

**House File 236 - Introduced**

HOUSE FILE 236

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**A BILL FOR**

1 An Act relating to the distribution of certain funds for  
2 abortions, and including effective date provisions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

STATE FAMILY PLANNING SERVICES PROGRAM

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2  
3 Section 1. STATE FAMILY PLANNING SERVICES PROGRAM —  
4 ESTABLISHMENT — DISCONTINUATION OF MEDICAID FAMILY PLANNING  
5 NETWORK WAIVER.

6 1. The department of human services shall discontinue the  
7 Medicaid family planning network waiver effective July 1, 2017,  
8 and shall instead establish a state family planning services  
9 program. The state program shall replicate the eligibility  
10 requirements and other provisions included in the Medicaid  
11 family planning network waiver as approved by the centers for  
12 Medicare and Medicaid services of the United States department  
13 of health and human services in effect on June 30, 2017, but  
14 shall provide for distribution of the family planning services  
15 program funds in accordance with this section.

16 2. Distribution of family planning services program funds  
17 shall be made to eligible applicants in the following order of  
18 priority:

19 a. Public entities that provide family planning services  
20 including state, county, or local community health clinics and  
21 federally qualified health centers.

22 b. Nonpublic entities that, in addition to family planning  
23 services, provide required primary health services as described  
24 in 42 U.S.C. §254b(b)(1)(A).

25 c. Nonpublic entities that provide family planning  
26 services but do not provide required primary health services as  
27 described in 42 U.S.C. §254b(b)(1)(A).

28 3. Distribution of family planning services program funds  
29 under this section shall be made in a manner that continues  
30 access to family planning services.

31 4. Distribution of family planning services program funds  
32 shall not be made to any entity that performs abortions or that  
33 maintains or operates a facility where abortions are performed.  
34 For the purposes of this section, "abortion" does not include  
35 any of the following:

1 a. The treatment of a woman for a physical disorder,  
2 physical injury, or physical illness, including a  
3 life-endangering physical condition caused by or arising from  
4 the pregnancy itself, that would, as certified by a physician,  
5 place the woman in danger of death.

6 b. The treatment of a woman for a spontaneous abortion,  
7 commonly known as a miscarriage.

8 5. Family planning services program funds distributed in  
9 accordance with this section shall not be used for direct or  
10 indirect costs, including but not limited to administrative  
11 costs or expenses, overhead, employee salaries, rent, and  
12 telephone and other utility costs, related to providing  
13 abortions as specified in subsection 4.

14 6. The department of human services shall submit a report to  
15 the governor and the general assembly, annually by January 1,  
16 listing any entities that received funds pursuant to subsection  
17 2, paragraph "c", and the amount and type of funds received by  
18 such entities during the preceding calendar year. The report  
19 shall provide a detailed explanation of how the department  
20 determined that distribution of family planning services  
21 program funds to such an entity, instead of to an entity  
22 described in subsection 2, paragraph "a" or "b", was necessary  
23 to prevent severe limitation or elimination of access to family  
24 planning services in the region of the state where the entity  
25 is located.

26 Sec. 2. EFFECTIVE UPON ENACTMENT. This division of this  
27 Act, being deemed of immediate importance, takes effect upon  
28 enactment.

29 DIVISION II

30 DISTRIBUTION OF FEDERAL FUNDS — RESTRICTIONS — ABORTION

31 Sec. 3. DISTRIBUTION OF FEDERAL PUBLIC HEALTH SERVICES ACT  
32 FUNDS FOR FAMILY PLANNING.

33 1. The department of public health shall annually apply  
34 to the United States department of health and human services  
35 for grant funding under Tit. X of the federal Public Health

1 Services Act, 42 U.S.C. §300 et seq. The department shall  
2 distribute all grant funding received to applicants in the  
3 following order of priority:

4 a. Public entities that provide family planning services  
5 including state, county, or local community health clinics and  
6 federally qualified health centers.

7 b. Nonpublic entities that, in addition to family planning  
8 services, provide required primary health services as described  
9 in 42 U.S.C. §254b(b)(1)(A).

10 c. Nonpublic entities that provide family planning  
11 services but do not provide required primary health services as  
12 described in 42 U.S.C. §254b(b)(1)(A).

13 2. Distribution of funds under this section shall be made in  
14 a manner that continues access to family planning services.

15 3. Distribution of funds shall not be made to any entity  
16 that performs abortions or that maintains or operates a  
17 facility where abortions are performed. For the purposes of  
18 this section, "abortion" does not include any of the following:

19 a. The treatment of a woman for a physical disorder,  
20 physical injury, or physical illness, including a  
21 life-endangering physical condition caused by or arising from  
22 the pregnancy itself, that would, as certified by a physician,  
23 place the woman in danger of death.

24 b. The treatment of a woman for a spontaneous abortion,  
25 commonly known as a miscarriage.

26 4. Funds distributed in accordance with this section shall  
27 not be used for direct or indirect costs, including but not  
28 limited to administrative costs or expenses, overhead, employee  
29 salaries, rent, and telephone and other utility costs, related  
30 to providing abortions as specified in this section.

31 5. The department of public health shall submit a report to  
32 the governor and the general assembly, annually by January 1,  
33 listing any entities that received funds pursuant to subsection  
34 1, paragraph "c", and the amount and type of funds received by  
35 such entities during the preceding calendar year. The report

1 shall provide a detailed explanation of how the department  
2 determined that distribution of funds to such an entity,  
3 instead of to an entity described in subsection 1, paragraph  
4 "a" or "b", was necessary to prevent severe limitation or  
5 elimination of access to family planning services in the region  
6 of the state where the entity is located.

7     Sec. 4. ADMINISTRATION OF PERSONAL RESPONSIBILITY  
8 EDUCATION PROGRAM AND ABSTINENCE EDUCATION GRANT PROGRAM  
9 FUNDS. Any contract entered into on or after July 1, 2017,  
10 by the department of public health to administer the personal  
11 responsibility education program as specified in 42 U.S.C.  
12 §713 or to administer the abstinence education grant program  
13 authorized pursuant to section 510 of Tit. V of the federal  
14 Social Security Act, shall exclude as an eligible applicant any  
15 applicant entity that provides abortions, maintains or operates  
16 a facility where abortions are performed, or regularly makes  
17 referrals to an entity that provides abortions or maintains or  
18 operates a facility where abortions are performed. For the  
19 purposes of this section, such referrals include but are not  
20 limited to referrals made by reference to an internet site or  
21 by linking to an internet site maintained by an entity that  
22 provides abortions or maintains or operates a facility where  
23 abortions are performed.

24     Sec. 5. AWARD OF COMMUNITY ADOLESCENT PREGNANCY PREVENTION  
25 AND SERVICES PROGRAM GRANT FUNDS. Any contract entered into on  
26 or after July 1, 2017, by the department of human services to  
27 award a community adolescent pregnancy prevention and services  
28 program grant using federal temporary assistance for needy  
29 families block grant funds appropriated to the department  
30 shall exclude as an eligible applicant any applicant entity  
31 that provides abortions, maintains or operates a facility  
32 where abortions are performed, or regularly makes referrals to  
33 an entity that provides abortions or maintains or operates a  
34 facility where abortions are performed. For the purposes of  
35 this section, such referrals include but are not limited to

1 referrals made by reference to an internet site or by linking  
2 to an internet site maintained by an entity that provides  
3 abortions or maintains or operates a facility where abortions  
4 are performed.

5 DIVISION III

6 RIGHT OF INTERVENTION

7 Sec. 6. RIGHT OF INTERVENTION. The sponsor or cosponsors  
8 of this Act, as an agent or agents of the state, shall have  
9 standing to intervene on behalf of the general assembly as a  
10 party in any judicial or administrative proceeding challenging  
11 the provisions of this Act.

12 DIVISION IV

13 SEVERABILITY

14 Sec. 7. SEVERABILITY. If any provision of this Act or  
15 the application of this Act to any person or circumstances is  
16 held invalid, the invalidity shall not affect other provisions  
17 or applications of the Act which can be given effect without  
18 the invalid provisions or application and, to this end, the  
19 provisions of this Act are severable.

20 EXPLANATION

21 The inclusion of this explanation does not constitute agreement with  
22 the explanation's substance by the members of the general assembly.

23 This bill relates to the distribution of certain funds  
24 relative to abortions.

25 Division I of the bill establishes a state family planning  
26 services program and discontinues the Medicaid family planning  
27 network waiver.

28 The division directs the department of human services (DHS)  
29 to discontinue the Medicaid family planning network waiver  
30 effective July 1, 2017, and to instead establish a state family  
31 planning services program. The state program is to replicate  
32 the eligibility requirements and other provisions included in  
33 the Medicaid family planning network waiver, but the program  
34 funds are to be distributed in accordance with a prioritization  
35 schedule specified in the division.

1 The program funds are to be distributed in a manner that  
2 continues access to family planning services, but are not to  
3 be distributed to any entity that performs abortions or that  
4 maintains or operates a facility where abortions are performed.  
5 The division makes exceptions to the definition of "abortion"  
6 for the purpose of distribution of the funds.

7 The division also specifies that the funds distributed shall  
8 not be used for direct or indirect costs, including but not  
9 limited to administrative costs or expenses, overhead, employee  
10 salaries, rent, and telephone and other utility costs, related  
11 to providing abortions.

12 The division requires DHS to submit a report to the governor  
13 and the general assembly annually by January 1 listing any  
14 entities that received program funds that are in the lowest  
15 position of priority described as nonpublic entities that  
16 provide family planning services but do not provide required  
17 primary health services as defined in federal law, as well as  
18 the amount and type of funds received by such entities during  
19 the preceding calendar year. The report is also to include a  
20 detailed explanation of how DHS determined that distribution of  
21 program funds to such an entity was necessary to prevent severe  
22 limitation or elimination of access to family planning services  
23 in the region of the state where the entity is located.

24 This division of the bill takes effect upon enactment.

25 Division II of the bill relates to the distribution and use  
26 of certain federal funds for abortions. The division includes  
27 limitations on distribution to certain applicants of federal  
28 funds received by the state under Title X of the federal Public  
29 Health Services Act, the personal responsibility education  
30 program, the abstinence education grant program, and the  
31 community adolescent pregnancy prevention grant program.

32 The division directs the department of health (DPH) to  
33 distribute all grant funding received through Title X of  
34 the federal Public Health Services Act on the basis of a  
35 prioritized schedule of applicants. The division prohibits

1 funding to be distributed to any entity that performs abortions  
2 or that maintains or operates a facility where abortions are  
3 performed. The division also prohibits funds distributed to  
4 be used for direct or indirect costs related to providing  
5 abortions. The division makes exceptions to the definition  
6 of "abortion" for the purpose of distribution of the funds.  
7 The division directs DPH to submit a report annually to the  
8 governor and the general assembly by January 1, identifying any  
9 entities lowest in the prioritization schedule that received  
10 public funds instead of an entity higher in the prioritization  
11 schedule during the preceding calendar year. The report  
12 shall include a detailed explanation of how DPH determined  
13 that distribution to such an entity was necessary to prevent  
14 limitations in access to family planning services in the region  
15 of the state where the entity is located.

16 The division directs DPH, beginning with any contract  
17 entered into on or after July 1, 2017, to administer the  
18 state personal responsibility education program and the state  
19 abstinence education grant program to exclude as an eligible  
20 applicant any applicant entity that provides abortions,  
21 maintains or operates facilities where abortions are performed,  
22 or regularly makes referrals to an entity that provides  
23 abortions or maintains or operates a facility where abortions  
24 are performed.

25 The division directs the department of human services,  
26 beginning with any contract entered into on or after July 1,  
27 2017, to exclude from the award of federal temporary assistance  
28 for needy families block grant funds appropriated to the  
29 department for the community adolescent pregnancy prevention  
30 and services program, any applicant entity that provides  
31 abortions, maintains or operates a facility where abortions  
32 are performed, or regularly makes referrals to an entity that  
33 provides abortions or maintains or operates a facility where  
34 abortions are performed.

35 Division III of the bill provides for a right of

1 intervention. The bill provides that a sponsor or cosponsors  
2 of the bill, as an agent or agents of the state, shall have  
3 standing to intervene on behalf of the general assembly as a  
4 party in any judicial or administrative proceeding challenging  
5 the provisions of the bill.

6 Division IV of the bill provides for severability of any  
7 provision or application of the bill that is held invalid from  
8 the provisions or applications of the bill which can be given  
9 effect without the invalid provisions or application.