

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 300 Session of 2017

INTRODUCED BY EICHELBERGER, ALLOWAY, SCARNATI, AUMENT, RAFFERTY,
 FOLMER, BROOKS, RESCHENTHALER, WHITE AND WAGNER,
 MARCH 28, 2017

REFERRED TO FINANCE, MARCH 28, 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,
 29 every State depository and every debtor or creditor of the
 30 Commonwealth," in general budget implementation, further
 31 providing for Department of Human Services.

32 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

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

5 Section 1729-E. Department of Human Services.

6 The following shall apply to appropriations for the
7 Department of Human Services:

8 * * *

9 (4) The following shall apply:

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

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

15 (I) To nonpublic hospitals and federally
16 qualified health centers.

17 (II) To rural health clinics.

18 (III) To State health centers.

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

24 (B) The department may not enter into a contract
25 with or make a grant to any entity that performs
26 abortions that are not federally qualified abortions
27 or maintains or operates a facility where such
28 abortions are performed, except as required by
29 Federal law when the services are provided under
30 Medicaid and by a qualified provider approved by the

1 Centers for Medicaid and Medicare Services.

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

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

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

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

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

29 (vii) Any encumbrance of public funds in derogation
30 of the provisions of subparagraph (i) shall be null and

1 void as of the effective date of this paragraph, and the
2 funds so encumbered shall be reallocated to eligible
3 entities.

4 (viii) The following words and phrases when used in
5 this paragraph shall have the meanings given to them in
6 this subparagraph unless the context clearly indicates
7 otherwise:

8 "Abortion." The use of any means to terminate the
9 clinically diagnosable pregnancy of a woman with
10 knowledge that the termination by those means will cause,
11 with reasonable likelihood, the death of the unborn
12 child. The term does not include birth control devices or
13 oral contraceptives used to inhibit or prevent ovulation,
14 conception or the implantation of a fertilized ovum in
15 the uterus, or the use of any means to increase the
16 probability of a live birth, to preserve the life or
17 health of the child after a live birth, to terminate an
18 ectopic pregnancy or to remove a dead fetus.

19 "Federally qualified abortion." An abortion
20 qualified for Federal matching funds under the Medicaid
21 program.

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

26 "Hospital." A primary or tertiary care facility
27 licensed under State law.

28 "Public funds." State funds from whatever source,
29 including, without limitation, State general revenue
30 funds, State special account and limited purpose grants

1 or loans and Federal funds provided under Title X of the
2 Public Health Service Act (58 Stat. 682, 42 U.S.C. § 201
3 et seq.) and Titles IV, V and XX of the Social Security
4 Act (49 Stat. 620, 42 U.S.C. § 301 et seq.).

5 "Rural health clinic." The term as defined in
6 section 1861(aa)(2) of the Social Security Act (49 Stat.
7 620, 42 U.S.C. § 1395x (aa)(2)).

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

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

18 Section 2. This act shall take effect immediately.