

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR
HOUSE BILL NO. 586
93RD GENERAL ASSEMBLY

Reported from the Committee on Children and Families April 13, 2005 with recommendation that House Committee Substitute No. 2 for House Bill No. 586 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

0499L.06C

AN ACT

To amend chapter 33, RSMo, by adding thereto one new section relating to public funds.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 33, RSMo, is amended by adding thereto one new section, to be
2 known as section 33.900, to read as follows:

33.900. 1. As used in this section, the following terms shall mean:

2 **(1) "Abortion services", include performing, inducing or assisting with abortions**
3 **as defined in section 188.015, RSMo, or encouraging patients to have abortions, or**
4 **referring patients for abortions, not necessary to save the life of the mother, or**
5 **development or dispensing of drugs, chemicals or devices intended to be used to induce an**
6 **abortion;**

7 **(2) "Health and social services program", any activity, program or the furnishing**
8 **of services for the purpose of preventing, supporting, alleviating, ameliorating, treating,**
9 **curing or healing any human condition, illness, injury or disability, or to safeguard the**
10 **health of people and ensure the prevention of any type of disease, infection or injury, the**
11 **promotion of specific lifestyle, hygiene and sanitary conditions, or to assist persons to**
12 **provide for themselves and others and to assist those experiencing any social or physical**
13 **condition or disadvantage, and including the furnishing of any sort of physical, health,**
14 **medical or dental assessment, care, counseling, education or treatment, whether to**
15 **individuals or groups of individuals;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (3) "Independent affiliate", an entity that provides abortion services that is
17 affiliated with an entity that does not provide abortion services, is separately incorporated
18 from the entity that does not provide abortion services, does not receive or share a direct
19 or indirect economic or marketing benefit from such affiliation with the entity that does
20 not provide abortion services, and does not share any of the following with the entity that
21 does not provide abortion services, regardless of whether reimbursement is made for any
22 expenditures associated with sharing the following:

23 (a) The same name or similar names;

24 (b) Medical or nonmedical facilities, including but not limited to business offices,
25 laboratories, treatment, consultation, examination and waiting rooms;

26 (c) Expenses;

27 (d) Employee wages or salaries; or

28 (e) Equipment or supplies, including but not limited to computers, telephone
29 systems, telecommunications equipment, and office and medical supplies;

30 (4) "Nondirective pregnancy counseling", counseling related to pregnancy that
31 does not include abortion services, but may include providing patients with information
32 regarding providers of health care and social service programs that provide post partum,
33 perinatal, prenatal, delivery, infant care, foster care, adoption, and alternatives to abortion
34 services, or otherwise providing information required by federal law;

35 (5) "Public funds", shall include:

36 (a) Any funds received or controlled by the state of Missouri or any official,
37 department, division, agency or political subdivision thereof, including but not limited to
38 funds derived from federal, state or local taxes, gifts or grants from any source, settlements
39 of any claims or causes of action, public or private, bond proceeds, federal grants or
40 payments, or intergovernmental transfers;

41 (b) Any funds received or controlled by any official, department, division or agency
42 of state government or political subdivision thereof, or granted or distributed to any other
43 person or entity, pursuant to appropriation by the general assembly or the governing body
44 of any political subdivision of this state.

45 2. Public funds shall not be expended, paid or granted to or on behalf of an existing
46 or proposed health and social services program to directly or indirectly subsidize abortion
47 services. To ensure that support is not lent in any manner to abortion services, and to
48 ensure that an entity that provides abortion services does not receive a direct or indirect
49 economic or marketing benefit from public funds expended in connection with any health
50 and social services program:

51 (1) Public funds shall not be expended, paid or granted in connection with any
52 health and social services program to an entity that provides abortion services;

53 (2) An entity that does not provide abortion services may receive public funds in
54 connection with any health and social services program if affiliated with an entity that
55 provides abortion services, only if the affiliated entity that provides abortion services is an
56 independent affiliate;

57 (3) An entity that provides counseling to pregnant persons in connection with a
58 health and social services program receiving public funds shall only provide nondirective
59 pregnancy counseling unless otherwise required pursuant to subsection 3 of this section;

60 (4) An entity that receives public funds in connection with any health and social
61 services program shall not display or distribute marketing materials promoting abortion
62 services;

63 (5) An entity that receives public funds in connection with any health and social
64 services program shall maintain financial records that demonstrate strict compliance with
65 this subsection;

66 (6) An independent audit of any entity that receives public funds in connection with
67 any health and social services program shall be conducted at least once every three years,
68 or sooner if required by any other provision of law or if directed by the governmental
69 entity expending, paying or granting the public funds, to ensure compliance with this
70 subsection. If the recipient of the public funds is an affiliate of an entity that provides
71 abortion services, an independent audit to ensure compliance with this subsection shall be
72 conducted at least annually. The audit shall be conducted by:

73 (a) The state auditor; or

74 (b) An independent auditing firm retained by the governmental entity expending,
75 paying or granting the public funds; or

76 (c) An independent auditing firm approved by the governmental entity expending,
77 paying or granting the public funds and retained by the entity receiving public funds.

78 3. Notwithstanding the provisions of subsection 2 of this section, any entity:

79 (1) Eligible to receive reimbursements pursuant to Title XIX of the federal Social
80 Security Act (42 U.S.C. Section 1396, et seq.) may be reimbursed for services it has
81 performed, for which the payment to such entity is otherwise prohibited pursuant to
82 subsection 2 of this section, if reimbursement for such services is required pursuant to the
83 federal act and the refusal to reimburse for such required services will result in the
84 withholding of federal Medicaid funds to the state of Missouri. No state Medicaid plan
85 shall be adopted by the state or submitted to the federal government that includes services
86 that violate the provisions of subsection 2 of this section and are not mandated for state

87 Medicaid plans by the federal Medicaid law, Title XIX of the Social Security Act, as
88 amended;

89 (2) Receiving federal funds pursuant to Title X of the federal Public Health Services
90 Act may perform services which are required pursuant to the federal act, but otherwise
91 prohibited pursuant to subsection 2 of this section if:

92 (a) Specifically directed by the United States Secretary of Health and Human
93 Services to perform such services by written order directed to the organization; and

94 (b) Such order is final and no longer subject to appeal; and

95 (c) The refusal to perform such required services will result in the withholding of
96 federal funds to said organization.

97

98 Federal statutory or regulatory provisions or guidelines of general application shall not
99 constitute such written order as described herein.

100 4. The provisions of this section shall inure to the benefit of all residents of this
101 state. Any taxpayer of this state or its political subdivisions shall have standing to bring
102 suit in any circuit court with competent jurisdiction against the state of Missouri or any
103 official, department, division, agency or political subdivision of the state, and any recipient
104 of public funds who is in violation of this section.