

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 An Act to amend the Code of Virginia by adding in Article 3 of Chapter 1 of Title 32.1 a section
3 numbered 32.1-23.2, relating to the Department of Health; expenditure of funds related to abortions
4 and family planning services.

5 [H 1090]

6 Approved

7 Be it enacted by the General Assembly of Virginia:

8 1. That the Code of Virginia is amended by adding in Article 3 of Chapter 1 of Title 32.1 a
9 section numbered 32.1-23.2 as follows:

10 § 32.1-23.2. *Expenditures for abortions and family planning services.*

11 A. For the purposes of this section, unless the context requires a different meaning:

12 "Federally qualified abortion" means an abortion qualified for federal matching funds under the
13 Medicaid program, 42 U.S.C.A. § 1396 et seq., as amended.

14 "Federally qualified health center" means a health care provider that is eligible to receive federal
15 funds under 42 U.S.C. § 1396d(1)(2)(B).

16 "Hospital" has the same meaning as that term is defined in § 32.1-123.

17 "Public funds" means state funds from whatever source, including without limitation state general
18 funds, nongeneral funds, state limited-purpose grants or loans, and federal funds administered by state
19 agencies pursuant to Title X of the Public Health Service Act (42 U.S.C. § 300 et seq.), Title IV (42
20 U.S.C. § 601 et seq.), Title V (42 U.S.C. § 701 et seq.), and Title XX (42 U.S.C. § 1397 et seq.) of the
21 Social Security Act and similar federal programs.

22 "Rural health clinic" means a health care provider that is eligible to receive federal funds under 42
23 U.S.C. § 1395x(aa)(2).

24 B. The Department shall not enter into a contract with, or make a grant to, any entity that performs
25 abortions that are not federally qualified abortions or maintains or operates a facility where
26 non-federally qualified abortions are performed, provided, however, that nothing in this subsection shall
27 be construed to apply to the receipt or administration of funds pursuant to 42 U.S.C. § 1396 et seq.
28 Additionally, nothing in this subsection shall be construed to apply to hospitals licensed pursuant to
29 § 32.1-126.

30 C. Subject to any applicable requirements of federal statutes, rules, regulations, or guidelines, any
31 expenditures or grants of public funds for family planning services by the Commonwealth by and
32 through the Department shall be made in the following order of priority:

33 1. To public entities;

34 2. To nonpublic hospitals and federally qualified health centers;

35 3. To rural health clinics;

36 4. To nonpublic health providers that have as their primary purpose the provision of the primary
37 health care services enumerated in 42 U.S.C. § 254b(a)(1);

38 5. To nonpublic health providers that do not have as their primary purpose the provision of the
39 primary health care services enumerated in 42 U.S.C. § 254b(a)(1).

40 D. The Attorney General shall have authority to bring an action in law or equity to enforce the
41 provisions of this section, and relief shall be available in appropriate circumstances, including
42 recoupment and declaratory and injunctive relief.

43 E. Any entity eligible for the receipt of public funds shall possess standing to bring any action that
44 the Attorney General has authority to bring pursuant to the provisions of subsection D, and shall in
45 appropriate circumstances be entitled to the same relief, provided, however, that an expenditure or grant
46 of public funds made in violation of this section has resulted in the reduction of public funds available
47 to such entity, and that any award of monetary relief shall be made to an appropriate public officer for
48 deposit into one or more accounts maintained by the state for public funds. In an action brought
49 pursuant to this subsection, a prevailing plaintiff shall be entitled to an award of reasonable attorney
50 fees and costs.

51 F. Either the House of Delegates or the Senate, through one or more delegates or through one or
52 more senators duly appointed by resolution of their respective chamber, may intervene as a matter of
53 right in any case in which the constitutionality of this section is challenged.

54 G. Any expenditure of public funds made by the Department that is prohibited by subsection B shall
55 be null and void and the funds so expended shall be reallocated to eligible entities.