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HOUSE BILL NO. 1151

Offered January 11, 2006

Prefiled January 11, 2006

A *BILL to amend the Code of Virginia by adding a section numbered 32.1-77.1, relating to restrictions on funding of family planning services.*

Patrons—Lingamfelter, Hargrove and Janis

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 32.1-77.1 as follows:**

§ 32.1-77.1. Restrictions on funding of family planning services.

A. As used in this title, unless the context requires a different meaning:

"Abortion services" means performing, assisting with, or directly referring for abortions, or encouraging or counseling patients to have abortions.

"Family planning services" means preconception services that limit or enhance fertility, including contraception methods, the management of infertility, preconception counseling, education, and general reproductive health care.

"Follow-up services" means supplemental initial consultations for family planning services and pregnancy testing, but do not include pregnancy or childbirth care.

"Nondirective counseling" means to provide patients with a list of health care and social service providers that deliver pregnancy, prenatal, delivery services, infant care, foster care, adoption, alternative to abortion, and abortion services, and nondirective, nonmarketing information in regard to such providers. Such list may categorize the providers by the service or services they provide.

B. For the purpose of funding family planning services, pregnancy testing, and follow-up services, no funds appropriated to the Department of Health or the Department of Medical Assistance Services pursuant to this title or to the Department of Social Services pursuant to Title 63.2 shall be expended directly or indirectly to subsidize abortion services or administrative expenses. Further, no funds shall be paid or granted to any organization or an affiliate of any organization that provides abortion services.

C. As a condition of funding, any organization receiving state family planning funds shall not (i) directly refer patients who seek abortion services to any organization that provides abortion services, including its own independent affiliate or (ii) display or distribute marketing materials about abortion services to patients. However, nondirective counseling relating to pregnancy may be provided.

D. An otherwise qualified organization shall not be disqualified from receipt of state family planning funds because of its affiliation with an organization that provides abortion services, if the affiliated organization that so provides abortion services is independent as determined by the conditions set forth in subsections E and F.

E. To ensure that the Commonwealth of Virginia does not lend its imprimatur to abortion services, and to ensure that an organization that provides abortion services does not receive a direct or indirect economic or marketing benefit from state funds, an organization that receives state family planning funds shall be separately incorporated from any organization that provides abortion services. Further, any independent affiliate that provides abortion services shall not share with the state-funded organization any of the following:

1. The same or similar name;

2. Medical or nonmedical facilities, including but not limited to, business offices, treatment, consultation, examination, and waiting rooms;

3. Expenses;

4. Employee wages or salaries; or

5. Equipment or supplies, including but not limited to, computers, telephone systems, telecommunications equipment, and office supplies.

F. An independent affiliate that provides abortion services shall be separately incorporated from any organization that receives state family planning funds. Any organization that receives state family planning funds shall maintain financial records that demonstrate strict compliance with this section and that demonstrate that any independent affiliate that provides abortion services receives no direct or indirect economic or marketing benefit from these funds.

G. An independent audit of any organization receiving state family planning funds shall be conducted at least once every three years to ensure compliance with this section. If the funded organization is an

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59 *affiliate of an organization that provides abortion services, the independent audit shall be conducted at*
60 *least annually. The audit shall be conducted by either an independent auditing firm retained by the*
61 *Department of Health or by an independent auditing firm approved by the Department and retained by*
62 *an organization receiving these funds.*

63 *H. Nothing in this subsection requires an organization receiving federal funds pursuant to Title X of*
64 *the Public Health Service Act (42 U.S.C. 300 et seq.) to refrain from performing any service that is*
65 *required pursuant to Title X or the Title X Program Guidelines for Project Grants for Family Planning*
66 *Services as published by the United States Department of Health and Human Services as such laws and*
67 *guidelines are currently in effect.*