H-0289.1

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**HOUSE BILL 1002**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Taylor, Shea, McCaslin, Fortunato, Volz, Klippert, J. Walsh, Griffey, Chandler, Holy, Harris, Short, Hargrove, Rodne, Buys, Pike, Young, Koster, Barkis, MacEwen, and McCabe

AN ACT Relating to restricting public funds from being used for elective abortions; amending RCW 9.02.100, 9.02.160, 9.02.170, and 43.70.040; reenacting and amending RCW 74.09.659; adding a new section to chapter 41.05 RCW; adding a new section to chapter 74.09 RCW; creating a new section; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature finds that though the question of whether taxpayers have an obligation to pay for abortions became a major issue after the United States supreme court created a constitutional right to abortion in 1973, the supreme court has repeatedly affirmed the constitutionality of federal and state restrictions on government funding for abortions firmly resolving the public funding issue.

(2) The legislature further finds that the supreme court has found it is permissible for a state to engage in unequal subsidization of abortion and other medical services to encourage alternative activity deemed to be in the public interest.

(3) The legislature further finds that polls overwhelmingly demonstrate that Americans, regardless of their opinion on whether abortion should be legal, oppose taxpayer funding for abortion and coinciding with increased awareness about the nature and frequency of abortion subsidization in the United States is an increased awareness about the true nature of the abortion industry. As Americans become more aware of how their tax dollars or insurance premiums are being used to subsidize abortion, and how that affects the safety and well-being of women, their aversion toward paying directly for abortions is evolving into an aversion toward subsidizing abortion providers for any medical services.

**Sec.**  RCW 9.02.100 and 1992 c 1 s 1 are each amended to read as follows:

The sovereign people hereby declare that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions.

Accordingly, it is the public policy of the state of Washington that:

(1) Every individual has the fundamental right to choose or refuse birth control;

(2) Every woman has the fundamental right to choose or refuse to have an abortion, except as specifically limited by RCW 9.02.100 through 9.02.170 and 9.02.900 through 9.02.902;

(3) Except as specifically permitted by RCW 9.02.100 through 9.02.170 ((~~and~~)), 9.02.900 through 9.02.902, 43.70.040, 74.09.659, and sections 6 and 7 of this act, the state shall not deny or interfere with a woman's fundamental right to choose or refuse to have an abortion; and

(4) Except as otherwise provided in RCW 9.02.160, 9.02.170, 43.70.040, 74.09.659, and sections 6 and 7 of this act, the state shall not discriminate against the exercise of these rights in the regulation or provision of benefits, facilities, services, or information.

**Sec.**  RCW 9.02.160 and 1992 c 1 s 7 are each amended to read as follows:

(1) If the state provides, directly or by contract, maternity care benefits, services, or information to women through any program administered or funded in whole or in part by the state, the state shall also provide women otherwise eligible for any such program with substantially equivalent benefits, services, or information to permit them to voluntarily terminate their pregnancies in any situation in which the abortion is medically necessary.

(2) The state may not provide benefits or services to permit a woman to voluntarily terminate her pregnancy, except when the abortion is medically necessary.

**Sec.**  RCW 9.02.170 and 1992 c 1 s 8 are each amended to read as follows:

For purposes of this chapter:

(1) "Viability" means the point in the pregnancy when, in the judgment of the physician on the particular facts of the case before such physician, there is a reasonable likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures.

(2) "Abortion" means any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth.

(3) "Pregnancy" means the reproductive process beginning with the implantation of an embryo.

(4) "Physician" means a physician licensed to practice under chapter 18.57 or 18.71 RCW in the state of Washington.

(5) "Health care provider" means a physician or a person acting under the general direction of a physician.

(6) "State" means the state of Washington and counties, cities, towns, municipal corporations, and quasi-municipal corporations in the state of Washington.

(7) "Private medical facility" means any medical facility that is not owned or operated by the state.

(8) "Medically necessary" means that, as determined by reasonable, good faith clinical judgment of the patient's primary care physician, the life of the woman seeking the abortion is in imminent danger because of a serious physical disorder, illness, or injury if the abortion is not performed.

**Sec.**  RCW 43.70.040 and 2005 c 32 s 2 are each amended to read as follows:

(1) In addition to any other powers granted the secretary, and except as provided in subsection (2) of this section, the secretary may:

((~~(1)~~)) (a) Adopt, in accordance with chapter 34.05 RCW, rules necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess.: PROVIDED, That for rules adopted after July 23, 1995, the secretary may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule;

((~~(2)~~)) (b) Appoint such advisory committees as may be necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess. Members of such advisory committees are authorized to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. The secretary and the board of health shall review each advisory committee within their jurisdiction and each statutory advisory committee on a biennial basis to determine if such advisory committee is needed;

((~~(3)~~)) (c) Undertake studies, research, and analysis necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess. in accordance with RCW 43.70.050;

((~~(4)~~)) (d) Delegate powers, duties, and functions of the department to employees of the department as the secretary deems necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess.;

((~~(5)~~)) (e) Enter into contracts and enter into and distribute grants on behalf of the department to carry out the purposes of chapter 9, Laws of 1989 1st ex. sess. The department must report to the legislature a summary of the grants distributed under this authority, for each year of the first biennium after the department receives authority to distribute grants under this section, and make it electronically available;

((~~(6)~~)) (f) Act for the state in the initiation of, or the participation in, any intergovernmental program to the purposes of chapter 9, Laws of 1989 1st ex. sess.; or

((~~(7)~~)) (g) Solicit and accept gifts, grants, bequests, devises, or other funds from public and private sources.

(2)(a) The secretary may not enter into contracts, distribute grants, or direct funds to any organization that provides elective abortions or is affiliated, in whole or in part, with any organization that provides elective abortions, or receives consideration from or provides consideration to, directly or indirectly, any organization that provides elective abortions.

(b) For the purposes of this subsection, "elective abortion" means any abortion that is voluntarily undertaken to induce the termination of a pregnancy, other than an abortion deemed medically necessary by the patient's primary care physician. "Medically necessary" has the same meaning as in RCW 9.02.170.

NEW SECTION. **Sec.**  A new section is added to chapter 41.05 RCW to read as follows:

(1) A health benefit plan offered to public employees and their covered dependents under this chapter that is not subject to the provisions of Title 48 RCW and is issued or renewed after December 31, 2017, may not:

(a) Provide elective abortions; or

(b) Purchase any services from any organization that provides elective abortions, is affiliated, in whole or in part, with any organization that provides elective abortions, or receives consideration from or provides consideration to, directly or indirectly, any organization that provides elective abortions.

(2) For the purposes of this section, "elective abortion" has the same meaning as in section 5 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 74.09 RCW to read as follows:

(1) A medical program defined in RCW 74.09.010 may not:

(a) Provide elective abortions; or

(b) Purchase any services from any organization that provides elective abortions, is affiliated, in whole or in part, with any organization that provides elective abortions, or receives consideration from or provides consideration to, directly or indirectly, any organization that provides elective abortions.

(2) For the purposes of this section, "elective abortion" has the same meaning as in section 5 of this act.

**Sec.**  RCW 74.09.659 and 2011 1st sp.s. c 41 s 2 and 2011 1st sp.s. c 15 s 41 are each reenacted and amended to read as follows:

(1) The authority shall continue to submit applications for the family planning waiver program.

(2) The authority shall submit a request to the federal department of health and human services to amend the current family planning waiver program as follows:

(a) Provide coverage for sexually transmitted disease testing and treatment;

(b) Return to the eligibility standards used in 2005 including, but not limited to, citizenship determination based on declaration or matching with federal social security databases, insurance eligibility standards comparable to 2005, and confidential service availability for minors and survivors of domestic and sexual violence; and

(c) By September 30, 2011, submit an application to increase income eligibility to two hundred fifty percent of the federal poverty level, to correspond with income eligibility for publicly funded maternity care services.

(3)(a) No funds from this section may be used to:

(i) Provide elective abortions; or

(ii) Purchase any services from any organization that provides elective abortions, is affiliated, in whole or in part, with any organization that provides elective abortions, or receives consideration from or provides consideration to, directly or indirectly, any organization that provides elective abortions.

(b) For the purposes of this subsection, "elective abortion" has the same meaning as in section 5 of this act.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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