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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 289

01/11/2023 Authored by Olson, L.; Liebling; Her; Tabke; Hemmingsen-Jaeger and others
The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to health; modifying a grant program to support pregnant people in carrying
1.3 their pregnancies to term and new parents caring for babies after birth; amending
1.4 Minnesota Statutes 2022, section 145.4235.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2022, section 145.4235, is amended to read:

1.7 145.4235 POSITIVE ~~ABORTION ALTERNATIVES~~ PREGNANCIES.

1.8 Subdivision 1. ~~Definitions~~ Definition. For purposes of this section, ~~the following terms~~
1.9 ~~have the meanings given~~ "medically accurate" means information that is:

1.10 ~~(1) "abortion" means the use of any means to terminate the pregnancy of a woman known~~
1.11 ~~to be pregnant with knowledge that the termination with those means will, with reasonable~~
1.12 ~~likelihood, cause the death of the unborn child. For purposes of this section, abortion does~~
1.13 ~~not include an abortion necessary to prevent the death of the mother;~~

1.14 ~~(2) "nondirective counseling" means providing clients with:~~

1.15 ~~(i) a list of health care providers and social service providers that provide prenatal care,~~
1.16 ~~childbirth care, infant care, foster care, adoption services, alternatives to abortion, or abortion~~
1.17 ~~services; and~~

1.18 ~~(ii) nondirective, nonmarketing information regarding such providers; and~~

1.19 ~~(3) "unborn child" means a member of the species Homo sapiens from fertilization until~~
1.20 ~~birth.~~

2.1 (1) verified or supported by the weight of peer-reviewed medical research conducted in
 2.2 compliance with accepted scientific methods;

2.3 (2) recognized as medically sound and objective by:

2.4 (i) leading health care organizations with relevant expertise, such as the American
 2.5 Medical Association, the American College of Obstetricians and Gynecologists, the American
 2.6 Public Health Association, the American Academy of Pediatrics, the American College of
 2.7 Physicians, and the American Academy of Family Physicians;

2.8 (ii) federal agencies, such as the Centers for Disease Control and Prevention, the Food
 2.9 and Drug Administration, the National Cancer Institute, and the National Institutes of Health;
 2.10 or

2.11 (iii) leading national or international scientific advisory groups, such as the Health and
 2.12 Medicine Division and the Advisory Committee on Immunization Practices; or

2.13 (3) recommended by or affirmed in the health care practice guidelines of a nationally
 2.14 recognized health care accreditation organization.

2.15 Subd. 2. **Eligibility for grants.** (a) The commissioner shall award grants to eligible
 2.16 applicants under paragraph (c) for the reasonable expenses of ~~alternatives to abortion~~
 2.17 programs to support, ~~encourage,~~ and assist ~~women in carrying pregnant people with their~~
 2.18 pregnancies ~~to term and,~~ or new parents caring for their babies after birth, by providing
 2.19 information on, referral to, and assistance with securing necessary services ~~that enable~~
 2.20 ~~women to carry their pregnancies to term and care for their babies after birth.~~ Necessary
 2.21 services must include, but are not limited to:

2.22 (1) assistance with enrolling in public health care programs and accessing medical care;

2.23 (2) nutritional services;

2.24 (3) housing assistance;

2.25 (4) domestic violence services;

2.26 (5) mental health counseling services;

2.27 ~~(4)~~ (6) adoption services;

2.28 ~~(5)~~ (7) education and employment assistance, including services that support the
 2.29 continuation and completion of high school;

2.30 ~~(6)~~ (8) child care assistance; and

2.31 ~~(7)~~ (9) parenting education and support services.

3.1 An applicant may not provide or assist a ~~woman to obtain~~ person in obtaining adoption
 3.2 services from a provider of adoption services that is not licensed.

3.3 (b) In addition to providing information and referral under paragraph (a), an eligible
 3.4 program may provide one or more of the necessary services under paragraph (a) ~~that assists~~
 3.5 ~~women in carrying their pregnancies to term to support a person with the person's pregnancy~~
 3.6 or with caring for the person's baby, so long as the services are provided by appropriately
 3.7 trained or licensed individuals and in accordance with law. To avoid duplication of efforts,
 3.8 grantees may refer a person to other public or private programs, rather than provide the care
 3.9 directly, if ~~a woman~~ the person meets eligibility criteria for the other programs.

3.10 (c) To be eligible for a grant, an agency or organization must:

3.11 (1) be a private, nonprofit organization;

3.12 (2) demonstrate that the program is conducted under appropriate supervision;

3.13 (3) not charge ~~women~~ for services provided under the program;

3.14 ~~(4) provide each pregnant woman counseled with accurate information on the~~
 3.15 ~~developmental characteristics of babies and of unborn children, including offering the printed~~
 3.16 ~~information described in section 145.4243;~~

3.17 ~~(5) ensure that its alternatives to abortion program's purpose is to assist and encourage~~
 3.18 ~~women in carrying their pregnancies to term and to maximize their potentials thereafter;~~

3.19 (4) not require a person to receive an ultrasound or counseling, view media, or participate
 3.20 in any other activities prior to or as a condition of receiving information, resources, or other
 3.21 services offered by the agency or organization;

3.22 (5) ensure that all signage and print materials make clear that resources and services are
 3.23 available free of charge and free of preconditions;

3.24 (6) ensure that any information provided about pregnancy or any medical condition or
 3.25 procedure related to pregnancy is medically accurate;

3.26 (7) ensure that if the agency or organization offers ultrasounds or referrals to other
 3.27 providers for ultrasounds:

3.28 (i) each ultrasound provided by the agency or organization is provided by, and the results
 3.29 are interpreted by, a licensed medical professional whose scope of practice includes provision
 3.30 of ultrasounds; and

3.31 (ii) when referring a person to another provider for an ultrasound, the agency or
 3.32 organization:

4.1 (A) discloses to the person, to the best of the agency's or organization's knowledge,
 4.2 whether the provider meets the requirements of item (i); and

4.3 (B) warns the person that ultrasounds provided by a person other than a licensed medical
 4.4 professional may pose health risks to the fetus and may not provide accurate information,
 4.5 including but not limited to gestational dating information; and

4.6 ~~(6) (8) ensure that none of the money provided is used to encourage or affirmatively~~
 4.7 ~~counsel a woman to have an abortion not necessary to prevent her death, to provide her an~~
 4.8 ~~abortion, or to directly refer her to an abortion provider for an abortion. The agency or~~
 4.9 ~~organization may provide nondirective counseling; and~~ person toward one birth outcome
 4.10 over another. When providing information on prenatal care and delivery, infant care, foster
 4.11 care, adoption, or pregnancy termination, the agency or organization must provide
 4.12 evidence-based, accurate information, and must provide referrals upon request.

4.13 ~~(7) have had the alternatives to abortion program in existence for at least one year as of~~
 4.14 ~~July 1, 2011; or incorporated an alternative to abortion program that has been in existence~~
 4.15 ~~for at least one year as of July 1, 2011.~~

4.16 ~~(d) The provisions, words, phrases, and clauses of paragraph (c) are inseverable from~~
 4.17 ~~this subdivision, and if any provision, word, phrase, or clause of paragraph (c) or its~~
 4.18 ~~application to any person or circumstance is held invalid, the invalidity applies to all of this~~
 4.19 ~~subdivision.~~

4.20 ~~(e) An organization that provides abortions, promotes abortions, or directly refers to an~~
 4.21 ~~abortion provider for an abortion is ineligible to receive a grant under this program. An~~
 4.22 ~~affiliate of an organization that provides abortions, promotes abortions, or directly refers~~
 4.23 ~~to an abortion provider for an abortion is ineligible to receive a grant under this section~~
 4.24 ~~unless the organizations are separately incorporated and independent from each other. To~~
 4.25 ~~be independent, the organizations may not share any of the following:~~

4.26 ~~(1) the same or a similar name;~~

4.27 ~~(2) medical facilities or nonmedical facilities, including but not limited to, business~~
 4.28 ~~offices, treatment rooms, consultation rooms, examination rooms, and waiting rooms;~~

4.29 ~~(3) expenses;~~

4.30 ~~(4) employee wages or salaries; or~~

4.31 ~~(5) equipment or supplies, including but not limited to, computers, telephone systems,~~
 4.32 ~~telecommunications equipment, and office supplies.~~

5.1 ~~(f) An organization that receives a grant under this section and that is affiliated with an~~
 5.2 ~~organization that provides abortion services must maintain financial records that demonstrate~~
 5.3 ~~strict compliance with this subdivision and that demonstrate that its independent affiliate~~
 5.4 ~~that provides abortion services receives no direct or indirect economic or marketing benefit~~
 5.5 ~~from the grant under this section.~~

5.6 ~~(g) The commissioner shall approve any information provided by a grantee on the health~~
 5.7 ~~risks associated with abortions to ensure that the information is medically accurate.~~

5.8 Subd. 3. **Privacy protection.** (a) Any program receiving a grant under this section:

5.9 (1) must have a privacy policy and procedures in place to ensure that the name, address,
 5.10 telephone number, or any other information that might identify any ~~woman~~ person seeking
 5.11 or receiving the services of the program is not made public or shared with any other agency
 5.12 or organization without the ~~written~~ signed, dated consent of the ~~woman~~ person;

5.13 (2) must keep confidential all communications between the program and the ~~woman~~
 5.14 must remain confidential. For purposes of any medical care provided by the program,
 5.15 including, but not limited to, pregnancy tests or ultrasonic scanning, the program must
 5.16 adhere to the requirements in sections 144.291 to 144.298 that apply to providers before
 5.17 releasing any information relating to the medical care provided. person seeking or receiving
 5.18 services; and

5.19 (3) must not release any records about a person receiving care or counseling from the
 5.20 program without signed, dated consent from the person or the person's authorized
 5.21 representative authorizing the release, specific authorization in law, or a representation from
 5.22 a health care provider that the provider holds a signed, dated consent from the person
 5.23 authorizing the release. Section 144.293, subdivisions 3 to 10, apply to consent obtained
 5.24 and to the release of records under this clause.

5.25 (b) The document provided to the person for purposes of obtaining consent under
 5.26 paragraph (a) must be a separate form from any other materials provided by the program,
 5.27 must clearly state the entities with which the information or records may be shared, and
 5.28 must clearly state that services and goods provided by the program are not conditioned on
 5.29 the person's consent to share personally identifying information.

5.30 ~~(b)~~ (c) Notwithstanding paragraph (a), the commissioner has access to any information
 5.31 necessary to monitor and review a grantee's program as required under subdivision 4.

5.32 Subd. 4. **Duties of commissioner.** ~~The commissioner shall make grants under subdivision~~
 5.33 ~~2 beginning no later than July 1, 2006. In awarding grants under subdivision 2, the~~

6.1 commissioner shall consider the program's demonstrated capacity in providing services to
6.2 assist a pregnant ~~woman in carrying her pregnancy to term~~ persons. The commissioner shall
6.3 monitor and review the programs of each grantee to ensure that the grantee carefully adheres
6.4 to the purposes and requirements of subdivision 2 and shall cease funding a grantee that
6.5 fails to do so.

6.6 Subd. 5. **Severability.** ~~Except as provided in subdivision 2, paragraph (d),~~ If any
6.7 provision, word, phrase, or clause of this section or its application to any person or
6.8 circumstance is held invalid, such invalidity shall not affect the provisions, words, phrases,
6.9 clauses, or applications of this section that can be given effect without the invalid provision,
6.10 word, phrase, clause, or application and to this end, the provisions, words, phrases, and
6.11 clauses of this section are severable.

6.12 Subd. 6. **Minnesota Supreme Court jurisdiction.** ~~The Minnesota Supreme Court has~~
6.13 ~~original jurisdiction over an action challenging the constitutionality of this section and shall~~
6.14 ~~expedite the resolution of the action.~~