

SENATE  
STATE OF MINNESOTA  
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1224

(SENATE AUTHORS: HALL, Gazelka, Hoffman, Benson and Nienow)

DATE	D-PG	OFFICIAL STATUS
04/18/2011	1388	Introduction and first reading Referred to Health and Human Services

1.1A bill for an act

1.2relating to health; limiting use of family planning grant funds; proposing coding

1.3for new law in Minnesota Statutes, chapter 145.

1.4BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5Section 1. [145.417] NO FAMILY PLANNING GRANT FUNDS USED TO

1.6SUBSIDIZE ABORTION SERVICES.

1.7Subdivision 1. **Definitions.** (a) For purposes of this section, the following definitions

1.8apply.

1.9(b) "Abortion" means the use or prescription of any instrument, medicine, drug, or

1.10any other substance or device to intentionally terminate the pregnancy of a female known

1.11to be pregnant, with an intention other than to prevent the death of the female, increase

1.12the probability of a live birth, preserve the life or health of the child after live birth, or

1.13remove a dead fetus.

1.14(c) "Family planning grant funds" means funds distributed through the maternal and

1.15child health block grant program under sections 145.881 to 145.883, the family planning

1.16special projects grant program under section 145.925, the program to eliminate health

1.17disparities under section 145.928, or any other state grant program whose funds are or

1.18may be used to fund family planning services.

1.19(d) "Family planning services" means preconception services that limit or enhance

1.20fertility, including methods of contraception, the management of infertility, preconception

1.21counseling, education, and general reproductive health care.

1.22(e) "Nondirective counseling" means providing patients with:

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

(2) nondirective, nonmarketing information regarding such providers.

(f) "Public advocacy" means engaging in one or more of the following:

(1) regularly engaging in efforts to encourage the passage or defeat of legislation pertaining to the continued or expanded availability of abortion;

(2) publicly endorsing or recommending the election or defeat of a candidate for public office based on the candidate's position on the legality of abortion; or

(3) engaging in civil litigation against a unit of government as a plaintiff seeking to enjoin or otherwise prohibit enforcement of a statute, ordinance, rule, or regulation pertaining to abortion.

**Subd. 2. Uses of family planning grant funds.** No family planning grant funds may be:

(1) expended to directly or indirectly subsidize abortion services or administrative expenses;

(2) paid or granted to an organization or an affiliate of an organization that provides abortion services, unless the affiliate is independent as provided in subdivision 4; or

(3) paid or granted to an organization that has adopted or maintains a policy in writing or through oral public statements that abortion is considered part of a continuum of family planning services, reproductive health services, or both.

**Subd. 3. Organizations receiving family planning grant funds.** An organization that receives family planning grant funds:

(1) may provide nondirective counseling relating to pregnancy but may not directly refer patients who seek abortion services to any organization that provides abortion services, including an independent affiliate of the organization receiving family planning grant funds. For purposes of this clause, an affiliate is independent if it satisfies the criteria in subdivision 4, paragraph (a);

(2) may not display or distribute marketing materials about abortion services to patients;

(3) may not engage in public advocacy promoting the legality or accessibility of abortion; and

(4) must be separately incorporated from any affiliated organization that provides abortion services.

**Subd. 4. Independent affiliates that provide abortion services.** (a) To ensure that the state does not lend its imprimatur to abortion services and to ensure that an

organization that provides abortion services does not receive a direct or indirect economic or marketing benefit from family planning grant funds, an organization that receives family planning grant funds may not be affiliated with an organization that provides abortion services unless the organizations are independent from each other. To be independent, the organizations may not share any of the following:

(1) the same or a similar name;

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

(3) expenses;

(4) employee wages or salaries; or

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

(b) An organization that receives family planning grant funds and that is affiliated with an organization that provides abortion services must maintain financial records that demonstrate strict compliance with this subdivision and that demonstrate that its independent affiliate that provides abortion services receives no direct or indirect economic or marketing benefit from the family planning grant funds.

Subd. 5. **Independent audit.** When an organization applies for family planning grant funds, the organization must submit with the grant application a copy of the organization's most recent independent audit to ensure the organization is in compliance with this section. The independent audit must have been conducted no more than two years before the organization submits its grant application.

Subd. 6. **Organizations receiving title X funds.** Nothing in this section requires an organization that receives federal funds under title X of the Public Health Service Act to refrain from performing any service that is required to be provided as a condition of receiving title X funds, as specified by the provisions of title X or the title X program guidelines for project grants for family planning services published by the United States Department of Health and Human Services.

Subd. 7. **Severability.** If any one or more provision, word, phrase, clause, sentence, or subdivision of this section, or the application to any person or circumstance, is found to be unconstitutional, it is declared to be severable and the balance of this section shall remain effective notwithstanding such unconstitutionality. The legislature hereby declares that it would have passed this section, and each provision, word, phrase, clause, sentence, or subdivision of it, regardless of the fact that any one or more provision, word, phrase, clause, sentence, or subdivision be declared unconstitutional.

4.1            Subd. 8. **Supreme Court jurisdiction.** The Minnesota Supreme Court has original  
4.2 jurisdiction over any action challenging the constitutionality of this section and shall  
4.3 expedite the resolution of the action.