

# SENATE BILL No. 162

February 15, 2017, Introduced by Senators COLBECK, HANSEN, JONES, PAVLOV, ROBERTSON, BOOHER, MARLEAU, ZORN, GREEN, PROOS, NOFS, KNOLLENBERG and EMMONS and referred to the Committee on Oversight.

A bill to amend 2002 PA 360, entitled

"An act to revise the priority of allocation of funds for certain programs and services administered by the department of community health; and to prescribe the powers and duties of certain state agencies and departments,"

by amending the title and section 1 (MCL 333.1091).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

TITLE

An act to ~~revise the priority of allocation of funds for certain programs and services administered by the department of community health;~~ **PROHIBIT THE ALLOCATION OF STATE FUNDS TO CERTAIN ENTITIES;** and to prescribe the ~~CERTAIN~~ powers and duties of certain state agencies and departments.

Sec. 1. (1) ~~Except as otherwise provided in this section, it~~ **IT** is the policy of this state ~~for the department of community health to give priority under this subsection in the allocation of~~

1 ~~ALLOCATING~~ funds through grants or contracts for educational and  
2 other programs and services ~~administered by the department of~~  
3 ~~community health and primarily pertaining to family planning or~~  
4 ~~reproductive health services, or both. This subsection applies to~~  
5 ~~grants or contracts awarded to a qualified entity that does not~~  
6 ~~engage in 1 or more of the following activities:~~ **TO REFRAIN FROM**  
7 **ALLOCATING FUNDS TO AN ENTITY THAT CONSIDERS AN ELECTIVE ABORTION**  
8 **TO BE A PART OF THE CONTINUUM OF HEALTH CARE FOR PURPOSES OF FAMILY**  
9 **PLANNING OR COMPREHENSIVE REPRODUCTIVE HEALTH SERVICES.**

10 ~~—— (a) Performing elective abortions or allowing the performance~~  
11 ~~of elective abortions within a facility owned or operated by the~~  
12 ~~qualified entity.~~

13 ~~—— (b) Referring a pregnant woman to an abortion provider for an~~  
14 ~~elective abortion.~~

15 ~~—— (c) Adopting or maintaining a policy in writing that elective~~  
16 ~~abortion is considered part of a continuum of family planning or~~  
17 ~~reproductive health services, or both.~~

18 ~~—— (2) If each of the entities applying for a grant or contract~~  
19 ~~described in subsection (1) engages in 1 or more of the activities~~  
20 ~~listed in subsection (1) (a) to (c), the department of community~~  
21 ~~health shall give priority to those entities that engage in the~~  
22 ~~least number of activities listed in subsection (1) (a) to (c).~~

23 ~~—— (3) Subsection (1) does not apply if the only applying entity~~  
24 ~~for a grant or contract described in subsection (1) engages in 1 or~~  
25 ~~more of the activities listed in subsection (1) (a) to (c).~~

26 ~~—— (4) Subsection (1) does not apply to grants or contracts~~  
27 ~~awarded by the department of community health other than family~~

1 ~~planning and pregnancy prevention awards under subpart a of part 59~~  
 2 ~~of title 42 of the Code of Federal Regulations or state~~  
 3 ~~appropriated family planning or pregnancy prevention funds.~~

4 ~~—— (5) In applying the priority established in subsection (1),~~  
 5 ~~the department of community health shall not take into~~  
 6 ~~consideration an activity listed in subsection (1)(a) to (c) if~~  
 7 ~~participating in that activity is required under federal law as a~~  
 8 ~~qualification for receiving federal funding.~~

9       (2) **NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, A**  
 10 **STATE DEPARTMENT OR OTHER AGENCY OF THIS STATE SHALL NOT ALLOCATE**  
 11 **FEDERAL OR STATE FUNDS TO AN ENTITY THAT PERFORMS MORE THAN 120**  
 12 **ELECTIVE ABORTIONS PER YEAR ON 1 OR MORE OF THE ENTITY'S PHYSICAL**  
 13 **PROPERTIES AND THAT ADVERTISES OUTPATIENT ABORTION SERVICES.**

14       (3) ~~(6)~~ If an entity applying for a contract or grant  
 15 ~~described in subsection (1)~~ is affiliated with another entity that  
 16 engages in ~~1 or more of the activities listed in subsection (1)(a)~~  
 17 ~~to (c),~~ **DESCRIBED IN SUBSECTION (2),** the applying entity shall, **IS,**  
 18 for purposes of awarding a grant or contract, ~~under subsection (1),~~  
 19 be considered independent of the affiliated entity if all of the  
 20 following conditions are met:

21       (a) The physical properties and equipment of the applying  
 22 entity are separate and not shared with the affiliated entity.

23       (b) The financial records of the applying entity and  
 24 affiliated entity demonstrate that the affiliated entity receives  
 25 no funds from the applying entity.

26       (c) The paid personnel of the applying entity do not perform  
 27 any function or duty on behalf of the affiliated entity while on

1 the physical property of the applying entity or during the hours  
2 the personnel are being paid by the applying entity.

3 (4) ~~(7) The~~ **A STATE** department of ~~community health OR OTHER~~  
4 **AGENCY OF THIS STATE** shall award grants and contracts to qualified  
5 entities under this act to ensure that ~~family planning~~ **EDUCATIONAL,**  
6 **SUPPORT, AND HEALTH** services are adequately available and  
7 distributed in a manner that is reflective of the geographic and  
8 population diversity of this state. A qualified entity that is  
9 awarded a grant or contract must also be capable of serving the  
10 patient census reflected in the contract or grant for which the  
11 qualified entity is applying.

12 (5) ~~(8)~~ As used in this act:

13 (a) "Affiliated" means the sharing between entities of 1 or  
14 more of the following:

- 15 (i) A common name or other identifier.  
16 (ii) Members of a governing board.  
17 (iii) A director.  
18 (iv) Paid personnel.

19 (b) "Elective abortion" means the performance of a procedure  
20 involving the intentional use of an instrument, drug, or other  
21 substance or device to terminate a woman's pregnancy for a purpose  
22 other than to increase the probability of a live birth, to preserve  
23 the life or health of the child after live birth, or to remove a  
24 dead fetus. Elective abortion does not include either of the  
25 following:

26 (i) The use or prescription of a drug or device intended as a  
27 contraceptive.

1           (ii) The intentional use of an instrument, drug, or other  
2 substance or device by a physician to terminate a woman's pregnancy  
3 if the woman's physical condition, in the physician's reasonable  
4 medical judgment, necessitates the termination of the woman's  
5 pregnancy to avert her death.

6           (c) "Entity" means a local agency, organization, or  
7 corporation or a subdivision, contractee, subcontractee, or grant  
8 recipient of a local agency, organization, or corporation.

9           (d) "Qualified entity" means an entity **THAT HAS BEEN** reviewed  
10 and determined by the **ALLOCATING STATE** department ~~of community~~  
11 ~~health~~ **OR OTHER AGENCY OF THIS STATE** to be technically and  
12 logistically capable of providing the quality and quantity of  
13 services required within a cost range considered appropriate by the  
14 department **OR OTHER AGENCY AND THAT DOES NOT ENGAGE IN THE**  
15 **ACTIVITIES DESCRIBED IN SUBSECTION (2)**.

16           Enacting section 1. This amendatory act takes effect 90 days  
17 after the date it is enacted into law.