year. I see bill 826 as a huge threat to the free
12 speech outreach to reach and talk with these girls
13 in a non-harassing First Amendment way with love
14 and compassion. We have mainly female counselors
15 who approach girls like these three women who had
16 appointments at Dr. Emily's, who did not feel
17 harassed, threatened or in any way intimidated,
18 but talked with our counselors, came into our
19 mobile clinic and voluntarily chose a different
20 path than they had scheduled that morning. In
21 fact, on an annual basis, I estimate 3,000 women
22 turn away from their appointments by being
23 counseled by Monsignor Reilly, the sisters, the
24 brothers and the lay people that in love and
25 compassion have not been harassed. Can you image

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2 3,000 women changing their mind and their plans
3 for an abortion because they were harassed? No.
4 But because they were given love. There's one
5 thing that disturbs me this morning, this issue
6 about giving out or offering water as if we're
7 trying to sabotage a person and cause them harm.
8 I had no idea that offering someone on a hot July
9 day a glass of water or a bottle of water would be
10 considered like a hostile act of harassment.
11 Since when is that true? Well, any, that's beside
12 the point. I'd like the ladies to speak. They
13 have no prepared statements. They weren't told
14 what to say. They're going to speak from their
15 hearts. Each one of them is pregnant and each one
16 of them made a different choice than they
17 originally planned. If I can't approach them and
18 our counselors are intimidated and so scared to
19 death of lawsuits and arrests that we can't speak
20 to these women, even in that 15-foot zone, then
21 these kind of women will get more abortions when
22 you said at the beginning, Ms. Sears, that you
23 were in favor of a reduction in abortion. That's
24 exactly what our organization does. We help
25 reduce abortion by helping young women like those

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2 here.

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CHAIRPERSON SEARS: They will need to speak in two minutes. But I have a question after they testify because I'm not certain how this proposed legislation stops you from doing what you're doing. Answer that after they testify.

9

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CHRIS SLATTERY: I would be happy to.

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CHAIRPERSON SEARS: They need to stay to the clock please.

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KANEISHA GRANT: My name is Kaneisha Grant. I live around the corner from Emily's Health Clinic. Actually, to tell you the truth, I'm not scared of protestors. I'm not actually scared of them. I think they are very helpful. There's a lot of women, there's a lot of my friends that do get a lot of abortions just because they don't have anybody to talk to. When you do go to the clinic you don't get the conversation that you get from them to help you to actually change your mind and to stop having abortions. I pretty much had a bad experience and this is the reason why I am here because I would

1
2 like people to hear it from me to. I've been to
3 the clinic at least two or three times. The last
4 time that I did go, I was pregnant and I was told
5 that I wasn't pregnant. And then turned around
6 that it was too soon for me to find out that I was
7 pregnant. This is what they told me. I should be
8 getting my period soon. That Monday I thought it
9 was a period, which it wasn't. I was actually
10 pregnant. I was pregnant for like two or three
11 months not knowing because after that period I
12 wasn't getting any more. You understand what I'm
13 saying? When I did go back to them to let them
14 know that I missed and I'm pregnant or whatever,
15 it was too late. Because already now I'm having
16 contractions not knowing. So I wound up having to
17 go to the hospital. I had my baby. My baby
18 passed away. I didn't learn my lesson that time.
19 I went back to them again. This time that I went
20 back to them I was pregnant and I didn't know what
21 I really wanted to do so I had an abortion. They
22 didn't do everything that they were supposed to do
23 with my procedure and I almost lost my life. This
24 is why I do not go in. I would never go in. I
25 would not even tell my friends to go in. Do you

1
2 understand that? Since I've been talking to Julie
3 and her staff, it's been wonderful for me. I have
4 two children now. I'm trying to have one now.

5 They have been really helpful. Thank you

6 CHAIRPERSON SEARS: Thank you.

7 State your name please.

8 KARISMA SIMMONS: My name is

9 Karisma Simmons [phonetic] and I'm here with the
10 ladies from the EMC in the Bronx. I just want to
11 say that I feel what these women are doing is not
12 harming anybody. There are plenty of people that
13 stand around and give out fliers. What they're
14 doing is just raising awareness. They're giving
15 young ladies like myself an alternative and
16 something to think about before you walk in there
17 and do something that you might regret.

18 Regardless of what they say to you, it's your
19 choice to walk in or to walk out. I did witness
20 the ladies giving out pamphlets and fliers. They
21 didn't harass anybody. They didn't grope anybody.
22 They didn't do that to myself. I wasn't harassed.
23 I was basically educated. Thanks to them I'm
24 going to have a baby any day now. My first choice
25 was to walk in that place and not give my child

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2 the chance to live. I would say they gave me
3 insight. They have helped me since I have met
4 them. They're not doing anything wrong. They're
5 just raising awareness to people who don't know
6 what they're probably going to get themselves into
7 once they walk in there. Thank you.

8 CHAIRPERSON SEARS: Thank you.

9 Julian Sierra: Good afternoon. My
10 name is Julian Sierra. I'm 19-years-old and I
11 have two children. The one that I have now, that
12 you all see, my first choice was to give him up.
13 But then I thought about it. Why can't I give my
14 child life? If I can't take care of him, there's
15 other choices. So, no, they're not harassing.
16 They're giving me a chance to know what an
17 abortion is. At first I thought that an abortion
18 was just a bill and then the baby would just come
19 out. There's more to it than that. So I'm
20 learning. I'm getting to know what it is and what
21 I'm doing. I'm young and I don't know right now
22 what life is really about. We have our choices to
23 get in and get an abortion or not. We have the
24 choice to raise our child and give other people a
25 chance to know what life is about. I gave my

1
2 child a life and I'm proud of that. Because of
3 Julie, because of all of these women protesting
4 and giving me a pamphlet. I don't have to read
5 it. It's my choice to read it or throw it away or
6 whatever. But, as I said, they're not harassing.
7 They're giving me a chance to know what it's about
8 and what an abortion is. I did not know what an
9 abortion was. From my instincts, it was just
10 drink a medicine and that's it. I didn't know
11 what we had to do. Whether we had to put
12 something up there up cut the baby up or vacuum, I
13 didn't know any of that. But I thank them so much
14 for making me understand what an abortion was.

15 CHAIRPERSON SEARS: Thank you very
16 much. I thank you for coming because it's not
17 easy to come and testify at City Hall and you
18 waited a long time. So I really appreciate that.
19 I think I have to say and then Mr. Slattery will
20 answer my question. The proposed legislation is
21 not stopping them from coming to you. It's not
22 doing that and if there was any attempt to do
23 that, that would be wrong. That would be breaking
24 the law. The fact is that there are areas where
25 young girls and women are intimidated rather

1
2 badly. Now, certainly, Monsignor Reilly
3 testified, as I said, very persuasively that
4 they're very gentle and they're really doing the
5 work that they believe in. This is not to stop
6 them and it is not for City Hall to stop them.
7 What City hall is about in making laws is that
8 people are treated fairly, that they have a safe
9 environment. Because I think you said a very key
10 thing. You really said it was your choice, but
11 you're talking about free will. It is government
12 that must create an environment for people to
13 exercise their free will. At the same time, as
14 much as you've heard other testimony, there are
15 demonstrators and that's within the law, to
16 persuade you otherwise. Nobody is stopping that.
17 But you certainly wouldn't want to be violently
18 attacked because you were listening to them. I
19 think there was a separation of peaceful
20 demonstrations and protestors. I can tell you the
21 testimony that you heard was not manufactured.
22 People get into these facilities and they are
23 harassed. They're really intimidated and in many
24 instances that their safety is really at hand. So
25 I think that you need to do that. It's

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2 commendable that you're here. Obviously you are
3 the success of the efforts of the group that is
4 doing this. Certainly they are successful. I
5 don't know why you think that this proposed law
6 would stop you from doing what you're doing. I'm
7 still not clear on that.

8 CHRIS SLATTERY: May I answer that
9 question?

10 CHAIRPERSON SEARS: Yes.

11 CHRIS SLATTERY: We heard the
12 testimony from a leader of Dr. Emily's. On the
13 day that you announced the legislation, which was
14 the launch, probably not coincidentally of the
15 National 40 Days for Life Campaign on September
16 24th, Dr. Emily's was prepared and had gone to the
17 police and made sure that the police were at Dr.
18 Emily's every day during the 40 Days for Life
19 Campaign that I conducted. This was conducted
20 with a great amount of prayer, a great amount of
21 attention to training of the counselors to make
22 sure that they don't block doors and they don't
23 block people's path and they don't stop and hold
24 someone or touch their arms, but just extend
25 brochures and discussions and invite people to

1
2 come over to the edge of the property for
3 discussions.

4 CHAIRPERSON SEARS: How would this
5 bill stop you from doing that? I asked the
6 question.

7 CHRIS SLATTERY: The police were
8 there and observing us every single day. Yet this
9 woman is screaming bloody murder to the police all
10 the time for refusing to arrest us. Now you want
11 to give these people the power to have us arrested
12 and you ask us not to be in fear. I'm sorry, I
13 don't give them the benefit of the doubt. This is
14 a business for them. When these three girls chose
15 to have their babies, they lost their business.
16 You are giving a one-sided bias law to protect a
17 business so that they will continue to make their
18 profits. They're not interested in reducing the
19 number of abortions.

20 CHAIRPERSON SEARS: Mr. Slattery,
21 that's really not addressing what the legislation
22 does. I'm not going to suddenly pivot panel
23 against panel. I'm not. You answered the
24 question and I think that's something that
25 certainly what this bill is to do is not to

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intimidate those who are there obeying the law.

CHRIS SLATTERY: Well I am the leader of this group and I can tell you that you are intimidating me with this bill and all of my staff. We're not some other fictitious bogey men and strong men.

CHAIRPERSON SEARS: You have made your point and you've answered my question. I don't want to take another recess. We have other panels. I appreciate your cooperation. Thank you very much. Our next panel is Helen Rosenthal [phonetic], she representing herself, Reynals Tenazis Norman [phonetic], and Carrie James [phonetic]. Are all three of you here? The third name that was called? Can you tell me your name?

HELEN ROSENTHAL: Helen Rosenthal.

CHAIRPERSON SEARS: And you are?

CARRIE JAMES: Carrie James.

CHAIRPERSON SEARS: So Reynals Tenazis Norman, is he here? Is Philip Kim here? Please join this panel. Thank you. You can start. Just identify yourself. If you have any testimony, please give it to the sergeant-at-arms.

HELEN ROSENTHAL: Thank you for

1 holding this hearing and thank you for the
2 patience during the process. My name is Helen
3 Rosenthal. I'm on the National Board of NARAL
4 Pro-Choice America and I am the chair of Community
5 Board 7 on the Upper West Side. But I'm speaking
6 to you today as a private citizen. I
7 wholeheartedly support bill 826 introduced today.
8 Here in New York City we have commendable laws
9 that protect reproductive health care rights. But
10 the laws do not do enough to protect the people
11 who need access to reproductive health services.
12 As you've just talked about, there is a difference
13 between peaceful protest and an angry mob. The
14 bill today takes an important step in making this
15 distinction. We all deeply cherish the freedom of
16 speech and as citizens we can and should make our
17 voices heard about the things we believe.
18 However, we need to make it clear that a person's
19 right to speak their mind does not allow them to
20 harass, intimidate or inflict violence on anyone.
21 I live on the Upper West Side and during the early
22 1990s there was only one reproductive health
23 center in the area. I happened to live across the
24 street from their clinic. It was in an office
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1
2 building in a residential area with a variety of
3 medical practices, including dental offices and
4 physical therapists. At the time, there were
5 often protestors outside. I saw the crowds gather
6 on weekends intimidating all of those trying to
7 get in. It became an economic issue for all of
8 the tenants. In 1994, when the center's lease was
9 up, they were unable to re-sign or rent a
10 different space in the area. Many believe that
11 the clinic was repeatedly turned down because the
12 landlords were concerned about the dangerous
13 protestors. The terrorizing actions had the
14 effect of preventing people from receiving care.
15 How did that happen?

16 CHAIRPERSON SEARS: Well you're
17 reading slowly.

18 HELEN ROSENTHAL: I was? Listen,
19 we need to remember how far we've come along in
20 terms of gaining access to reproductive rights.
21 We need to think about how far we still have to
22 go. Let's take this subtle and important step
23 today so we can ensure that all New Yorkers and
24 Americans can feel safe in making their decisions
25 about their own bodies for every generation to

1
2 come. Because we have the freedom to choose, we
3 have to have the freedom of access. Thank you
4 very much.

5 CHAIRPERSON SEARS: Thank you.

6 CARRIE JAMES: Hello. My name is
7 Carrie James. I've been volunteering for Planned
8 Parenthood for about the last two years. I am the
9 co-chair of the political action group with that
10 group, but I am here speaking for myself. One of
11 things we do is exercise our First Amendment
12 rights and do demonstrations of support outside of
13 the Bleecker Street clinic to counter the prayer
14 vigils that are very peaceful outside of that
15 clinic. However, they do dispatch a couple of
16 people to each side of the clinic who I have seen
17 running down the street to grab people. The
18 people are obviously asking them to leave them
19 alone and they still follow them all the way up to
20 the clinic door. Or, if they don't go in the
21 clinic, they'll follow them to the end of the
22 street and then finally leave them alone to go to
23 the next person. So I personally believe in
24 unfettered access to reproductive health care and
25 health care in general. That's why I'm supporting

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this bill. Thank you.

PHILIP KIM: I'm Philip Kim and I'm a volunteer captain of the Planned Parenthood of New York City clinic escort program. I'm not here as an official spokesman for Planned Parenthood. I and the escorts I organize have been witness to the escalating aggression of protestors just in the last couple of months. We've had three incidents at two of the many clinics in New York City that this legislation could give victims of harassment legal recourse. In the three recent incidents, patients seeking services were harassed to the point where the patient had exclaimed out loud in the street, I'm just here to get my birth control, or, I'm not here for an abortion, and in the last case, you don't understand. The protestor was relentless. Before an escort could go and help them, the patient was exasperated and yelled, I was a victim of rape and began to cry. The escort finally forcibly had to step between the patient who was sobbing and the protestor who was still harassing the sobbing patient who was trying to get in and held her arm and helped her into the clinic. People should not be allowed to

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2 harass and intimidate patients to the point where
3 they are forced to divulge personal information on
4 the street to strangers. And as a spokesman for
5 the 98 volunteer escorts I organize, we who act as
6 buffers, I'm only 5'10", 15 foot would be a lot
7 better, believe that the men and women should have
8 the same rights to privacy and respect when trying
9 to access health services. That's why I'm here in
10 support of this bill.

11 CHAIRPERSON SEARS: Thank you very
12 much. If you're wondering why when we first it
13 seemed like I was with an optometrist it's because
14 my glasses were left at home and the only
15 prescriptions I have are the dark glasses. So
16 they all went fetching to get me glasses and none
17 of them work. So I keep having difficulty with
18 the names unless I put my own prescription on.
19 Our next panel is April Gay [phonetic], Anaza
20 Robertson [phonetic], Cassandra Legari [phonetic],
21 and Brian Strong [phonetic]. Are you all here?
22 You may start. Please introduce yourself.

23 ANAZA ROBERTSON: My name is Anaza
24 Robertson. About two months ago I met a woman
25 named Julie and she helped me to keep my baby.

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2 She did not harass me. She gave me all the
3 answers. She treated me with respect, love and
4 dignity. It was like an angel telling me this was
5 wrong. I would tell young women to think before
6 you get an abortion. There are people who will
7 help you and treat you lovingly, keep your
8 privacy confidential and treat you with respect.
9 Thank you for your time.

10 CHAIRPERSON SEARS: Thank you very
11 much. Next? Pull the microphone over to you.

12 APRIL GAY: Hello. How are you
13 doing? My name is April Gay. Good afternoon.
14 What I want to say is that last week I was about
15 to do something that I would regret for the rest
16 of my life. I just want to thank the EMC staff
17 for stopping me from doing that. Like I said,
18 everybody expressed their issues and how they feel
19 about certain things. I'm saying how I feel is
20 that I don't really think an abortion is right.
21 You know what I mean? I think women who are going
22 to an abortion clinic should at least have
23 options. The abortion people should at least give
24 you options of whether you want to keep your child
25 or not. Do you understand what I'm saying? My

1 whole thing is that to me it's about the money.
2 I'm just being honest. I'm just speaking how I
3 feel. I really do appreciate what they did
4 because I would have done something I would regret
5 for the rest of my life. I really want to thank
6 them for that. That's it.

8 CHAIRPERSON SEARS: Thank you.

9 Next?

10 CASSANDRA LEGARI: My name is
11 Cassandra Legari. About two years ago I found out
12 I was pregnant and I was very indecisive because I
13 had gotten accepted to Penn State and I wanted to
14 continue with my goals. I didn't know if I should
15 bring a baby into the world. So outside of the
16 clinic a man greeted me and asked me to rethink my
17 position. He did not force himself on me in any
18 way. He didn't harm me. He didn't harass me. I
19 went in and the clinic was full, every seat was
20 full of people who had gotten in unharmed. And
21 due to my decision, I left and they took me to the
22 RV where they talked to me about all the pros of
23 me having the baby and how I could still fulfill
24 my goals if I kept the baby. She's one-year-old
25 now and I couldn't be any happier. Thank you.

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CHAIRPERSON SEARS: Thank you.

BRIAN STRONG: My name is Brian Strong. I'm a senior at Fordham University up in the Bronx. I'm currently president of the senior class at Fordham. I was president of Fordham's Respect for life club. It's a pro-life undergraduate club. We had about 40 members last year. I'd like to give a quick shout out to my Respect for Life Club members up there that are still standing. I am also an intern at EMC Crisis Pregnancy Centers and I've been sidewalk counseling outside of Emily's for about a year and a half now. I'd also like to say I'm thankful for little Jason who was up here before with one of our girls who is too young to understand that he was a product of hate and coercion. I'm grateful that we have a chance to be heard in this city. I know that our opinion and our actions are not popular and not always welcomed. I speak primarily for those women who do welcome our opinions and for those children who have been born because their mothers opened up to us. I know that the workers of Dr. Emily's are good citizens. I've conversed with many of them and believe that

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2 many of them have the best intentions. And though
3 I do believe that they care for women there is
4 undeniably an economic influence on what they do
5 day to day and what they're trying to do to
6 sidewalk counselors now. It was actually them who
7 proposed this legislation, as mentioned before.
8 They really don't have much protest activity
9 outside. It's basically sidewalk counseling
10 activity. Every woman we talk out of going into
11 the clinic to get an abortion costs them somewhere
12 between \$350 to \$1,000. On our good day's well
13 change the minds of six or seven girls' minds. I
14 have yet to talk to a woman who has come out of
15 this clinic choosing life for her child because of
16 what a counselor inside Emily's said to her.
17 We're the alternate point of view for these women.
18 We give them options so that they can actually
19 make a choice. We have no economic incentive to
20 do so. I think this goes for the other Fordham
21 students as well who have helped me sidewalk
22 counseling, the abortion clinic is the last place
23 we want to be at 7 a.m. on a Saturday morning,
24 hung-over, quite honestly. The only thing that
25 could really motivate us to do this is love for

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2 these women. We know that harassment is not love,
3 so we don't partake in that. By passing this law
4 specifically, I think that the clinic is being
5 given the power to have us arrested without
6 evidence. I plead you to ask yourselves if we are
7 the enemy and do we make society worse off.
8 Should we be punished for our youthful idealism
9 and desire to help those in our Bronx backyard?
10 Would these mothers have been happy today if we
11 weren't there? So I plead you to allow us to
12 continue our service to the Bronx community.
13 Please vote no on this bill. Thank you.

14 CHAIRPERSON SEARS: Thank you. Our
15 next panel is Jane Balatria [phonetic] and Janice
16 Pemberton [phonetic].

17 JANICE PEMBERTON: I'm Janice
18 Pemberton, if that helps.

19 CHAIRPERSON SEARS: There was one
20 other fellow. He's not here. Go ahead.
21 Introduce yourself.

22 JANICE PEMBERTON: My name is
23 Janice Pemberton. I'm a participant in a lot of
24 the groups that have had a pro-choice position
25 this morning. I am basically here speaking for

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2 myself. I became a pro-choice activist after an
3 abortion I had 22 years ago. The reason it
4 affected me was because my only concern going in
5 for a surgical procedure was whether those people
6 would be at the door holding that stuff in a jar
7 that I didn't want to see. So I decided if that
8 was my experience that it had to be other's
9 experience also and I had to do something. So
10 I've been a clinic escort in Los Angeles and in
11 Queens, Brooklyn and Manhattan for most of the
12 past 21 years. I want to speak out to the
13 sidewalk counselors and protestors of the anti-
14 choice persuasion with the honest intent of
15 providing information to let them know they have
16 nothing to fear from Intro. 826. Speaking
17 respectfully to clients is an action I support. I
18 encourage this. I think everybody needs to have
19 their point heard. But when a woman says no to
20 the point that I can hear her, or no thank you, or
21 refusing literature, or refusing rosary beads, or
22 refusing the plastic models of a fetus, or
23 expressing no interest at all, it is respectful to
24 step back and accept that no is the answer you're
25 getting. I appreciate the fact that the police

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2 will now be able to hear these women and men who
3 are in the midst of these issues and be able to
4 assess for themselves whether this is harassing
5 and be able to move forward on their behalf
6 through criminal or police issues. It's really
7 important. A lot of these women do seek their
8 privacy. I also want to speak to the Monsignor
9 who was talking how they would assess whether a
10 woman was going in for an abortion and if she
11 wasn't going in for an abortion leave her alone.
12 I don't feel the need to pass a litmus test for
13 what medical service I'm getting today. I'm a
14 woman first. I have feet. I have teeth. I have
15 eyes. I could be going in for another procedure
16 and it's none of your business. Thank you very
17 much.

18 CHAIRPERSON SEARS: Thank you very
19 much. Our next panel is Fred Trabulsi, John
20 Gibson [phonetic], Julie Bale [phonetic], and
21 Carrie Ryan [phonetic]. Are all four here? We
22 were just putting the panels together. And you
23 are?

24 FRED TRABULSI: Fred Trabulsi.

25 CHAIRPERSON SEARS: I guess the

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2 others are not here. So at that point, it's just
3 Mr. Trabulsi. Who is coming down? Wait just a
4 second. Is John Gibson on his way down from
5 upstairs? Why don't you proceed, Mr. Trabulsi.

6 FRED TRABULSI: Good afternoon.

7 CHAIRPERSON SEARS: Thank you for
8 waiting. It's been a very long day.

9 FRED TRABULSI: My name is Fred
10 Trabulsi. I'm the executive director of The Life
11 Center of New York. First, let me say thank you
12 for allowing me to speak to this body this morning
13 of the City Council. I'm saddened that Madame
14 Chair is the only one here. I wish the other
15 council members would be here also.

16 CHAIRPERSON SEARS: I know, but
17 there's so much that they have in their day. I'm
18 sorry too.

19 FRED TRABULSI: Yeah, it's too bad.

20 CHAIRPERSON SEARS: But they
21 stayed. That's why when people go over their time
22 they really limit the time that other people have.
23 That's why I was getting very pushy about it.

24 FRED TRABULSI: I appear today on
25 behalf of the women who find themselves in

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2 situations where they feel they have no
3 alternatives than to abort the child they are
4 carrying. Let me say, in the 25 years that my
5 organization has been in existence, we have given
6 those alternatives to countless women. The number
7 of women who have passed through our doors in all
8 those years have been approximately 25,000 to
9 50,000 women. If it had not been for the sidewalk
10 counselors that are able to speak to the women
11 approaching the abortion clinics, many would not
12 have had the chance to know that there are
13 alternatives. We are able to help the women with
14 all the means to ensure them decent treatment and
15 assist them in all their needs throughout their
16 pregnancy and well afterwards as long as they need
17 us. We have heard that they did not know there
18 was alternative help out there. One of the most
19 important means of making them aware of this help
20 are the sidewalk counselors. I have never heard
21 from any woman coming to our office that a
22 counselor harassed them in any way. They are
23 always spoken about with appreciation and respect.
24 I urge this body in no way to hinder or impose any
25 restrictions on their peaceful assembly, which is

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2 guaranteed by our Constitution. For what I hear
3 today, regarding Intro. 826, is that "the clinic
4 would now be able to file a compliance for the
5 person already being harassed." I believe I still
6 live in America and one has a right to face his
7 accuser. How can the clinic be the accuser? To
8 me it's a conflict of interest. Again, I want to
9 thank you for letting me appear here. Thank you
10 very much.

11 CHAIRPERSON SEARS: Thank you. Go
12 ahead. Please state your name.

13 CARRIE RYAN: Hi. My name is
14 Carrier Ryan. I am a doula and sidewalk counselor
15 in the Bronx. As part of my training as a doula,
16 I have studied theories regarding pregnancy and
17 birth. One text, Varney's Midwifery, Fourth
18 Edition, is a textbook where Yale University did a
19 study of pregnant women. It showed seven out of
20 ten pregnant women, that's 70%, have regrets
21 regarding their own pregnancy. The factors
22 include psychological and physiological conditions
23 such as their upbringing, particularly
24 relationships with their on mother and economic
25 status. With the proper support these women can

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2 and do work past their fears. As a sidewalk
3 counselor, we look to assist women with making
4 smart decisions, decisions they won't regret.
5 Keeping in mind that 94% of women regret their
6 decision to have an abortion. Women don't regret
7 babies, they regret abortions. Never have I
8 yelled or blocked a woman. In fact, most of the
9 time they have trouble hearing me. My goal is not
10 to hurt or shame the women, but rather never to
11 let another woman feel she had nowhere to turn or
12 that she had to have an abortion even though this
13 was not her first choice. I am their friend,
14 sometimes their only friend, not their enemy. My
15 question for the council is if I help a woman, am
16 I going to jail? Whose decision is it? Is it the
17 woman who chooses life or the clinic who loses
18 money? I have been yelled at and cursed at by
19 clinic owners even without blocking doorways. I
20 was threatened to have the police called on me for
21 talking with a client. I can easily see this bill
22 being a way to target me and others like me for
23 stealing business, even though all I want is to
24 provide a woman with options. Thank you.

25 CHAIRPERSON SEARS: Thank you.

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2 JULIE BALE: First of all, thank
3 you committee members and everyone here for
4 hearing me. My name is Julie Bale and I have
5 worked outside at Dr. Emily's Clinic for almost
6 two years. In that time I have had the privilege
7 of speaking with thousands of women. Of course
8 not all of them have welcomed me and I understand
9 that my presence alone might be off-putting. But
10 it is with love, sincerity and respect that I
11 approach women heading for the clinic. Please
12 consider for a moment my position. It is my goal
13 to let women know that I have help for them if
14 they have second thoughts about having an
15 abortion. How could I then, as a stranger to this
16 woman, even have the chance to be heard by her, if
17 I were to approach her with anything other than
18 love and respect. Please believe me when I say
19 that the women who already have their minds made
20 up to have the abortion, which is only
21 approximately 20% of those coming in to Dr.
22 Emily's, will quickly let me know that they do not
23 desire my help through direct communication by
24 telling me or through their body language or
25 attitude towards my presence. I respect these

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2 women and the decision they have already made and
3 I back away. But the majority of women,
4 approximately 80% based on my own humble estimate
5 and experience, have come to Dr. Emily's because
6 of some pressure, whether financial, situational
7 or maybe they are very young or have no support
8 from the baby's father, or emotionally, perhaps
9 confusion or doubt about their ability to raise a
10 child. What I try to do is offer them services
11 and assistance or help that will meet their
12 personal needs to help them overcome perceived or
13 real obstacles to carrying their pregnancy to
14 term. I have seen that the majority of women
15 going to the clinic had no idea that help existed.
16 They didn't realize that the right to choose
17 abortion also implied their right to not choose
18 abortion. But how could they choose to have their
19 baby when everything about their circumstances
20 made it look impossible? They need to be informed
21 about real help and alternatives, even at the last
22 minute, even within 15 feet. That is why I plead
23 that you allow us to continue our peaceful life-
24 changing work.

25 CHAIRPERSON SEARS: Thank you very

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2 much. Our next panel is Barbara Meara, Claire
3 Gallagher [phonetic], James DiSilva and John Early
4 [phonetic]. Any one of you may start first. Just
5 introduce yourself and if you've got testimony,
6 we'll take it and put it in the record.

7 JAMES DISILVA: My name is James
8 DiSilva. I'm appearing here personally. But also
9 I'm an advocate for the local Knights of Columbus
10 Council in the Bronx, the Agnus Dei Council and
11 also on their pro-life committee. The one thing I
12 wanted to stress, which I think has not been heard
13 today is our pro-life work is supporting
14 spiritually and materially women in crisis, women
15 who have the courage to turn away from abortion.
16 Most of the time they are facing economic crisis
17 and often the sidewalk counselors' work bring us
18 those women so we can help them. We can help them
19 find jobs. We can help them deal with their
20 economic crisis. We can help them materially.
21 This is really the primary issue that is here. We
22 have a split of opinion. Some people think that
23 an unwanted baby needs to be aborted. What these
24 sidewalk counselors say is that it's not the only
25 choice. You're in a position and we can help you.

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2 The Knights of Columbus really depends on those
3 sidewalk counselors so we can do the work and get
4 them the help that they need. I would just like
5 to address a couple of issues with the bill.

6 Section 6, where it says willfully interfere with
7 the operation of a reproductive health care
8 facility, I'm not sure what that means. Anyone
9 reading that may not be sure that means. I think
10 the council really needs to be concerned about the
11 vagueness in this statute. You have a Council
12 Member, Councilwoman James, and I quote her.

13 Today she said, "harassment is feeling harm." Now
14 that statement is directly opposed to what's in
15 this bill, which talks about reasonable feel of
16 harm, which is an objective standard. If you have
17 a Council Member who is going to take complaints
18 from constituents and thinks harassment is
19 subjective, if someone feels harm, no matter what
20 objectively these sidewalk counselors did, that is
21 in direct opposition to this statute. So these
22 sidewalk counselors have a reasonable fear of
23 being prosecuted and have a chilling effect on
24 them. That is the most important thing that needs
25 to be taken in consideration. This statute has to

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2 be looked at very carefully. I'll conclude with
3 this. Why do we need this bill? You're heard
4 testimony about murders. As far as I understand
5 there is a Penal Law on the book that says it's
6 illegal to murder someone. You've heard testimony
7 about arson. We have a Penal Law for arson. We
8 have statutes about harassment. So why is this
9 bill necessary? Why are the sidewalk counselors
10 being singled out? And as Councilman Oddo talked
11 about there is a vague nature of what is in this
12 bill. A sidewalk counselor may say I do not want
13 to go to jail and what is going to happen if we
14 don't have sidewalk counselors, we're not going to
15 be able to communicate to women that they have
16 choices. They have choices to make with
17 themselves. They have choices to make with their
18 babies. It's up to them to make the choice. All
19 the sidewalk counselors do is give them
20 information, give them options and give them
21 choice. If this council is concerned with choice,
22 it should vote no on this bill.

23 CHAIRPERSON SEARS: Thank you.

24 CLAIRE GALLAGHER: Hi, my name is
25 Claire Gallagher. I am with EMC Pregnancy

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2 Centers. I volunteer approximately 20 hours of my
3 week in front of Dr. Emily's offering in a loving
4 manner information and help to these women who
5 feel like they have no choice but to be there. I
6 just wanted to share with the council an
7 experience I recently had in front of Dr. Emily's
8 with a young girl who I'll call Rachel, in order
9 to protect her privacy. Rachel is 17 and due to
10 pressure from her boyfriend and a fear of the
11 unknown, was seeking abortion. She was telling
12 me, and I quote, she felt like she had no choice.
13 After a long conversation in front of Dr. Emily's
14 Rachel admitted she would regret her decision.
15 Rachel clearly hesitated, but proceeded with her
16 decision that she had made to abort her 15-week-
17 old baby. After Rachel came out of the clinic
18 that day, she told me that if she could turn back
19 time she would do anything to have her baby back.
20 She hugged me as she walked into the subway and
21 said to please call her. I ask you, if this is
22 the kind of work that sidewalk counselors are
23 doing in this city, is this considered harassment?
24 We offer support, even though not always accepted,
25 to women who feel like no one else is there for

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them. Thank you.

CHAIRPERSON SEARS: Thank you.

BARBARA MEARA: My name is Barbara Meara. I'm chairman of the New York State Right to Life Committee. I'm here as a private citizen as well. I'm very concerned about this bill because I always thought First Amendment rights included the fact that the accused should have the ability or the right to confront his accuser. This bill hands it over to the person who has a financial interest in getting us away from the clinic because, as you've heard, some of these girls are very conflicted and do walk away once they realize there are alternatives. I'm very concerned about the young women walking into these clinics. We know that many of them do not have any information about the physical, emotional and psychological complications. The Guttmacher Institute which is connected with Planned Parenthood and the Elliot Institute which is connected with pro-life groups have recorded more than 100 physical and psychological complications, including infections, abdominal pain, damages to internal organs, depression, increased drug and

1 alcohol abuse, and the inability to have more
2 children. So this is a critical decision that's
3 being made. The people in the clinic do not offer
4 them alternatives to abortion. I've had several
5 surgeries over the years and I was told more about
6 the procedure and about the possible complications
7 and all the ramifications of the surgery and more
8 than I wanted to know in many cases. These young
9 girls are not told. They're told this is just a
10 clump of protoplasm. It's like removing a little
11 tumor or wart on your finger. There's nothing to
12 it. They're not told about the development of the
13 baby. We just spoke recently to a young woman who
14 had had an abortion and she said she was denied by
15 the clinic people the opportunity to view the
16 sonogram of her baby. This is simply not fair.
17 I'm not going to go all through this because I
18 know the time is up. If you are really concerned
19 about these young women and not just the abortion
20 businesses, pass legislation requiring abortion
21 businesses to give information on alternatives and
22 on the possibility of complications and on the
23 development of the unborn child. Pass legislation
24 requiring Health Department checks on these
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1 facilities as is done with any other medical
2 facility, but is not done on the abortion clinics.
3 Support the pregnancy care centers which offer
4 positive help to these young women. Thank you.
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6 JOHN EARLY: My name is John Early.
7 I have no affiliation other than I do belong to a
8 couple of the pro-life groups. My actual interest
9 was eugenics. I find that the whole idea of
10 abortion can turn into a real eugenics issue. I
11 just don't want the United States to become like
12 Nazi Germany and that can happen I think. I have
13 seen a sonogram or two and it tells me that a
14 fetus is real and it's growing and it's a sentient
15 being. Therefore, I want to do all I can to
16 preserve it.

17 CHAIRPERSON SEARS: Thank you very
18 much. We'll go to our next panel, but I want to
19 thank you for staying this long and giving your
20 testimony. You've made some points. Let me say
21 something about the hearing. We're having this
22 hearing on this Intro. and we're hearing every
23 side that we have to hear. Don't think that when
24 we have a hearing that that's it. It isn't.
25 Because we listen to what you have to say. We go

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2 back and we look at whether anything needs to be
3 done. But we take your comments very seriously.

4 JAMES DISILVA: Can I make one just
5 ten second comment on the bill in terms of the
6 legislation itself? I think what's important to
7 consider is that the bill in its current form the
8 definitional section, in my view, is totally
9 inadequate. If you would compare the current bill
10 to the 1994 federal bill, the federal bill is very
11 clear in having precise definitions of what is
12 intimidation, what is harassment and what is
13 interference. That is absent from this bill.
14 That's what gives a lot of people concern.
15 Because when you read this bill, for example, just
16 a quote from the criminal justice coordinator when
17 she was asked what harassment was, she said, well
18 it's case specific. It's fact specific. Now,
19 that's what creates a chilling effect because you
20 don't know. I mean the sidewalk counselors are
21 not lawyers. They don't know what it means. So
22 what really is concerning to people is actually
23 who this statute is directed at and what conduct
24 it is directed at. It's really, really not clear.
25 This ambiguity is a real problem that I think the

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chair should consider.

CHAIRPERSON SEARS: We've noted that. Thank you. But I also want to say this bill is not directed at the sidewalk counselors. Now somebody raised that question. It really isn't. This is not open discussion. We've been all sitting here since 10 o'clock. I haven't moved from my chair once. Stop. I'm being very respectful to everybody. I expect you to do the same with the chair. I am saying that we've all been here since 10. The intent of this bill is not. There was a big distinction that Monsignor Reilly made. He separated what you all do, the sidewalk counselors, to strong heavy violent protestors. He made that separation. So this bill isn't directed to the sidewalk counselors. You may go out thinking that but I have to tell you that is not the case because you are not violent people. I'm not open for discussion right now. We've heard a lot of testimony and we have more to do. I'm not defending either side. I'm really not. But I am just saying that this bill was not drawn up for that. There are issues that have been raised and certainly they don't go by

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2 the wayside. It has not targeted any particular
3 groups. Its intent and its purpose is to see that
4 women, young women, older women, have a right by
5 their choice to be protected by the decisions they
6 make. That is the impetus for this bill. Now if
7 there are other thing that come into it and you
8 raise issues I would be absolutely remiss if I let
9 you walk away. You may shake your head, Mr.
10 Slattery, but I am speaking the truth. I
11 certainly don't disrespect the work you're doing.
12 I said to respect the chair or I'll adjourn the
13 meeting. It's my prerogative to do that. The
14 fact is that you may think what you're doing and I
15 don't disrespect what you're saying, but I do have
16 issue when I'm making a comment here of what the
17 intent is of this bill and then you say that's to
18 the contrary. Because the intent is not to target
19 sidewalk counselors. I will say that again and
20 again. I will not let you leave here thinking
21 that's the case. The case of this bill is to see
22 that women, if they exercise whatever rights they
23 have and certainly with the work that you do,
24 persuasively, you have persuaded women to make
25 other decisions. That is your purpose. The

1
2 purpose of this bill is to see that they are just
3 as much protected by that and your standing there
4 and your rights to do that as it is for someone to
5 make another decision and get into a clinic. So
6 what this bill is about is protecting the rights.
7 I'm going to call the other panel now. I want to
8 thank you. You've made some good points. I will
9 call Michael Reddy [phonetic], Neil Sullivan
10 [phonetic], Matthew Sullivan [phonetic], Mary
11 Green [phonetic] and Art Lovely [phonetic]. Are
12 you all here? I'm sorry. You may introduce
13 yourselves and anyone who would like to go first
14 may start. Be sure that for the record we have
15 your name and if you have any written testimony,
16 please see that the sergeant-at-arms has it. You
17 are?

18 ART LOVELY: My name is Art Lovely
19 and I am a concerned citizen from New York.

20 CHAIRPERSON SEARS: You may start.

21 ART LOVELY: If I've been listening
22 to all of the testimony today and I hear that 80%
23 of the procedures in the reproductive health care
24 facilities are abortions, I think we might
25 rightfully say it's also an abortion clinic.

1
2 Life, liberty and the pursuit of happiness is in
3 the DNA of every American. Some of the greatest
4 minds in America, in government, in law and
5 religion and above all and not least of all, in
6 medicine, have claimed that abortion is a
7 horrific, selfish act beyond comprehension. They
8 have called it an intrinsic evil. The killing of
9 your own children. We all have lost loved ones,
10 but not purposely. Now we get into the bill 826.
11 All I've been hearing is about harassment and
12 intimidation. Are we getting a little overly
13 sensitive? Really, are we? Webster describes
14 harassment as somebody that annoys people or
15 pesters people and so forth. Every school teacher
16 has harassed their students if they're not doing
17 well in school. Better get your marks up, Jimmy,
18 or you're going to have to be staying after
19 school. And then we're talking about
20 intimidation. Every football coach intimidates
21 their players. If you don't do it right, buddy,
22 you're going to be sitting on the bench. What's
23 wrong with harassment and intimidation? We're not
24 talking about physical assault here. I don't know
25 how many people that have gone into these abortion

1 clinics that have been physically assaulted.
2 You'll have to tell me that. But who's being
3 intimidated? How about the lady that's going to
4 have the abortion and how about the baby? Is he
5 being intimated? How about the psychological and
6 physical and emotional problems that it creates?
7 We've heard it from many of the other panelists.
8 In summary, I don't think that the council should
9 be involved in these things. You can't favor one
10 side over the other. We have laws. If somebody
11 is assaulted at an abortion clinic then they
12 should be arrested. There are police to do that.
13 But who's going to define what harassment is or
14 what intimidation is? We have good laws and we
15 have bad laws. Slavery was a bad law. We got rid
16 of slavery. Abortion is a bad law. Killing your
17 own children. Any rational person that can
18 support abortion, it's really tough to understand.

19
20 CHAIRPERSON SEARS: Can you sum up
21 please and address the legislation?

22 ART LOVELY: Yes, I can. Please
23 give me my First Amendment rights, Madame Chair.

24 CHAIRPERSON SEARS: Maybe you'll
25 have to yield to the others.

1
2 ART LOVELY: What are we saying?
3 That women cannot produce or fish can't swim or
4 birds can't fly? What's more wonderful than a
5 woman having a child? As far as protecting the
6 child, all I will say is that I'm opposed to 826.
7 I'm opposed to abortion. It's a terrible,
8 terrible plight. I'm in the last half or the
9 ninth inning, unfortunately or fortunately, and I
10 remember before Roe vs. Wade when abortion was
11 illegal and was considered a terrible procedure or
12 practice. So I want to thank Madame Chair for the
13 chance to express my comments. The only other
14 thing I would have to say is I'm very sorry to see
15 that the rest of the council has left. Because if
16 we have to listen to them and they have to vote on
17 this, they don't even know what we're talking
18 about. This is a very important issue and I just
19 wish that they were all here to hear the entire
20 testimony of all of the attendees. That's all I
21 have to say, Madame Chair.

22 CHAIRPERSON SEARS: Thank you.
23 Just so that we know your statements are on the
24 record. Testimonies are re-read. I have done
25 them so it's not to no available for any of you.

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You can go next.

MICHAEL REDDY: My name is Michael Reddy. I'm a member of Helpers of God's Precious Infants. I pray at the abortion clinic, or life termination center, if you'd like to call it that. I've heard the word ambulatory reproductive center all day long. It's an illegal document to my poor judgment. I don't know very much about this but I would think that the nomenclature of what it is should be correct. There is no birth taking place within that building. So to call this a reproductive clinic, it's not. It's a life-terminating center or abortion clinic. That's number one. I've worked closely with Monsignor Reilly for ten years. I pray at the abortion clinic. All that time I've been there have I yet to see that man raise his voice or even frown. I wanted at one time to protect him. I wanted to bring cameras to the site and he said, Mike, don't you dare. These girls are so important and their privacy is so important. How dare you. Don't ever bring a camera. I was going to put a camera in my car to protect him because there was other cameras there. He said no way, the privacy of the

1 girls that are coming here is of the utmost
2 importance. Young women from all over the world,
3 not just the United States, come. I've picked
4 them up at the airport and bring them in. The
5 conversation of do you realize the privilege you
6 have of walking with him. This is from Australia,
7 from Africa, from Germany, from Ireland, from
8 England and from everywhere. Do you know the
9 privilege you have? I know that. He's a walking
10 saint. You have heard of Christianity I'm sure.
11 This is part of the suffering when you work
12 against evil, against the evil of abortion. I'm
13 obviously from Ireland. I have an accent. We
14 didn't have very much, just little thatch cottages
15 and seven or eight kids. I think you would know
16 that they made a name for themselves every where
17 they went. Today they have mansions with two dogs
18 and two Mercedes and no children. The new world
19 order and this is what's coming and this is what
20 this is about. NARAL and Planned Parenthood has
21 wrecked my country over there. I just have one
22 question. I want to find out if what I do is
23 legal and if I will be caused harassment. I want
24 to tell the court here what it is that I do. And
25

1
2 it's this, it's Our Father who are in Heaven,
3 hallowed by they name. Thy kingdom come, thy will
4 be done on earth as it is in heaven. Give us this
5 day our daily bread and forgive us our trespasses
6 as we forgive those who trespass against. And
7 lead us not into temptation but deliver us from
8 evil. Amen. Hail Mary, full of grace, the Lord
9 is with thee. Blessed art though among women and
10 blessed is the fruit of thy womb, Jesus.

11 CHAIRPERSON SEARS: Thank you very
12 much.

13 MICHAEL REDDY: Holy Mary, mother
14 of God, pray for us sinners now and at the hour of
15 our death. Amen. Glory be to the Father and to
16 the Son and to the Holy Spirit as it was in the
17 beginning is now and every shall be world without
18 end. Amen. May God help us all in this city.

19 CHAIRPERSON SEARS: Amen. Thank
20 you.

21 MICHAEL REDDY: For what we've
22 done.

23 CHAIRPERSON SEARS: I need to call
24 the next panel. I'm sorry. I was distracted.

25 NEIL SULLIVAN: My name is Neil

1
2 Sullivan. I'm a taxpayer and a believer in the
3 First Amendment rights. I feel very comfortable
4 with Thomas Jefferson at my back. Just to
5 address, Council Chair, about intent. It's
6 interesting that intent is going to be taken out
7 of this bill via the former law. I also remember
8 the road to hell is paved with good intentions.
9 It's not about intent only. It's about the
10 results. The results of this bill would it cause
11 harassment and intimidation against those
12 exercising their First Amendment rights. Let's
13 take those counselors and let's take those
14 peaceful protestors, just as an aside, a lot has
15 been said about blocking doors and blocking
16 parking lots. I'm not a Harvard lawyer, even
17 though my son is. That's illegal. You don't need
18 this bill to stop that. That's all that was
19 talked about today. But let's get about the
20 results. I'm a sidewalk counselor and I'm out
21 there. Before I would have to face my accuser,
22 which would be the complainant, which would be the
23 person who is going into the abortion mill. Now
24 that's substituted for the person who owns the
25 abortion mill, who is not independent and who has

1 financial gain. Every woman that does not go in
2 there is a monetary loss. Now that's my accuser.
3 Is that fair? Under what assumptions? Under very
4 loose determination of harassment and fear. What
5 is fear? Intent is there by this City Council to
6 protect First Amendment rights and to face your
7 accuser. All of the sudden, no intent, and no
8 accuser. Now, self-interest becomes the accuser.
9 I'm a sidewalk counselor. I'm there to help
10 people. I'm unsophisticated. I don't know my
11 rights. I don't have money. The next thing is
12 I'm arrested because I approach somebody with a
13 piece of literature and they feel threatened.
14 Where do the abortion mill people see this? From
15 a window? Are there going to be right there on
16 the street? Where is the evidence going to come?
17 So I get arrested by a policeman. I now am in
18 jail. I have to get a lawyer. I'm not
19 sophisticated. I don't have all those type of
20 things or the money. So what am I going to do?
21 Someone else finds out that happened to me they're
22 going to say I don't need this; I'm not going to
23 show up. We've seen this in the history of the
24 United States, whether it's civil rights or
25

1
2 protesting war in Vietnam, harassment that just
3 the intent of doing something and having to appear
4 in court will prevent people from exercising their
5 rights. That's what's not in this bill. The
6 reason they had the bill before and those
7 safeguards about facing your accuser and intent
8 was to protect those rights. The American Civil
9 Liberties Union, the New York Civil Liberties
10 Union, talk to Alan Dershowitz, talk to Nat Hencor
11 [phonetic]. Let them tell you. The American
12 Civil Liberties has come in support of Roe versus
13 Wade. It's not an independent group. So as a
14 First Amendment protector in this case, they don't
15 have standing. Thank you.

16 CHAIRPERSON SEARS: Thank you.

17 Please state your name.

18 MARY GREEN: My name is Mary Green.
19 I pray at Dr. Emily's. I've been doing that for
20 about a year. I've never witnessed any harassment
21 at all whatsoever. I have witnessed a large
22 number of young, very ordinary women coming into
23 the clinic. A disproportionate number of African
24 Americans. I know from statistics from the Alan
25 Guttmacher Institute that in 2006, of the 90,157

1
2 abortions in New York City, 40,570 were African
3 Americans. That's 45%, almost half. That's from
4 Guttmacher. While I'm there to pray in between
5 when I get distracted by the women who are coming
6 in, looking at them and seeing them, all I want to
7 say is what Saint Paul said to the Galatians, oh
8 stupid Galatians. He spoke to them about law and
9 faith. I see African Americans, almost half of
10 the women coming into this clinic, aborting their
11 babies. To me that's homegrown genocide. Where
12 are the protectors? I just want to say another
13 thing about the abortion clinic owners. They are
14 not the protectors, yet they are the ones now who
15 can claim that I said something maybe too loud,
16 maybe harassing. I could be in jail on Saturday.
17 You can imagine anything that happens on Saturday
18 that I'll be there until Monday. I don't have any
19 accuser. All I have is the word of the owner of
20 the business. This is really, I would say 1984,
21 but it's 2008. It's scary and I'm scared and I
22 have nothing to do with harassment, but I'm
23 scared. I feel I want your protection as well as
24 protecting the women who are going in and the
25 clinic owners who seem to be the ones who will win

1
2 the most out of this legislation. Thank you.

3 CHAIRPERSON SEARS: Thank you very
4 much. We're going to call the next panel: Dawn
5 Crickey [phonetic], Christopher Ferrara
6 [phonetic], John Cain [phonetic], Luis Menchaca
7 [phonetic] and Robert Maurice Maresca [phonetic].

8 CHRISTOPHER A. FERRARA: I'd like
9 to thank the committee for the opportunity to
10 address it. My name is Christopher A. Ferrara.
11 I'm a member of the Bars of the states of New
12 York, New Jersey, South Carolina and a number of
13 federal Bars. I engage in extensive trial and
14 appellate practice in numerous jurisdictions in
15 matters involving the First Amendment rights of
16 pro-life Catholics. I have been privileged to
17 represent Mr. Slattery's organization and Mr. Cain
18 and Mr. Menchaca as well. In one action Mr. Cain
19 is a plaintiff. He was falsely arrested based on
20 nonsensical, nonexistent charges which were
21 dismissed when the police officer failed to
22 produce any evidence of probable cause and that's
23 a typical problem that causes people like my
24 clients to be worried about this bill. I have
25 heard a lot of talk about who is covered by this

1
2 bill, but there's been a lot of vagueness about
3 who isn't covered. Or I should say a studied
4 vagueness. I think one of the comments that the
5 Chairwoman made is probably illustrative of why
6 pro-lifers have everything to fear from this
7 legislation. Madame Chairwoman distinguished what
8 she called strong, heavy, violent protestors from
9 sidewalk counselors. I don't know what a strong
10 protestor is. I don't know what a heavy protestor
11 is. Those words have no meaning whatsoever. I do
12 know what a violent protestor is. Violent
13 protestors are covered by laws that prohibit
14 violence. So according to that indication of the
15 law's intent, there seems to be an intent to
16 prohibit conduct that is not already prohibited by
17 existing legislation. There are two problems with
18 this bill. The first problem is legal.
19 Harassment contains no statutory definition.
20 Following contains no statutory definition.
21 Intent is eliminated from the statute. Basically
22 the bill would create a strict liability offense
23 for undefined harassment and undefined following.
24 Mr. Slattery explained why that's a problem. The
25 people at Emily's are demanding arrests for

1 sidewalk counseling, which you say is not covered
2 by the bill. They seem to think that that bill
3 will permit those arrests. There's another
4 problem, the Sixth Amendment to the United States
5 Constitution provides something called the right
6 to confront witnesses. This bill takes that away.
7 You're saying that the clinic will be the
8 complaining witness and that the real complainant
9 will not be identified. It's blatantly
10 unconstitutional. Then finally, there's an
11 evidentiary problem. No evidence has been
12 produced that I can see before this committee or
13 otherwise of any actual illegal conduct. You're
14 heard a litany of complaints about protected
15 conduct. He handed me a gruesome pamphlet. I was
16 upset. They were crying. That's what the First
17 Amendment is all about. The First Amendment
18 doesn't protect happy speech. It protects speech
19 that makes people unhappy, that makes them cry,
20 that makes them upset because what's at stake here
21 is a human life. If the First Amendment no longer
22 protects that speech and only protects happy
23 speech then we've become a police state. I think
24 that this ordinance is a sign that we are edging
25

1
2 towards the status of a police state. One final
3 suggestion, if you think there's evidence of
4 harassment, I would suggest you do one thing.
5 Convene a special hearing and make these abortion
6 clinics produce the videotapes that most of them
7 have on a 24/7 basis. I have done that in three
8 or four cases. In every single one of those
9 cases, the videotape destroy the claims of the
10 abortion clinics. They show nothing. So I would
11 say if you're interested in fairness and getting
12 to the truth of this matter, make them produce the
13 videotapes. Finally, let me say this, pro-life
14 advocates already face a daunting array of laws
15 that potentially criminalize their conduct,
16 subject them to jail terms, fines, injunctions and
17 crippling damage awards. There is no need for yet
18 another law targeting pro-life activists. The
19 perception here is one of piling on by legislators
20 an pro-abortion activists. The kind of hostility
21 to one political protest group that we see here
22 has no precedent in America's long and hallowed
23 tradition of respect for the First Amendment
24 rights of political activists. The pro-life
25 movement is already the most heavily regulated

1 protest movement in the history of the world.

2 Enough is enough. This bill must be rejected for
3 the sake of First Amendment liberty. Thank you.

4
5 CHAIRPERSON SEARS: Thank you very
6 much. Next?

7 JOHN CAIN: My name is John Cain.
8 That's really irrelevant because what I am about
9 to speak of is very relevant. What we have now is
10 we seem to be at the mountaintop at the edge of a
11 moral abyss and that's what we're going to slide
12 into. My memory is pretty good. I lived through
13 Nazi Germany. Now, let's look back. The
14 Nuremberg Trials, as part of the legal decision it
15 was noted and demanded that above the entranceway
16 at Dachau, George Santayana's advice, as given in
17 1929 in French, English, Hebrew and Polish is
18 those who forget the mistakes of the past are
19 doomed to repeat them. On September 19, 1939, the
20 Nazi Supreme Court said that Jewish people were
21 not people. You could do what you want with them.
22 We have gone one better. Totally declassifying a
23 group of people and subjecting them to murder,
24 mayhem and experimentation. We have declassified
25 the fetus, which is Greek for little baby. We

1
2 have declassified him as a human being. I'll just
3 go back to what you said. Part of what the law
4 is, is to exercise freedom of will, to foster that
5 for the people. So if I go home and get my legal
6 handgun and come and blow you away, then I'm
7 exercising freedom of will. Of course I wouldn't
8 do that. What I would like to get into now and
9 I'll you for a little forbearance since the other
10 side has spoken more than two hours over their
11 allotted time. What I would like to do is go into
12 how this whole thing started and what abortion
13 really is. I call it the abortion story. Oh,
14 unborn child, life is there inside. It's soon the
15 time for you do be born. While you await, a
16 selfish world makes choices. Your parents say
17 that you must die. Your put to death. You've
18 known no love or mercy. The pain was great for
19 nothing you had done. Oh, little baby, they've
20 ripped you from your womb and thrown you in
21 garbage bag for your bloody tomb. Is this America
22 or Nazi Germany? Hang our heads, hang our heads,
23 heads in shame. Oh unborn child.

24 CHAIRPERSON SEARS: Thank you, Mr.
25 Cain.

1
2 JOHN CAIN: God bless you, Madame.

3 CHAIRPERSON SEARS: I'm sorry, go
4 ahead.

5 ROBERT MARESCA: My name is Robert
6 Maresca. I did not know I would have the
7 privilege of speaking on the same table with
8 Christopher Ferrara. So I would gladly relinquish
9 my time to him. I just want to say one thing and
10 it's from a different perspective. We've heard a
11 lot of things here about rights. A right is a
12 moral claim to something good spiritually or
13 physically. I just want to put that on the
14 record. I'll repeat that. A right is a moral
15 claim to something good, spiritual or physical
16 good. It would be absurd to say I have a right to
17 blindness. That's a physical evil. So I think
18 the passion that you see and you've heard here
19 from folks on our perspective is because we know
20 that what goes on in the abortion clinics is an
21 unspeakable moral and physical evil. I've heard a
22 couple of comments about clinic violence. I think
23 you used the words, Madame Speaker, safe
24 environment. What goes on as we know and we
25 believe at least is clinic violence and an unsafe

1
2 environment inside that building. I think that's
3 what the bottom line is here. You may say, again
4 I think your words were that this bill is not
5 directed against sidewalk counselors. But what
6 sends a chill through us is that we believe you're
7 correct. You believe that. What the problem is
8 that the consequences that these sidewalk
9 counselors are going to suffer, perhaps at the
10 biased hands of a provider who sees them as taking
11 money out of his pocket. That is what the chill
12 is. I think unless this bill is specific, worded
13 specifically to protect their rights against
14 harassment and intimidation, unless that happens
15 then I think that's the great fear that we have.

16 CHAIRPERSON SEARS: Thank you very
17 much.

18 LUIS MENCHACA: Can you hear me
19 okay?

20 CHAIRPERSON SEARS: Yes, we can.
21 Identify yourself please.

22 LUIS MENCHACA: Take a look at the
23 ceiling up there. A government of the people, by
24 the people, for the people. You're forgetting the
25 little people. They're being torn to pieces.

1
2 It's a matter of life and death. You want to talk
3 harassment. You want to talk about harassment,
4 look at the treatment we got down here at 26
5 Bleecker Street. A woman threatened to smash my
6 head with a brick. Another guy at another
7 abortion mill threatened to stab. Our signs are
8 torn up. A guy let's his dog do number two on the
9 sidewalk and then he throws the dog's number two
10 on our sign. I can go on and on and it'll take
11 until 3000 about harassment. Do you think they're
12 getting harassed? Take a look at what's happening
13 to the babies. Take a look at what's happening to
14 those that try to protect them. I'm darn glad I
15 did every bit I did. I've been to jail and I've
16 rescued and I'm absolutely not ashamed of having
17 been to jail because there was an unjust law that
18 said it's okay to kill the babies. I was among
19 those that God gave me the grace to go out there
20 and save some babies. Not me, it's God. There's
21 a boy that's going to be 18 years old in February
22 because I was among those that went to jail. Talk
23 about harassment, you're throwing it off course
24 here. It's special interests. They want to get
25 us out of there. This bill, 826, I saw destroyed

1
2 when I was in the Navy, the number 826, USSR
3 Agerholm. I was on the Hollister myself. But
4 this bill 826 is an abortion. You want to abort
5 our right to free speech and to tell is like it
6 is. A baby is being murdered in there. Murdered.
7 That abortion is murder. The business of abortion
8 is making a killing, that's abortion. It's got to
9 stop. God will not bless this country unless it
10 does stop. Then they'll do Terry Schiavos too.
11 Murder is murder is murder. I do not feel that
12 the little tiny people or those who try to defend
13 them are being represented at this council. Thank
14 you.

15 CHAIRPERSON SEARS: Thank you. Can
16 you state your name for the record please?

17 LUIS MENCHACHA: Luis Manchaca.

18 CHAIRPERSON SEARS: Thank you very
19 much. We'll go on to the next panel. Thank you.
20 Donald Young, John Verdone [phonetic], Charles
21 Wright [phonetic], Donald Rosenberg [phonetic],
22 and Sean Degidon [phonetic]. Any of you can
23 start. Please identify yourself for the record.
24 If you have written testimony, the sergeant-at-
25 arms will take it. Otherwise, it's recorded.

1

2

DONALD ROSENBERG: Madame

3

Chairwoman, we didn't get notice of this in time.

4

We will get one and make sure the council gets it.

5

CHAIRPERSON SEARS: It's also

6

recorded. So your testimony is on record.

7

DONALD ROSENBERG: Thank you. My

8

name is Don Rosenberg. I'm chairman of the

9

National Traditionalist Caucus, one of America's

10

most active youth organizations. The statement

11

for our organization will be given by my esteemed

12

colleague here, Mr. Sean Degidon, who is chairman

13

for our Department of Family and Moral Issues.

14

Thank you very much.

15

CHAIRPERSON SEARS: Thank you.

16

SEAN DEGIDON: Do I get my own time

17

as well?

18

CHAIRPERSON SEARS: Sure you would.

19

If he's yielded a little bit. Go ahead.

20

SEAN DEGIDON: Good afternoon. My

21

name is Sean Degidon, I'm the pro-life pro-family

22

director at the National Traditionalist Caucus.

23

I'd like to speak against the adoption of Clinic

24

Access Bill 826. The right to access abortion

25

clinics is already the standing and enforced law

1
2 of New York. Bill 826 serves only to abridge the
3 civil right of abortion protestors to assemble and
4 speak, as is guaranteed under both our federal and
5 state constitution. It especially contradicts the
6 letter and spirit of our constitution by limiting
7 such basic liberties based not on how one protests
8 but why. If peaceful demonstration is thwarted on
9 issues deemed too controversial, then freedom of
10 speech is a triviality. If government can waive
11 free speech for politically unpopular views then
12 it is an empty platitude. If harassment can be
13 charged by an abortion clinic, even if the patient
14 doesn't consider herself harassed, then our police
15 are being used as pinkerdoms for a politically
16 connected industry. It is argued that special
17 standards are required because of occasional
18 disruptive incidents at abortion clinics, since
19 Roe versus Wade was enacted 35 years ago. In
20 fact, those years have seen incidents erupt in the
21 name of various causes, from picket lines to anti-
22 war protests, from AIDS activists to civil rights
23 activists. There is no legal, social, or moral
24 justification for singling out anti-abortion
25 protestors, among whom no group or leader has ever

1
2 condoned violence. Rather I would suggest that
3 the abortion industry is seeking special status
4 because of what most anti-abortion protestors are
5 doing, which is attempting to steer its clients
6 towards other services. This is quite
7 understandable but it is no ground for granting
8 abortion clinics special privileges or those who
9 protest them special burdens. What I and others
10 here seek is equal protection under law. Nothing
11 more and nothing less. As long as abortion is a
12 legal business, such clinics are entitled to the
13 legal protections of any business and its
14 protestors to the rights of any protestors. I am
15 aware that the city has a comfortable majority of
16 abortion rights supporters. But before you vote
17 for Clinic Access Bill 826, please observe the
18 admonition pertinent to all civil liberties. Ask
19 not for whom the bell tolls, it tolls for thee.

20 CHAIRPERSON SEARS: Thank you very
21 much. John, are you going next?

22 DONALD YOUNG: My name is Donald
23 Young. I've been kind of active in the pro-life
24 movement for many years. I've been at three
25 abortion clinics in Manhattan, three in my own

1 neighborhood, Jackson Heights. Helen knows. And
2 I think one or two in Brooklyn. This is what I'd
3 like to say. At this point in time as incumbent
4 New York City Council Members, you have an
5 opportunity and some would say a responsibility to
6 secure our right of protest in a political
7 atmosphere in which citizens have less and less
8 opportunity to express and demonstrate their views
9 without being called un-American. You above all
10 have the opportunity to ensure that those
11 contemplating an abortion have an equal
12 opportunity of hearing about and being referred to
13 service providers who will offer them help if they
14 choose to give birth and need help caring for
15 their infants after their delivery. Obstetricians
16 assisting pregnant women and basing their prenatal
17 care and directions on the biological fact that
18 life begins at conception cannot afford to enter a
19 debate when life begins since their profession and
20 those women seeking their help deal with the
21 truth. As legislators who have already been
22 elected to office you must also be guided and
23 governed by truth and the knowledge of when life
24 begins and your responsibility to protect it. We
25

1
2 count on you. Many citizens wonder if the rights
3 spelled out in our Declaration of Independence and
4 supported by our Constitution are still being
5 upheld. Following the 1973 Supreme Court
6 decision, Roe V. Wade, we witnessed and have
7 experienced an institution division in our beloved
8 country, one that identifies parties. Keeping
9 them alive, but barely protecting human life. We
10 are quickly approaching and may have already
11 experienced the loss of 50 million lives by
12 abortion. Liberty has trumped life. We fear
13 passing the Clinic Access Bill will now allow
14 business to trump liberty. We are witnessing some
15 of the results of that today. Please vote against
16 this bill.

17 CHAIRPERSON SEARS: Thank you.

18 CHARLES WRIGHT: My name is Charles
19 Wright. I live in Manhattan. Most of what I had
20 prepared to say has already been said and said a
21 lot better than I probably would have said it. So
22 I'll just read you an abbreviated statement. For
23 a little over two years now I've spent Saturday
24 mornings saying my Catholic prayers near an
25 abortion facility. I've watched hundreds of men,

1 women and children enter and exit the facilities.
2
3 The little old ladies and men and a few younger
4 ones and professional men and women and students
5 and the occasional priest or nun praying or
6 offering literature are their neighbors and
7 they're your neighbors and they're good people and
8 good citizens, just like you. Yet, in the
9 statements by various council members and other
10 interested parties and also contained in the press
11 release for this bill that's on the website for
12 this chamber, I have seen and heard expressions
13 like prevented, or intimidated, or stand in the
14 way or, or facing threats, or physical harm, or
15 blocking or fearing for their lives, or facing
16 reprisal, or aggressive attacks. I am quite sure
17 that the patrons are not harassed, threatened or
18 attacked aggressively or otherwise in any manner
19 by the neighbors who present themselves in the
20 marketplace as witnesses to the dignity of life.
21 Claims to the contrary are straw arguments that
22 serve only to inflame an otherwise peaceful
23 debate. By invoking such language in its
24 statements the council makes a mockery of the
25 process of representative government by

1 obfuscating facts and irresponsibly
2 sensationalizing fictitious fears. And I just
3 want to digress here and say that one of the
4 things that I was going to say is this legislation
5 centers on harassment and protection of access to
6 reproductive health facilities, which so many
7 people have said before is clearly established in
8 the New York Penal Code. And I found out this
9 morning it's also in local ordinance. I also
10 submit then that promoting redundant legislation
11 does violence to the principles of limited
12 government explicitly upheld in our Constitution.
13 May I have your permission to speak a little
14 longer? Principles proven over time to protect
15 and promote individual liberty and civil liberty.
16 Reproductive health, as it's used here, is simply
17 a euphuism for abortion. People who are
18 witnessing outside of an abortion facility are not
19 offering literature and alternative to obstetrics,
20 gynecology, dentistry or any other health
21 services. Abortion providers have been given
22 great representation here before this council.
23 These abortion providers do what they do for a
24 profit. This is a business matter. Businesses

1
2 seem to be interested in silencing any
3 alternatives for their services and silencing the
4 expression of any alternatives for their services.
5 It appears to be an abuse of the legislative
6 process. This might be considered an anti-trust
7 question, but to cloak it as a civil rights issue
8 is more than merely misleading. It's an insult to
9 that great cause and it's an insult to the
10 intelligence of the electorate. I for one muse
11 within myself what possesses the council to so
12 zealously and with such rhetorical overkill
13 promote a law that is not only redundant but also
14 discriminatory. In summary then, the Clinic
15 Access Bill is a rerun of already adequately
16 established law with potentially a discriminatory
17 slant to it. I humbly wish to remind the council
18 members that the electorate, all of it, is
19 depending upon you to invest your valuable time,
20 talent and this office to represent us with
21 unbiased honor and not to use inflammatory
22 rhetoric to promote dubious legislation. Finally,
23 I don't believe for a minute that anyone on this
24 council would doubt that a one-year-old baby is
25 any less a person than an adult simply because it

1
2 has not developed into an adult yet. It will and
3 everybody knows that it will. I call on each one
4 of you to acknowledge that the infant that emerges
5 from the womb of his mother during the ninth month
6 of pregnancy is a slightly more developed version
7 of the infant that began its life there at the
8 beginning of the first month of that pregnancy. I
9 do sincerely thank you for the opportunity and for
10 your time and for your service to the good people
11 of this great city.

12 CHAIRPERSON SEARS: Thank you very
13 much. Our next panel is Nona Aguilar [phonetic],
14 Gerald Maglio [phonetic], Robert Walsh, and Agnes
15 Hu [phonetic]. Why don't you start? I think the
16 fourth one is not here.

17 AGNES HU: My name is Agnes Hu.
18 I'm here as a private citizen. I made time to
19 come here today because I'm passionate about
20 justice. I could not help but notice that
21 inscribed in your ceiling here in the words of
22 Thomas Jefferson and he said equal and exact
23 justice for all men of whatever state of
24 persuasion. Now, I am against what we are voting
25 for here today. I know you mentioned many times

1
2 about intent. The intent of this bill that you
3 want to pass is for violent demonstrators and that
4 it really didn't apply to sidewalk counselors.

5 But the reality is that the side effect of this
6 bill is going to affect the sidewalk counselors.

7 What this bill is doing is giving undue influence
8 on the side of abortion clinics to make claims

9 that cannot even be verifiable. So if it cannot
10 be verified, how can that be justice for the

11 person who has been accused of committing

12 something that cannot be substantiated? So I

13 think that is something that the council should

14 really study very carefully. I'm not a lawyer.

15 I'm just an ordinary citizen and I'm just speaking

16 as someone who has common sense. I just heard of

17 this law just two days ago and I could not believe

18 that we were passing a law like this. I mean, who

19 are we really protecting? The purpose of sidewalk

20 counselors is to really give information which has

21 not been provided by the abortion clinics. We are

22 trying to help the woman to make an informed

23 choice. We know that many, many of these girls

24 that come are very young. They're placed in a

25 vulnerable position. The boyfriend who claims to

1
2 love them is no longer loving them because he
3 wants an abortion. The parents don't want to deal
4 with it because she was disobedient. She didn't
5 listen to what I say. So then she has no help.
6 The first thing they think of is to get rid of
7 this child. So to give undue influence to the
8 abortion clinic is not really protecting the
9 rights of everyone. If this bill is passed, it
10 takes away the ability of the sidewalk counselors
11 to really counsel. You're talking about 15 feet,
12 that's a lot of distance from the clinic. I mean
13 what are the statistics of violence in the
14 protests in front of abortion clinics? Are we
15 overreacting with this bill? So we should really
16 use common sense to guide what we are passing here
17 and who are we truly protecting. Is the woman who
18 comes for an abortion given the full information?
19 Are the sidewalk counselors being protected or are
20 their rights being violated with this bill? Is it
21 really true that the abortionists are giving undue
22 help from the side of this bill? So we should
23 have to really study every side and not be
24 emotional, but let's say are we really giving
25 equal justice to each group, the sidewalk

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2 counselors, the women who wants an abortion and
3 the abortionists. It should be equal. I think
4 that this bill will not give equal. It will give
5 more rights to the abortionists. I mean, it's
6 like they're in control. They can come and say
7 she said something and my client felt threatened
8 so they have to go to jail. How do we
9 substantiate this? So this law should have a
10 clear definition of what is harassment and what is
11 fear. There has to be proof. That's why I'm
12 here. Thank you.

13 CHAIRPERSON SEARS: Thank you very
14 much.

15 GERALD MAGLIO: My name is Gerald
16 Maglio and some of the things I was going to say
17 were said before. But I'm coming a long distance,
18 so if you don't mind, just a minute would be fine.
19 Thank you for the opportunity to address the
20 committee. My background is health care
21 administration. For the past 33 years I've been
22 servicing tens of thousands of patients. I'm a
23 lobbyist. I've advocated on behalf of the
24 indigent, the poor and vulnerable populations for
25 over a quarter of a century, particularly the

1
2 voiceless and defenseless, protecting from abuse,
3 harm and neglect. One of the things I just wanted
4 to point out as being a health care professional
5 and it was touched on slightly before. But for
6 the most part I've recently retired in doing
7 counseling. We only have 10 or 15 feet and less
8 than a minute to possibly provide information to
9 the girls and women entering clinics. Most of
10 these clients have never been informed about the
11 development of their babies. They've never been
12 informed about the risks involved and the
13 availability of support services, as you've heard.
14 Being in the health care field for 33 years, I
15 find it somewhat appalling. I find it appalling
16 that patients are required in hospitals, nursing
17 homes, housing of all kinds involving medical care
18 have always required patients to know the risks
19 and benefits and the side effects of treatment.
20 Even our staff are required through OSHA standards
21 to know the effects of products used. And yet at
22 abortion clinics they're not required to provide
23 even the most fundamental of information necessary
24 for the well-being of the patient or information
25 necessary to make informed decisions. That's what

1
2 I see as the role of the sidewalk counselors to
3 address that need. As a health care professional,
4 again, and as policy makers I believe that more
5 stringent measures need to be taken to protect
6 these vulnerable populations, especially minors,
7 from exploitation. One of the exploitations that
8 I see is Planned Parenthood receives \$500 million
9 a year in government funding and yet there is
10 reports of failure to report statutory rape or
11 suspected sexual abuse among minors. Also
12 legislators are remiss in not ensuring women's
13 rights to know that abortion is an intrusive
14 medical procedure that involves risks. I think
15 you've heard some of those risks. They are very
16 serious risks. Then the last thing, also as a
17 health care professional, one of the other things
18 you also heard touched on was black genocide.
19 Reverend Clenard, the director of Life, Education
20 and Resource, and he's outspoken about black
21 genocide. He did say that 78% of the Planned
22 Parenthood clinics are in minority communities.
23 He did point out that the founder of Planned
24 Parenthood, Margaret Sanger was a devout racist
25 who felt that colored people were like weeds to be

1
2 exterminated. Over a third of the black race has
3 been denied the right to be born. Is her vision
4 being fulfilled today? Lastly, having been
5 responsible for physical management of health care
6 facilities, numbers go in my head and when I see
7 four or five girls turning around, that's 15,000
8 to 20,000 a week which accounts to about 750 to a
9 million a year per clinic. And as you've seen,
10 several of these clinics are owned by one
11 organization. You're easily talking about tens of
12 millions of dollars if even a few girls change
13 their mind. So I think as policy makers it's
14 important to be concerned and not allow
15 restriction of information and education to
16 clients and patients, which would do a great
17 disservice, over an agenda of increasing profits.
18 Thanks.

19 CHAIRPERSON SEARS: Thank you very
20 much.

21 NONA AGUILAR: My name is Nona
22 Aguilar. I'm here as a private citizen. I'm
23 actually here because I'm against abortion but I
24 don't make a big deal about it. But I've been
25 surprised the people who will speak to me about

1
2 their past abortions, their grief, the sorrow,
3 what they are suffering and every one of them I
4 have asked if they received some kind of
5 counseling at the clinics. They're supposed to.
6 No one has told me they have gotten that kind of
7 counseling. The problem with that is they made a
8 decision that later they come to understand and
9 then can in no way reverse, change or alter. I
10 don't even want to tell you because I've had
11 people sobbing in my arms about it. Didn't you
12 know? No. In one case a woman was forced by her
13 husband. She didn't want the abortion. I would
14 have assumed that the clinic would have recognized
15 this woman who told me she was crying and sobbing
16 as she went in, her husband pushed her in, would
17 have been turned away. No. She's had enormous
18 psychological problems and drug addiction
19 problems. She was a school teacher. She had to
20 finally just leave teaching. She's had problems
21 with depression, and thoughts of suicide. She
22 didn't get the counseling. So that's one category
23 of people I've spoken to. I've heard from men who
24 regret bitterly their involvement. A third
25 category that may surprise you is I've spoken to

1
2 two physicians who were former abortionists who
3 bitterly regret their involvement. They've all
4 told me the same thing, that no, they didn't
5 really know there were alternatives. With
6 reference to the Clinic Access Bill, I would like
7 to say that I do believe, Madame Chairwoman, that
8 you are about treating everybody fairly. I do
9 believe that. I also believe that you do believe
10 the intent is not to target sidewalk counselors.
11 But I would just like to remind you about a much
12 greater law that we are all aware of, the law of
13 unintended consequences. I think those counselors
14 have a right to fear that they will be targeted.
15 I thank you.

16 CHAIRPERSON SEARS: Thank you very
17 much. Thank you for being patient. Our next
18 panel is Ann Gilmartin [phonetic], John Broderick
19 [phonetic], Wayne Atkinson [phonetic] and Rocco
20 Carlucci [phonetic]. This is our last panel. You
21 have been extremely patient. I think most of you
22 have been here since 10 a.m.

23 ANN GILMARTIN: John Broderick, a
24 pro-life lawyer, had to leave. I'm Ann Gilmartin
25 and I'm speaking for the pro-life clinic

1
2 counselors. You asked what was wrong with this
3 bill. For us, plenty. First, directed to the
4 many lies that's projected and incorporated here
5 such as pushing, shoving, assaulting or whatever
6 it might be. This has never happened. Over 30
7 years doing this, especially outside the various
8 abortion mills that were and not now. Let's
9 listen to the abortionists themselves appreciating
10 our work. Employees and employees they have. I
11 want to direct mainly to the 15-foot bubble zone.
12 This is serious. First of all, we're in New York
13 City. It's busy, especially 42nd Street abortion
14 mill, one of the biggest in our town. The Israel
15 Building on 42nd Street, how can we reach them
16 with a bubble zone. We can't go up to everyone.
17 That's the key thing. We want to only approach
18 those who we think are going in to have an
19 abortion. If they say they're not, they're going
20 in for something else, or they just put up their
21 hands, we don't bother. We can't waste our
22 energy. It's very draining out there. If a
23 counselor goes within that bubble zone of 15 feet,
24 what happens to her?

25 CHAIRPERSON SEARS: Your testimony.

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2 ANN GILMARTIN: Yes, but that's a
3 key question because this is the law you're
4 promoting that you're going to enact. Again, it's
5 a big city that's very busy. We do not want to go
6 to anyone except those entering the building.
7 That's the key thing here. We're there to save
8 lives. Consider this, no bubble zone, we want to
9 go up to the door. We stop. We can't go in. Why
10 can't we go in? We wish they would do the job we
11 were doing. We don't want to be there day in and
12 day out. You're taking away the child's rights.
13 You may not claim that. You're taking the
14 father's rights. He has no say. Has the father
15 any say, whether he's married or single? It's
16 chilling. Again, I'll repeat, you're taking away
17 the child's rights and you're taking away the
18 father's rights. There's no say for the father,
19 married or single. This is not law. Third,
20 you're moving in on us. We're on the Titanic as a
21 nation. We're sinking. Nearly all the portholes
22 are open. Another porthole you're going to open?

23 CHAIRPERSON SEARS: Thank you.

24 ROCCO CARLUCCI: Hi. My name is
25 Rocco Carlucci. I'm here as a private citizen and

1
2 one of the helpers. It was interesting before
3 when we got into a little debate, shall we say,
4 about intent. Madame Speaker was able to confront
5 those who disagree with what we thought was the
6 intent. This bill will eliminate our rights to do
7 that. We will not be able to see those who are
8 accusing us of something. Maybe it's a little
9 vague, you know, what happened is not exactly
10 sure. This law may stop that from happening. I'm
11 also concerned that this may have further
12 consequences. This is a slippery slope. When we
13 become a country where a person can be accused of
14 a crime and not be able to confront or debate our
15 accusers, what is next? Not to make light of
16 anything, but I as a Yankee who chants Go Yanks in
17 Shay Stadium, will I then be accused by Shay
18 Stadium on behalf of an anonymous Met fan that I
19 can be harassing. I'm making a point. You see
20 the slippery slope we can be going down. This is
21 my concern. As a prayerful person outside, I'm
22 concerned that accusations may be made that are a
23 little vague and the laws are a little vague and
24 we need much more specifics in this law.

25 CHAIRPERSON SEARS: Thank you very

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much. Is there anyone else that would like to

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testify? If not I want to thank all of you. You

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have been here all day and have been very, very

5

patient. I want to thank you for being here.

6

With that, this hearing is closed.

C E R T I F I C A T E

I, Donna Hintze certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Signature_ _____

Date February 16, 2009