
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1192 Session of
2023

INTRODUCED BY SHUSTERMAN, PROBST, MADDEN, SANCHEZ, KHAN,
HOHENSTEIN, STURLA, OTTEN, BOROWSKI, KRAJEWSKI, KINKEAD,
GREEN, KINSEY AND MAYES, MAY 18, 2023

REFERRED TO COMMITTEE ON HEALTH, MAY 18, 2023

AN ACT

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

1 every State depository and every debtor or creditor of the
2 Commonwealth," repealing provisions relating to family
3 planning funding limitations.

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

6 Section 1. Article XVII-D of the act of April 9, 1929
7 (P.L.343, No.176), known as The Fiscal Code, is repealed:

8 [ARTICLE XVII-D

9 FAMILY PLANNING FUNDING LIMITATIONS

10 Section 1701-D. Scope.

11 This article relates to family planning funding limitations.

12 Section 1702-D. Definitions.

13 The following words and phrases when used in this article
14 shall have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 "Abortion." As defined in 18 Pa.C.S. § 3203 (relating to
17 definitions).

18 "Abortion-related activities." Activities that consist of
19 any of the following:

20 (1) Performing or directly assisting in abortions.

21 (2) Referring a pregnant woman to an abortion provider
22 for an abortion.

23 (3) Counseling that advocates for or promotes abortion,
24 including counseling that advocates abortion as an option for
25 dealing with an unwanted pregnancy.

26 "Family planning appropriation." Moneys appropriated by the
27 General Assembly from Commonwealth revenue sources and Federal
28 revenue sources for the purpose of funding family planning
29 services or a combination of family planning services and other
30 programs. In the case of a general appropriation or any other
31 appropriation containing more than one line item, the term

1 "family planning appropriation" shall only refer to those line
2 items that may be expended for family planning services.

3 "Family planning services." Diagnosis, treatment, tests,
4 drugs, supplies, counseling and other contraceptive services
5 which are provided to an individual of childbearing age to
6 enable that individual to prevent pregnancy. The term does not
7 include abortion-related activities.

8 "Family planning services provider." A person that receives
9 a grant or other payment or reimbursement from the Department of
10 Public Welfare or the Department of Health, as appropriate, from
11 a family planning appropriation for the purpose of providing
12 family planning services, including, but not limited to, any
13 appropriation for women's medical services, family planning
14 service programs authorized under Medicaid and any programs
15 funded through a Social Services Block Grant or a Temporary
16 Assistance for Needy Families Block Grant.

17 "Person." Includes a corporation, partnership, limited
18 liability company, business trust, other association, government
19 entity, estate, trust, foundation or natural person.

20 "Project." A group or set of family planning services or a
21 combination of family planning services and other services which
22 are funded in whole or in part from a family planning
23 appropriation and which are furnished pursuant to a grant,
24 contract or other agreement between a family planning services
25 provider and the Department of Public Welfare or the Department
26 of Health, as appropriate, or furnished by a subcontractor of
27 such provider pursuant to such grant, contract or other
28 agreement.

29 "Subcontractor." A person who furnishes family planning
30 services directly to individuals pursuant to a grant, contract

1 or other agreement between that person and a family planning
2 services provider or other entity that contracts with such
3 provider for the purpose of providing family planning services,
4 if family planning services furnished to such individuals are
5 funded from a family planning appropriation.

6 "Women's medical services." A line item appropriation for a
7 program that expressly authorizes the expenditure of funds for
8 women's medical services and contraceptives.

9 Section 1703-D. Ban on use of family planning funds for
10 abortion-related activities.

11 Except as provided in section 1705-D, no family planning
12 services provider or subcontractor shall expend any funds
13 received from a family planning services appropriation on
14 abortion-related activities.

15 Section 1704-D. Duties of family planning services providers
16 and subcontractors.

17 (a) Physical and financial separation of abortion and family
18 planning activities.--Each family planning services provider and
19 subcontractor shall keep a project physically and financially
20 separate from abortion-related activities conducted by that
21 family planning services provider or subcontractor.

22 (b) Inclusion of restrictions in contracts.--The
23 restrictions and conditions specified in this article shall be
24 made a part of every grant, contract or other agreement between
25 the Department of Public Welfare or the Department of Health, as
26 appropriate, and each family planning services provider and
27 every grant, contract or other agreement between a family
28 planning services provider and a subcontractor.

29 (c) Inspections and audits.--A family planning services
30 provider who also performs abortion-related activities shall

1 obtain an annual independent audit of its facilities to assure
2 compliance with the physical and financial separation
3 requirements of this article. The audit shall be conducted in
4 accordance with standards prescribed by the Department of Public
5 Welfare or the Department of Health, as appropriate, and shall
6 be submitted to the department no later than January 30 of each
7 year. Further evidence of such physical and financial separation
8 shall be supplied through such documentation as the Department
9 of Public Welfare or the Department of Health, as appropriate,
10 shall request. The Department of Public Welfare or the
11 Department of Health, as appropriate, shall make the audits
12 required by this subsection available for public inspection and
13 copying.

14 Section 1705-D. Exclusions.

15 (a) Certain exclusions.--This article does not apply to any
16 of the following:

17 (1) A licensed hospital.

18 (2) A family planning services provider who is a natural
19 person, who is licensed to provide medical services in this
20 Commonwealth and whose only public funding is through a
21 medical assistance appropriation.

22 (b) Certain abortions.--No abortion, abortion counseling or
23 abortion referral directly related thereto shall be deemed to
24 fall within the definition of an abortion-related activity if:

25 (1) on the basis of the physician's good faith clinical
26 judgment, the abortion is necessary to prevent the death of
27 the mother or to prevent the serious risk of substantial and
28 irreversible impairment of a major bodily function; or

29 (2) the abortion is performed in the case of a pregnancy
30 caused by rape or incest.

1 (c) Certain Title X requirements.--The requirements of this
2 article shall not apply to a family planning services provider
3 or subcontractor that receives Federal funds pursuant to Title X
4 of the Public Health Service Act (58 Stat. 682, 42 U.S.C. § 201
5 et seq.) to the extent that:

6 (1) the family planning services provider or
7 subcontractor performs only those nondirective abortion
8 counseling and referral services required under Title X; and

9 (2) failure to perform those services will result in the
10 withholding of Federal funds.

11 Section 1706-D. Reports to General Assembly.

12 No later than March 30 of each year, the Department of Public
13 Welfare and the Department of Health shall submit a report to
14 the chairman and minority chairman of the Appropriations
15 Committee of the Senate, to the chairman and minority chairman
16 of the Appropriations Committee of the House of Representatives,
17 to the chairman and minority chairman of the Public Health and
18 Welfare Committee of the Senate and to the chairman and minority
19 chairman of the Health and Human Services Committee of the House
20 of Representatives regarding the audits obtained pursuant to
21 section 1704-D(c), including the number and findings of such
22 audits, the adequacy of the documentation submitted and any
23 recommendations to revise the verification process.

24 Section 1707-D. Construction.

25 Nothing in this article shall be construed to:

26 (1) Repeal or otherwise restrict any provision of 18
27 Pa.C.S. Ch. 32 (relating to abortion).

28 (2) Prohibit the use of appropriations for which funding
29 is permitted under 18 Pa.C.S. § 3215(c) (relating to publicly
30 owned facilities; public officials and public funds) if

1 funding for abortions is otherwise permitted under that
2 appropriation and for any counseling or referral directly
3 related thereto.

4 (3) Preclude, in addition to any remedy or penalty
5 prescribed in this article, the exercise of any other civil
6 or criminal remedy or penalty that is applicable to a failure
7 to comply with this article.

8 Section 1708-D. Expiration.

9 This article shall expire immediately upon enactment of
10 legislation which expressly imposes additional substantive
11 programmatic or fiscal restrictions on the funding or delivery
12 of any State-funded family planning services or on the funding
13 or delivery of any family planning services authorized under
14 section 1115 of the Social Security Act (49 Stat. 620, 42 U.S.C.
15 § 1315).]

16 Section 2. This act shall take effect in 60 days.