

TITLE 18
CRIMES AND PUNISHMENTS

CHAPTER 87
NO PUBLIC FUNDS FOR ABORTION ACT

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

[18-8701, added 2021, ch. 334, sec. 1, p. 1015.]

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

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

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

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

(4) "Health care provider" means any person or individual who may be or is asked to participate in any way in any health care service. This includes but is not limited to doctors, nurse practitioners, physician assistants, nurses, nurses' aides, allied health professionals, medical assistants, hospital employees, clinic employees, nursing home employees, pharmacists, pharmacy technicians and employees, medical school faculty and students, nursing school faculty and students, psychology and counseling faculty and students, medical researchers, laboratory technicians, counselors, social workers, or any other person who facilitates or participates in the provision of health care services to any person.

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

(a) The revenue or money of a government, state, or municipal corporation;

(b) The bonds, stocks, or other securities of a national or state government; and

(c) Government spending for acquisition of goods and services for current use to directly satisfy individual or collective needs of the members of the community.

[18-8702, added 2021, ch. 334, sec. 1, p. 1015.]

18-8703. GOVERNMENT CONTRACTS WITH ABORTION PROVIDERS OR THEIR AFFILIATES PROHIBITED. (1) The state, a county, a city, a public health district,

a public school district, or any local political subdivision thereof may not enter into any contract or commercial transaction with an abortion provider or an affiliate of an abortion provider.

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

(a) A contract or commercial transaction that is subject to a federal law related to medicaid; or

(b) A hospital, as defined in section [39-1301](#), Idaho Code.

[18-8703, added 2021, ch. 334, sec. 1, p. 1016.]

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

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

(a) A contract or commercial transaction that is subject to a federal law related to medicaid; or

(b) A hospital, as defined in section [39-1301](#), Idaho Code.

[18-8704, added 2021, ch. 334, sec. 1, p. 1016.]

18-8705. USE OF PUBLIC FUNDS FOR ABORTION PROHIBITED. (1) No public funds made available by the state, a county, a city, a public health district, a public school district, or any local political subdivision or agency thereof and distributed by any institution, board, commission, department, agency, official, or employee of the state, a county, a city, a public health district, a public school district, or any local political subdivision or agency thereof shall be used in any way to provide, perform, or induce an abortion; assist in the provision or performance of an abortion; promote abortion; counsel in favor of abortion; refer for abortion; or provide facilities for an abortion or for training to provide or perform an abortion.

(2) No person, agency, organization, or any other party that receives funds authorized by the state, a county, a city, a public health district, a public school district, or any local political subdivision or agency thereof may use those funds to perform or promote abortion, provide counseling in favor of abortion, make referral for abortion, or provide facilities for abortion or for training to provide or perform abortion.

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

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

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

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

[18-8705, added 2021, ch. 334, sec. 1, p. 1016.]

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

[18-8706, added 2021, ch. 334, sec. 1, p. 1017.]

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

- (a) Providing or performing an abortion;
- (b) Counseling in favor of abortion;
- (c) Referring for abortion; or
- (d) Dispensing a drug classified as emergency contraception by the food and drug administration (FDA), except in the case of rape as defined in section [18-6101](#), Idaho Code.

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

- (a) Providing or performing an abortion;
- (b) Counseling in favor of abortion;
- (c) Referring for abortion; or
- (d) Dispensing a drug classified as emergency contraception by the FDA, except in the case of rape as defined in section [18-6101](#), Idaho Code.

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

[18-8707, added 2021, ch. 334, sec. 1, p. 1017.]

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

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

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

- (a) An abortion performed when the life of the mother is endangered by a physical disorder, physical illness, or physical injury, including a

life-endangering physical condition caused by or arising from the pregnancy itself;

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

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

[18-8708, added 2021, ch. 334, sec. 1, p. 1017.]

18-8709. PENALTY FOR VIOLATION. Any intentional violation of the provisions of this chapter by a public officer or public employee shall be considered a misuse of public moneys punishable under section [18-5702](#), Idaho Code.

[18-8709, added 2021, ch. 334, sec. 1, p. 1018.]

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

[18-8710, added 2021, ch. 334, sec. 1, p. 1018.]

18-8711. SEVERABILITY. Any provision of this chapter held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable herefrom and shall not affect the remainder hereof or the application of such provision to other persons not similarly situated or to other dissimilar circumstances.

[18-8711, added 2021, ch. 334, sec. 1, p. 1018.]