

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1542 Session of 2017

INTRODUCED BY WARD, SCHEMEL, COX, PICKETT, MCGINNIS, A. HARRIS, B. MILLER, MILLARD, OBERLANDER, PHILLIPS-HILL, RAPP, ROEBUCK, STAATS, SANKEY, METCALFE, WENTLING, GABLER, NESBIT, EVERETT, SAYLOR, CUTLER, ROTHMAN, TOPPER, DIAMOND, WARNER, GROVE, BENNINGHOFF, ROAE, GREINER, GILLEN, FEE, KAUFFMAN, KLUNK, SACCONI, HICKERNELL, ORTITAY, HENNESSEY, BAKER, RADER, BLOOM, KNOWLES, DUSH, TURZAI, MARSHALL, DUNBAR AND M. K. KELLER, JUNE 13, 2017

REFERRED TO COMMITTEE ON HEALTH, JUNE 13, 2017

AN ACT

1 Amending the act of April 9, 1929 (P.L.343, No.176), entitled,
 2 as amended, "An act relating to the finances of the State
 3 government; providing for the settlement, assessment,
 4 collection, and lien of taxes, bonus, and all other accounts
 5 due the Commonwealth, the collection and recovery of fees and
 6 other money or property due or belonging to the Commonwealth,
 7 or any agency thereof, including escheated property and the
 8 proceeds of its sale, the custody and disbursement or other
 9 disposition of funds and securities belonging to or in the
 10 possession of the Commonwealth, and the settlement of claims
 11 against the Commonwealth, the resettlement of accounts and
 12 appeals to the courts, refunds of moneys erroneously paid to
 13 the Commonwealth, auditing the accounts of the Commonwealth
 14 and all agencies thereof, of all public officers collecting
 15 moneys payable to the Commonwealth, or any agency thereof,
 16 and all receipts of appropriations from the Commonwealth,
 17 authorizing the Commonwealth to issue tax anticipation notes
 18 to defray current expenses, implementing the provisions of
 19 section 7(a) of Article VIII of the Constitution of
 20 Pennsylvania authorizing and restricting the incurring of
 21 certain debt and imposing penalties; affecting every
 22 department, board, commission, and officer of the State
 23 government, every political subdivision of the State, and
 24 certain officers of such subdivisions, every person,
 25 association, and corporation required to pay, assess, or
 26 collect taxes, or to make returns or reports under the laws
 27 imposing taxes for State purposes, or to pay license fees or
 28 other moneys to the Commonwealth, or any agency thereof,

1 every State depository and every debtor or creditor of the
2 Commonwealth," in general budget implementation, further
3 providing for Department of Human Services.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 1729-E of the act of April 9, 1929
7 (P.L.343, No.176), known as The Fiscal Code, is amended by
8 adding a paragraph to read:

9 Section 1729-E. Department of Human Services.

10 The following shall apply to appropriations for the
11 Department of Human Services:

12 * * *

13 (4) The following shall apply:

14 (i) Subject to any applicable requirements of
15 Federal statutes, rules, regulations or guidelines:

16 (A) Any expenditures or grants of public funds
17 for family planning services by the department shall
18 be made in the following order of priority:

19 (I) To nonpublic hospitals and federally
20 qualified health centers.

21 (II) To rural health clinics.

22 (III) To State health centers.

23 (IV) To nonpublic health providers that have
24 as their primary purpose the provision of the
25 primary health care services enumerated under
26 section 254b(b) (1) of the Public Health Service
27 Act (58 Stat. 682, 42 U.S.C. § 254b(b) (1)).

28 (B) The department may not enter into a contract
29 with or make a grant to any entity that performs
30 abortions that are not federally qualified abortions
31 or maintains or operates a facility where such

1 abortions are performed, except as required by
2 Federal law when the services are provided under
3 Medicaid and by a qualified provider approved by the
4 Centers for Medicaid and Medicare Services.

5 (ii) Nothing in this paragraph shall be construed to
6 apply to the receipt or administration of public funds
7 under Title XIX of the Social Security Act (49 Stat. 620,
8 42 U.S.C. § 1396 et seq.).

9 (iii) The Attorney General may bring an action in
10 law or equity to enforce the provisions of this paragraph
11 and relief shall be available in appropriate
12 circumstances, including, but not limited to, recoupment
13 and declaratory and injunctive relief, including, but not
14 limited to, suspension or debarment.

15 (iv) Any entity eligible for the receipt of public
16 funds shall possess standing to bring any action that the
17 Attorney General has authority to bring under the
18 provisions of subparagraph (i), provided that, if an
19 expenditure or grant of public funds made in violation of
20 this paragraph results in the reduction of public funds
21 and a court awards monetary relief, the amount recovered
22 shall be deposited into one or more accounts maintained
23 by the Commonwealth for public funds.

24 (v) In an action brought under this paragraph, a
25 prevailing plaintiff shall be entitled to an award of
26 reasonable attorney fees and costs.

27 (vi) The General Assembly, through one or more
28 members duly appointed by resolution of their respective
29 chamber, may intervene as a matter of right in any case
30 in which the constitutionality of this paragraph is

1 challenged.

2 (vii) Any encumbrance of public funds in derogation
3 of the provisions of subparagraph (i) shall be null and
4 void as of the effective date of this paragraph, and the
5 funds so encumbered shall be reallocated to eligible
6 entities.

7 (viii) It is the intent of the General Assembly that
8 every provision of this paragraph shall operate with
9 equal force and shall be severable one from the other,
10 and that, in the event that any provision of this
11 paragraph is held invalid or unenforceable by a court of
12 competent jurisdiction, the provision shall be
13 accordingly deemed severable and the remaining provisions
14 deemed fully enforceable.

15 (ix) This paragraph shall apply to fiscal years
16 beginning after June 30, 2017.

17 (x) The following words and phrases when used in
18 this paragraph shall have the meanings given to them in
19 this subparagraph unless the context clearly indicates
20 otherwise:

21 "Abortion." The use of any means to terminate the
22 clinically diagnosable pregnancy of a woman with
23 knowledge that the termination by those means will cause,
24 with reasonable likelihood, the death of the unborn
25 child. The term does not include birth control devices or
26 oral contraceptives used to inhibit or prevent ovulation,
27 conception or the implantation of a fertilized ovum in
28 the uterus, or the use of any means to increase the
29 probability of a live birth, to preserve the life or
30 health of the child after a live birth, to terminate an

1 ectopic pregnancy or to remove a dead fetus.

2 "Federally qualified abortion." An abortion
3 qualified for Federal matching funds under the Medicaid
4 program.

5 "Federally qualified health center." An entity as
6 defined under section 1905(1)(2)(B) of the Social
7 Security Act (49 Stat. 620, 42 U.S.C. § 1396d(1)(2)(B))
8 that is eligible to receive Federal funds.

9 "Hospital." A primary or tertiary care facility
10 licensed under State law.

11 "Public funds." State funds from whatever source,
12 including, without limitation, State general revenue
13 funds, State special account and limited purpose grants
14 or loans and Federal funds provided under Title X of the
15 Public Health Service Act (58 Stat. 682, 42 U.S.C. § 201
16 et seq.) and Titles IV, V and XX of the Social Security
17 Act (49 Stat. 620, 42 U.S.C. § 301 et seq.).

18 "Rural health clinic." The term as defined in
19 section 1861(aa)(2) of the Social Security Act (49 Stat.
20 620, 42 U.S.C. § 1395x (aa)(2)).

21 Section 2. This act shall take effect immediately.