

FIRST REGULAR SESSION

# HOUSE BILL NO. 330

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BAKER (123) (Sponsor), ERVIN, DETHROW, DUSENBERG, NANCE, FISHER, SATER, SUTHERLAND, DAVIS, BIVINS, BROWN (30), DAY, COOPER (158), STEVENSON, SANDER, GOODMAN, POLLOCK, KINGERY AND DAVIS (Co-sponsors).

Read 1<sup>st</sup> time January 26, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0818L.011

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### AN ACT

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

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*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 known as section 33.900, to read as follows:

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

- (1) "Abortion services", include performing, inducing or assisting with abortions as defined in section 188.015, RSMo, or encouraging patients to have abortions, or referring patients for abortions, not necessary to save the life of the mother, or development of drugs, chemicals or devices intended to be used to induce an abortion;**
- (2) "Health and social services program", any activity, program or the furnishing of services for the purpose of preventing, supporting, alleviating, ameliorating, treating, curing or healing any human condition, illness, injury or disability, or to safeguard the health of people and ensure the prevention of any type of disease, infection or injury, the promotion of specific lifestyle, hygiene and sanitary conditions, or to assist persons to provide for themselves and others and to assist those experiencing any social or physical condition or disadvantage, and including the furnishing of any sort of physical, health, medical or dental assessment, care, counseling, education or treatment, whether to individuals or groups of individuals; except that, health and social services program shall not include a research project;**

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, or otherwise providing**  
33 **information required by federal law;**

34           (5) **"Public funds", shall include:**

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

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

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

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

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

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

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

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

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

72           (a) The state auditor if allowed by law; or

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

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

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

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

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

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

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

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

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

99           **4. Restrictions of specific applicability contained in the statutory laws of this state**  
100 **regarding the use of public funds for abortion services shall take precedence over the**  
101 **restrictions of general applicability contained in subsection 2 of this section and sections**  
102 **188.200 to 188.220, RSMo.**