

**SUBJECT:** Creating the Choose Life license plate and account

**COMMITTEE:** State Affairs — committee substitute recommended

**VOTE:** 5 ayes — Marchant, Madden, B. Cook, J. Davis, Gattis

1 nay — Villarreal

3 absent — Elkins, Goodman, Lewis

**WITNESSES:** For — MerryLynn Gerstenschlager, Texas Eagle Forum; Myra Myers, Opreation Outcry: Silent No More; Joe Pojman, Ph.D., Texas Alliance for Life; Catherine Brocato; Anthony Brocato, Jr.; (*Registered, but did not testify*;) Richard Daly, Texas Catholic Conference; Joe Kral, Texas Right to Life, Jennifer Thompson; Texans for Life; Kyleen Wright, Texans for Life; Sharon Brady; 7 others.

Against — Kae McLaughlin, Texas Abortion and Reproductive Rights Action League; Hannah Riddering, Texas National Organization for Women; Erin Ruble, ACLU of Texas; Danielle Tierney, Planned Parenthood of the Texas Capitol Region; (*Registered, but did not testify*;) Jennifer Bilbrey, Planned Parenthood of San Antonio and South Central Texas; Allison Bowles, UT Voices for Choice; Isabel de la Riva, Planned Parenthood of San Antonio and South Central Texas; Barbara Hankins; League of Women Voters of Texas; Sandra Haverlah, Planned Parenthood of North Texas; Susan Higgins, Religious Coalition for Reproductive Choice Texas; Shannon Noble, Women's Issue Network; Heather Paffe, Texas Association of Planned Parenthood Affiliates; Lesley Ramsey, Texas Campaign for Women's Health; Peggy Romberg, Women's Health and Family Planning Association of Texas; Ellen Sable, National Council of Jewish Women Texas; Heather Busby; 14 others.

**BACKGROUND:** The Texas Department of Transportation (TXDOT) establishes and issues specialized license plates under ch. 502, subch. F of the Transportation Code. It currently offers specialty license plates, featuring universities and colleges, military and veterans themes, non-profit and other organizations, sports

teams, and miscellaneous designations, in addition to personalized standard plates.

DIGEST:

CSHB 1655 would add sec. 502.304 to the Transportation Code to require that TXDOT issue a license plate containing the words "Choose Life." The plate would be available for passenger cars and light trucks and would be designed in consultation with the attorney general (AG). A motorist who wanted a Choose Life plate would apply for it with the county assessor in his or her county of residence and pay a \$30 annual fee, in addition to other required license plate fees. TXDOT would be required to deposit \$5 of the fee to the state highway fund and \$25 into the Choose Life account created by this bill.

A vehicle owner would have to return Choose Life license plates to TXDOT if he or she disposed of the vehicle during the registration year and could obtain replacement plates from TXDOT for a fee if the original plates were lost, stolen, or mutilated.

CSHB 1655 also would add secs. 402.031-032 to the Government Code to create the Choose Life account as a separate account in the general revenue fund. The account would comprise receipts from Choose Life license plate sales, gifts, grants, donations, and legislation appropriations. The AG could accept gifts, donations, and grants from any source for deposit in the account. The AG would administer the Choose Life account, establish guidelines for reporting and dispensing money from the account, and disperse funds only for the cost of administering the account and to make grants to an eligible organization.

An eligible organization would be a Texas charitable organization as defined by section 501(c)(3) of the Internal Revenue Code that provided counseling and material assistance free of charge to pregnant women considering placing their children for adoption. The organization could not provide abortions, abortion-related services, or make referrals to abortion providers, nor be affiliated with an organization that did so. The AG could not discriminate against an eligible organization because it was either a religious or nonreligious organization.

At least half of the grant money received by an eligible organization would have to be spent providing for the material needs, including clothing, housing, prenatal care, food, utilities, and transportation, of pregnant women considering placing a child for adoption and providing for the needs of infants awaiting placement with adoptive parents. The remainder of the money could be used for counseling, training, and pregnancy testing. An eligible organization could not use this grant money to pay administrative, legal, or capital expenses.

The bill would require the AG to appoint a seven-member Choose Life advisory council to assist in developing rules for reporting and grant making from the account. The committee also would be required to review and make recommendations to the AG on applications submitted for Choose Life account grants. The committee would meet twice a year, or as called by the AG, and its members would serve without compensation or reimbursement for expenses. Advisory committee terms would be four years in length, with the terms of three or four members expiring January 31 of each odd numbered year.

The bill would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

The purpose of CSHB 1655 is to promote adoption. Grants made from the Choose Life account would assist women, particularly lower income women, who were considering adoption and would help meet the needs of infants in the adoption process. Choose Life plates in Florida have raised over \$1 million for these purposes, and Texas could experience similar gains. The Legislature should not neglect this opportunity to provide substantial, tangible support to women and infants in need.

Many needs, such as formula, cribs, car seats, clothing, transportation, and utilities, that would be met by this program currently fall through the gaps of public and private social services. This bill would help the state meet these needs without a single dollar of taxes. Other services eligible under the bill, such as prenatal care, are more widely available, though an eligible organization receiving Choose Life funds could provide them, too. To assure that Choose Life funds were used to assist pregnant women and promote adoption as intended, the bill would give the AG oversight of the Choose Life account. This bill appropriately would deny funding to organizations that promoted abortion. Individuals would buy Choose Life license plates to

demonstrate their support for human life and most would not want their fees to support an entity that offered or counseled women to have abortions.

This bill also would help parents who wanted to adopt. Because of the shortage of infants available for adoption domestically, many couples have to go abroad to adopt. Grants from the Choose Life account could encourage more Texas women to give their children for adoption by providing the material assistance they needed to help them carry their pregnancies to term. In this way, CSHB 1655 would make domestic adoption easier and help many couples who could not have children provide a home for those who might otherwise have been aborted. This bill would not stop abortion, but it could help make it rarer as more women received support to choose life.

Choose Life plates do advocate a particular point of view — that of promoting life over abortion. The state has a right to advocate for particular public policies that it deems to be in the best interest of the public, even for controversial issues. In fact, this is part of an elected official's responsibility. State government and its policies are already pro-immunization and anti-smoking, and the Texas Supreme Court unanimously has upheld the constitutionality of the state Medicaid program's not funding abortions, all of which are very controversial. The state is not obligated to promote both sides of an issue equally.

Choose Life license plates have been established in several other states. Courts in Louisiana and Florida have upheld their constitutionality, and since Texas is within the same U.S. circuit court as Louisiana, it is likely that the plates would be upheld here too, if challenged.

About 24 of the 110 TXDOT specialty license plates currently raise money for a specific cause, such as organ donation, animal protection, and literacy promotion. The anti-abortion cause is no different. If Texans can choose to spend money to support animal rights or a particular university, they also should be able to support the life of human infants. Opponents of Choose Life plates are not the subjects of discrimination. Their rights would not be violated by these plates, and they could establish a "Choose Choice" license plate if they wished.

OPPONENTS  
SAY:

If the purpose of CSHB 1655 is to promote adoption, it should be amended to create a “Choose Adoption” license plate. In its current form, however, the bill would constitute the government’s endorsement of the pro-life side of the abortion debate. It is impermissible for a government body to promote one ideology or political viewpoint to the exclusion of others. Doing so violates first amendment free speech rights, as confirmed by U.S. district court in South Carolina that issued a preliminary injunction against that state’s Choose Life license plate law on the grounds that it constituted a clear manifestation of viewpoint discrimination. This bill almost certainly would provoke a legal challenge if enacted. No matter which side the courts ultimately favored in such a dispute, the litigation would impose a costly and unnecessary burden for this state.

Choose Adoption would be a less politically volatile license plate than Choose Life and also would more directly promote adoption. Choose Life is a politically charged slogan widely used by and identified with the pro-life movement. Pro-life advocates always have the option of expressing their points of view through bumper stickers, volunteering their time, and donating money to adoption agencies and crisis pregnancy centers. License plates simply are not a good forum for debating controversial issues. The state does indeed offer other license plates that promote particular causes. However, none of those causes is remotely as controversial as the abortion issue.

It also is unconstitutional for a state to disqualify an otherwise eligible organization from receiving state funds because it engages in a constitutionally protected activity. Under this bill, organizations that counsel women about all of their pregnancy options, including abortion, would be ineligible to receive funds. However, organizations that would be eligible to receive funds from the Choose Life account are those typically referred to as crisis pregnancy centers. These organizations are not licensed health facilities nor licensed adoption centers, neither of which likely would qualify under the bill because most would refer a woman for an abortion, if she sought such a referral.

Crisis pregnancy centers usually are volunteer, often religiously affiliated organizations with the primary intent of preventing abortion and only secondarily do they encourage adoption. It would be very rare that a crisis pregnancy center provided prenatal care, which is one of the services for which Choose Life funds could be used. In fact, it is likely that no

organizations that provide prenatal care would meet all of the other requirements in the bill, thus effectively establishing that Choose Life funds would not support prenatal health. However, prenatal support would help ensure that infants carried to term would be born healthy and strong.

**NOTES:**

The companion bill, SB 1233 by Williams, is pending before the Senate Committee on Infrastructure Development and Security.

The committee substitute differs from the bill as introduced by prohibiting the AG from discriminating against an eligible organization because it was or was not religious in nature, and adding specificity about how an eligible organization could spend funds it received from the Choose Life account.