

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 288
HOUSE BILL 2800

AN ACT

AMENDING TITLE 35, CHAPTER 1, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 35-196.05; RELATING TO PUBLIC FUNDING OF FAMILY PLANNING SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 35, chapter 1, article 5, Arizona Revised Statutes,
3 is amended by adding section 35-196.05, to read:

4 35-196.05. Public funding; family planning services;
5 contracting with certain facilities; prohibition;
6 enforcement; definitions

7 A. SUBJECT TO ANY APPLICABLE REQUIREMENTS OF FEDERAL LAW, REGULATIONS
8 OR GUIDELINES, ANY APPROPRIATION, EXPENDITURE OR GRANT OF PUBLIC MONIES FOR
9 FAMILY PLANNING SERVICES BY THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS
10 STATE SHALL BE MADE IN THE FOLLOWING ORDER OF PRIORITY:

11 1. TO HEALTH CARE FACILITIES THAT ARE OWNED OR OPERATED BY THIS STATE
12 OR ANY POLITICAL SUBDIVISION OF THIS STATE.

13 2. TO HOSPITALS AND FEDERALLY QUALIFIED HEALTH CENTERS.

14 3. TO RURAL HEALTH CLINICS.

15 4. TO HEALTH CARE PROVIDERS WHOSE PRIMARY AREA OF PRACTICE IS THE
16 PROVISION OF PRIMARY HEALTH SERVICES AS ENUMERATED IN 42 UNITED STATES CODE
17 SECTION 254b(b)(1).

18 B. THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE MAY NOT ENTER
19 INTO A CONTRACT WITH OR MAKE A GRANT TO ANY PERSON THAT PERFORMS NONFEDERALLY
20 QUALIFIED ABORTIONS OR MAINTAINS OR OPERATES A FACILITY WHERE NONFEDERALLY
21 QUALIFIED ABORTIONS ARE PERFORMED FOR THE PROVISION OF FAMILY PLANNING
22 SERVICES.

23 C. THE ATTORNEY GENERAL OR THE COUNTY ATTORNEY MAY BRING AN ACTION IN
24 LAW OR EQUITY TO ENFORCE THIS SECTION, AND RELIEF SHALL BE MADE AVAILABLE IN
25 APPROPRIATE CIRCUMSTANCES, INCLUDING RECOUPMENT AND DECLARATORY AND
26 INJUNCTIVE RELIEF.

27 D. ANY ENTITY THAT IS ELIGIBLE FOR THE RECEIPT OF PUBLIC MONIES HAS
28 STANDING TO BRING ANY ACTION THAT THE ATTORNEY GENERAL OR THE COUNTY ATTORNEY
29 MAY BRING PURSUANT TO SUBSECTION C OF THIS SECTION, IF THE EXPENDITURE OR
30 GRANT OF PUBLIC MONIES HAS RESULTED IN THE REDUCTION OF PUBLIC MONIES
31 AVAILABLE TO THAT ENTITY.

32 E. ANY MONIES THAT ARE RECOUPED UNDER ACTIONS TAKEN PURSUANT TO
33 SUBSECTION C OR D OF THIS SECTION SHALL REVERT TO THE FUND FROM WHICH THE
34 MONIES WERE APPROPRIATED OR GRANTED. A PREVAILING PLAINTIFF UNDER SUBSECTION
35 C OR D OF THIS SECTION SHALL BE AWARDED REASONABLE ATTORNEY FEES AND COSTS.

36 F. FOR THE PURPOSES OF THIS SECTION:

37 1. "ABORTION" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-2151.

38 2. "FEDERALLY QUALIFIED HEALTH CENTER" MEANS A HEALTH CARE PROVIDER
39 THAT IS ELIGIBLE FOR FEDERAL FUNDING UNDER 42 UNITED STATES CODE SECTION
40 1396d(1)(2)(B).

41 3. "HOSPITAL" MEANS A PRIMARY OR TERTIARY CARE FACILITY LICENSED
42 PURSUANT TO TITLE 36, CHAPTER 4, ARTICLE 2.

43 4. "NONFEDERALLY QUALIFIED ABORTION" MEANS AN ABORTION THAT DOES NOT
44 MEET THE REQUIREMENTS FOR FEDERAL REIMBURSEMENT UNDER TITLE XIX OF THE SOCIAL
45 SECURITY ACT.

1 5. "PUBLIC MONIES" MEANS STATE MONIES FROM WHATEVER SOURCE, MONIES OF
2 A POLITICAL SUBDIVISION FROM WHATEVER SOURCE AND FEDERAL MONIES PROVIDED
3 UNDER TITLE X OF THE PUBLIC HEALTH SERVICE ACT (42 UNITED STATES CODE
4 SECTIONS 300 THROUGH 300a-8) AND TITLES V, XIX AND XX OF THE SOCIAL SECURITY
5 ACT.

6 6. "RURAL HEALTH CLINIC" MEANS A HEALTH CARE PROVIDER THAT IS ELIGIBLE
7 TO RECEIVE FEDERAL FUNDING UNDER 42 UNITED STATES CODE SECTION 1395x(aa)(2).

8 Sec. 2. Effect on appropriations

9 Any appropriation of public monies that has been made by this state or
10 any political subdivision of this state in derogation of this act is null and
11 void, and the monies shall revert to the fund from which the monies were
12 appropriated.

13 Sec. 3. Severability

14 If a provision of this act or its application to any person or
15 circumstance is held invalid, the invalidity does not affect other provisions
16 or applications of the act that can be given effect without the invalid
17 provision or application, and to this end the provisions of this act are
18 severable.

APPROVED BY THE GOVERNOR MAY 4, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2012.