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ANTI-DEFAMATION LEAGUE

TO: The Honorable Nikki R. Haley

COMPANY: Office of the Governor of South Carolina

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FROM: Mark Moskowitz, SE Regional Director

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RE: House Bill 3114

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NOTES / COMMENTS:



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**BY FAX & REGULAR U.S MAIL**

March 11, 2016

The Honorable Nikki R. Haley
Office of the Governor
1205 Pendleton Street
Columbia, South Carolina 29201

Re: H. 3114 – Free Conference Report

Dear Governor Haley,

On behalf of the Anti-Defamation League (“ADL”), we urge you to veto House Bill 3114 – Free Conference Report, “South Carolina Pain-Capable Unborn Child Protection Act” (“H. 3114-FCR”).

As a national Jewish civil rights and human relations organization dedicated to principles of religious and individual liberty, including the right to privacy, ADL views reproductive choice as an issue of personal and religious freedom. Accordingly, we believe that government should not intrude on a woman’s decision about abortion. Rather, the decision should be made in accordance with a woman’s own religious and moral convictions.

H. 3114-FCR would further restrict access to reproductive health care even when a doctor recommends an abortion to protect the health of his or her patient. The legislation’s medical exception is limited to circumstances where a woman is at risk of death or a serious risk of substantial and irreversible impairment of a major bodily function. However, it fails to consider other conditions that threaten the physical and mental health of a pregnant woman such as cancer or mental illness. H. 3114-FCR also fails to include exceptions for cases of rape, incest, human trafficking, or domestic violence.

Furthermore, while there are certain religious groups that oppose abortion, there are other faiths that sanction abortion under circumstances prohibited by H. 3114-FCR.¹ In

¹ See *Religious Groups Official Positions on Abortion*, Pew Research Religion & Public Life Project, January 16, 2013 - <http://www.pewforum.org/2013/01/16/religious-groups-official-positions-on-abortion/> (web-page last visited March 9, 2016).

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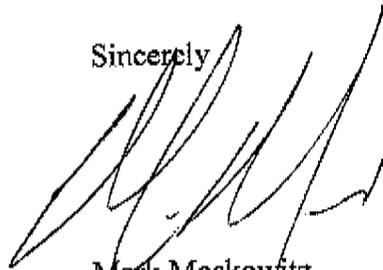
instances where a woman seeks an abortion prohibited by this legislation based on a religious justification, H. 3114-FCR would likely violate the South Carolina Religious Freedom Act ("SCRFA"), §1-32-10, et. seq.

SCRF requires that any form of state or local government within South Carolina demonstrate strict scrutiny, the most stringent constitutional standard, when it "substantially burdens" free exercise of religion. Clearly, a woman's sincerely held religious belief about abortion would fall within the protections of this law. Given H. 3114-FCR's narrow health exception and failure to provide exceptions in the case of rape, incest, human trafficking or domestic violence, we do not believe that when a woman asserts her sincerely held religious beliefs about abortion and seeks the procedure in circumstances prohibited by this bill, the State could demonstrate a compelling state interest.

The decision to have an abortion is a very private and for many a deeply emotional decision. For some women it is also a decision informed by faith. This decision should be made in consultation with a physician and if desired, with guidance from a husband, partner, family member, or clergy.

The government simply has no business substituting its judgment for that of a physician or unnecessarily interjecting itself into this deeply personal decision. We therefore urge you to veto H. 3114-FCR.

Sincerely

A handwritten signature in black ink, appearing to read 'Mark Moskowitz', written over a white background.

Mark Moskowitz
Southeast Regional Director