

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 220, As Amended in the Senate

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO PUBLIC FUNDS FOR ABORTION; AMENDING TITLE 18, IDAHO CODE, BY THE
2 ADDITION OF A NEW CHAPTER 87, TITLE 18, IDAHO CODE, TO PROVIDE A SHORT
3 TITLE, TO DEFINE TERMS, TO PROHIBIT GOVERNMENT CONTRACTS WITH ABORTION
4 PROVIDERS OR THEIR AFFILIATES, TO PROHIBIT CONTRACTS FOR ABORTION PRO-
5 CEDURES, TO PROHIBIT THE USE OF PUBLIC FUNDS FOR ABORTION, TO PROHIBIT
6 THE USE OF SCHOOL TUITION AND FEES FOR ABORTION, TO PROHIBIT ABORTION-
7 RELATED ACTIVITIES IN SCHOOL-BASED HEALTH CLINICS, TO PROHIBIT THE USE
8 OF PUBLIC FACILITIES AND ASSETS FOR ABORTION, TO PROVIDE A PENALTY FOR
9 A VIOLATION, TO PROVIDE CONSTRUCTION, AND TO PROVIDE SEVERABILITY; AND
10 DECLARING AN EMERGENCY.
11

12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. That Title 18, Idaho Code, be, and the same is hereby amended
14 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
15 ter 87, Title 18, Idaho Code, and to read as follows:

16 CHAPTER 87

17 NO PUBLIC FUNDS FOR ABORTION ACT

18 18-8701. SHORT TITLE. This chapter shall be known and may be cited as
19 the "No Public Funds for Abortion Act."

20 18-8702. DEFINITIONS. As used in this chapter:

21 (1) "Abortion" means the act of using or prescribing any instrument,
22 medicine, drug, or any other substance, device, or means with the intent to
23 terminate the clinically diagnosable pregnancy of a woman with knowledge
24 that the termination by those means will, with reasonable likelihood, cause
25 the death of the unborn child. Such use, prescription, or means is not an
26 abortion if done with the intent to save the life or preserve the health of
27 the unborn child, remove a dead unborn child caused by spontaneous abortion,
28 or remove an ectopic pregnancy.

29 (2) "Affiliate" means an organization that owns or controls or is owned
30 or controlled, in whole or in part, by the other; is related by shareholdings
31 or other means of control; or is a subsidiary, parent, or sibling corpora-
32 tion.

33 (3) "Facility" or "health care facility" means any public or private
34 hospital, clinic, center, medical school, medical training institution,
35 health care facility, physician's office, infirmary, dispensary, ambula-
36 tory surgical treatment center, or other institution or location wherein
37 health care is provided to any person.

38 (4) "Health care provider" means any person or individual who may be or
39 is asked to participate in any way in any health care service. This includes
40 but is not limited to doctors, nurse practitioners, physician assistants,

1 nurses, nurses' aides, allied health professionals, medical assistants,
 2 hospital employees, clinic employees, nursing home employees, pharmacists,
 3 pharmacy technicians and employees, medical school faculty and students,
 4 nursing school faculty and students, psychology and counseling faculty and
 5 students, medical researchers, laboratory technicians, counselors, social
 6 workers, or any other person who facilitates or participates in the provi-
 7 sion of health care services to any person.

8 (5) "Public funds" means the funds of every political subdivision of
 9 the state wherein taxes are levied or fees are collected for any purpose and
 10 also refers to:

- 11 (a) The revenue or money of a government, state, or municipal corpora-
 12 tion;
 13 (b) The bonds, stocks, or other securities of a national or state gov-
 14 ernment; and
 15 (c) Government spending for acquisition of goods and services for cur-
 16 rent use to directly satisfy individual or collective needs of the mem-
 17 bers of the community.

18 18-8703. GOVERNMENT CONTRACTS WITH ABORTION PROVIDERS OR THEIR AFFIL-
 19 IATES PROHIBITED. (1) The state, a county, a city, a public health district,
 20 a public school district, or any local political subdivision thereof may not
 21 enter into any contract or commercial transaction with an abortion provider
 22 or an affiliate of an abortion provider.

23 (2) Subsection (1) of this section shall not apply to:

- 24 (a) A contract or commercial transaction that is subject to a federal
 25 law related to medicaid; or
 26 (b) A hospital, as defined in section 39-1301, Idaho Code.

27 18-8704. CONTRACTS FOR ABORTION PROCEDURES PROHIBITED. (1) No health
 28 care facility owned or operated by the state, a county, a city, a public
 29 health district, a public school district, or any political subdivision or
 30 agency thereof shall enter into any contract or commercial transaction with
 31 any health care provider or health care facility under the terms of which
 32 such health care provider or health care facility agrees to provide, per-
 33 form, or induce an abortion, except when the life of the mother is endangered
 34 by a physical disorder, physical illness, or physical injury, including a
 35 life-endangering physical condition caused by or arising from the pregnancy
 36 itself.

37 (2) Subsection (1) of this section shall not apply to:

- 38 (a) A contract or commercial transaction that is subject to a federal
 39 law related to medicaid; or
 40 (b) A hospital, as defined in section 39-1301, Idaho Code.

41 18-8705. USE OF PUBLIC FUNDS FOR ABORTION PROHIBITED. (1) No pub-
 42 lic funds made available by the state, a county, a city, a public health
 43 district, a public school district, or any local political subdivision or
 44 agency thereof and distributed by any institution, board, commission, de-
 45 partment, agency, official, or employee of the state, a county, a city, a
 46 public health district, a public school district, or any local political
 47 subdivision or agency thereof shall be used in any way to provide, perform,

1 or induce an abortion; assist in the provision or performance of an abor-
 2 tion; promote abortion; counsel in favor of abortion; refer for abortion; or
 3 provide facilities for an abortion or for training to provide or perform an
 4 abortion.

5 (2) No person, agency, organization, or any other party that receives
 6 funds authorized by the state, a county, a city, a public health district, a
 7 public school district, or any local political subdivision or agency thereof
 8 may use those funds to perform or promote abortion, provide counseling in fa-
 9 vor of abortion, make referral for abortion, or provide facilities for abor-
 10 tion or for training to provide or perform abortion.

11 (3) No fund or committee authorized by Idaho Code for the special pro-
 12 tection of women or children shall be authorized to use or distribute public
 13 funds for payment for abortion, abortion referrals, abortion counseling, or
 14 abortion-related medical or social services.

15 (4) The provisions of subsections (1), (2), and (3) of this section
 16 shall not apply to:

17 (a) An abortion performed when the life of the mother is endangered by
 18 a physical disorder, physical illness, or physical injury, including a
 19 life-endangering physical condition caused by or arising from the preg-
 20 nancy itself;

21 (b) A hospital, as defined in section 39-1301, Idaho Code; or

22 (c) A contract or commercial transaction that is subject to a federal
 23 law related to medicaid.

24 18-8706. USE OF SCHOOL TUITION AND FEES FOR ABORTION PROHIBITED. No
 25 part of any tuition or fees paid to a public institution of higher education
 26 shall be used in any way to pay for an abortion, provide or perform an abor-
 27 tion, provide counseling in favor of abortion, make a referral for abortion,
 28 or provide facilities for an abortion or for training to provide or perform
 29 abortion.

30 18-8707. ABORTION-RELATED ACTIVITIES PROHIBITED IN SCHOOL-BASED
 31 HEALTH CLINICS. (1) No facility operated at a public institution of higher
 32 education or operated by a public school district shall provide any of the
 33 following services to any person:

34 (a) Providing or performing an abortion;

35 (b) Counseling in favor of abortion;

36 (c) Referring for abortion; or

37 (d) Dispensing a drug classified as emergency contraception by the food
 38 and drug administration (FDA), except in the case of rape as defined in
 39 section 18-6101, Idaho Code.

40 (2) No employee of a public institution of higher education or a public
 41 school, acting within the scope of such person's employment, shall provide
 42 any of the following services to any person:

43 (a) Providing or performing an abortion;

44 (b) Counseling in favor of abortion;

45 (c) Referring for abortion; or

46 (d) Dispensing a drug classified as emergency contraception by the FDA,
 47 except in the case of rape as defined in section 18-6101, Idaho Code.

1 (3) The state department of education, state board of education, or
2 other state agencies and local units of administration are prohibited from
3 using state funds to provide or procure an abortion or distribute drugs clas-
4 sified as emergency contraception by the FDA, except in the case of rape as
5 defined in section 18-6101, Idaho Code.

6 18-8708. USE OF PUBLIC FACILITIES AND ASSETS FOR ABORTION PROHIB-
7 ITED. (1) No public institution, public facility, public equipment, or other
8 physical asset owned, leased, or controlled by this state, a county, a city,
9 a public health district, a public school district, or any local political
10 subdivision or agency thereof shall be used for the purpose of providing,
11 performing, or participating in an abortion.

12 (2) No public institution or facility shall lease, sell, or permit the
13 subleasing of its facilities or property to any physician or health care fa-
14 cility for use in the provision or performance of abortion.

15 (3) The provisions of subsections (1) and (2) of this section shall not
16 apply to:

17 (a) An abortion performed when the life of the mother is endangered by
18 a physical disorder, physical illness, or physical injury, including a
19 life-endangering physical condition caused by or arising from the preg-
20 nancy itself;

21 (b) A hospital, as defined in section 39-1301, Idaho Code; or

22 (c) A contract or commercial transaction that is subject to a federal
23 law related to medicaid.

24 18-8709. PENALTY FOR VIOLATION. Any intentional violation of the pro-
25 visions of this chapter by a public officer or public employee shall be con-
26 sidered a misuse of public moneys punishable under section 18-5702, Idaho
27 Code.

28 18-8710. CONSTRUCTION. Nothing in this chapter shall be construed as
29 creating or recognizing a right to abortion. Nothing in this chapter shall
30 be construed as creating or recognizing a right to federal or state funds for
31 abortion.

32 18-8711. SEVERABILITY. Any provision of this chapter held to be in-
33 valid or unenforceable by its terms, or as applied to any person or circum-
34 stance, shall be construed so as to give it the maximum effect permitted by
35 law, unless such holding shall be one of utter invalidity or unenforceabil-
36 ity, in which event such provision shall be deemed severable herefrom and
37 shall not affect the remainder hereof or the application of such provision to
38 other persons not similarly situated or to other dissimilar circumstances.

39 SECTION 2. An emergency existing therefor, which emergency is hereby
40 declared to exist, this act shall be in full force and effect on and after its
41 passage and approval.