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HOUSE BILL 2294

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State of Washington

64th Legislature

2016 Regular Session

By Representatives Taylor, G. Hunt, Young, McCaslin, Shea, Scott, McCabe, Rodne, Chandler, Buys, Haler, Griffey, Short, Holy, MacEwen, Pike, Harris, Condotta, Van Werven, Klippert, Hargrove, Zeiger, and Schmick

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1 AN ACT Relating to restricting public funds from being used for  
2 elective abortions; amending RCW 9.02.100, 9.02.160, 9.02.170, and  
3 43.70.040; reenacting and amending RCW 74.09.659; adding a new  
4 section to chapter 41.05 RCW; adding a new section to chapter 74.09  
5 RCW; creating a new section; and declaring an emergency.

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

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

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

18 (3) The legislature further finds that polls overwhelmingly  
19 demonstrate that Americans, regardless of their opinion on whether  
20 abortion should be legal, oppose taxpayer funding for abortion and  
21 coinciding with increased awareness about the nature and frequency of

1 abortion subsidization in the United States is an increased awareness  
2 about the true nature of the abortion industry. As Americans become  
3 more aware of how their tax dollars or insurance premiums are being  
4 used to subsidize abortion, and how that affects the safety and well-  
5 being of women, their aversion toward paying directly for abortions  
6 is evolving into an aversion toward subsidizing abortion providers  
7 for any medical services.

8 **Sec. 2.** RCW 9.02.100 and 1992 c 1 s 1 are each amended to read  
9 as follows:

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

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

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

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

20 (3) Except as specifically permitted by RCW 9.02.100 through  
21 9.02.170 (~~and~~), 9.02.900 through 9.02.902, 43.70.040, 74.09.659,  
22 and sections 6 and 7 of this act, the state shall not deny or  
23 interfere with a woman's fundamental right to choose or refuse to  
24 have an abortion; and

25 (4) Except as otherwise provided in RCW 9.02.160, 9.02.170,  
26 43.70.040, 74.09.659, and sections 6 and 7 of this act, the state  
27 shall not discriminate against the exercise of these rights in the  
28 regulation or provision of benefits, facilities, services, or  
29 information.

30 **Sec. 3.** RCW 9.02.160 and 1992 c 1 s 7 are each amended to read  
31 as follows:

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

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

4       **Sec. 4.** RCW 9.02.170 and 1992 c 1 s 8 are each amended to read  
5 as follows:

6       For purposes of this chapter:

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

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

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

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

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

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

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

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

31       **Sec. 5.** RCW 43.70.040 and 2005 c 32 s 2 are each amended to read  
32 as follows:

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

36       ~~((1))~~ (a) Adopt, in accordance with chapter 34.05 RCW, rules  
37 necessary to carry out the provisions of chapter 9, Laws of 1989 1st  
38 ex. sess.: PROVIDED, That for rules adopted after July 23, 1995, the

1 secretary may not rely solely on a section of law stating a statute's  
2 intent or purpose, on the enabling provisions of the statute  
3 establishing the agency, or on any combination of such provisions,  
4 for statutory authority to adopt any rule;

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

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

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

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

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

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

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

38 (b) For the purposes of this subsection, "elective abortion"  
39 means any abortion that is voluntarily undertaken to induce the  
40 termination of a pregnancy, other than an abortion deemed medically

1 necessary by the patient's primary care physician. "Medically  
2 necessary" has the same meaning as in RCW 9.02.170.

3 NEW SECTION. Sec. 6. A new section is added to chapter 41.05  
4 RCW to read as follows:

5 (1) A health benefit plan offered to public employees and their  
6 covered dependents under this chapter that is not subject to the  
7 provisions of Title 48 RCW and is issued or renewed after December  
8 31, 2016, may not:

9 (a) Provide elective abortions; or

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

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

17 NEW SECTION. Sec. 7. A new section is added to chapter 74.09  
18 RCW to read as follows:

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

20 (a) Provide elective abortions; or

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

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

28 **Sec. 8.** RCW 74.09.659 and 2011 1st sp.s. c 41 s 2 and 2011 1st  
29 sp.s. c 15 s 41 are each reenacted and amended to read as follows:

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

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

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

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

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

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

12 (i) Provide elective abortions; or

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

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

20 NEW SECTION. Sec. 9. If any provision of this act or its  
21 application to any person or circumstance is held invalid, the  
22 remainder of the act or the application of the provision to other  
23 persons or circumstances is not affected.

24 NEW SECTION. Sec. 10. This act is necessary for the immediate  
25 preservation of the public peace, health, or safety, or support of  
26 the state government and its existing public institutions, and takes  
27 effect immediately.

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