

Assembly Bill No. 2134

CHAPTER 562

An act to add Section 1367.32 to, and to add Chapter 6 (commencing with Section 127630) to Part 2 of Division 107 of, the Health and Safety Code, to add Section 10123.210 to the Insurance Code, and to add Section 2808.1 to the Labor Code, relating to reproductive health, and making an appropriation therefor.

[Approved by Governor September 27, 2022. Filed with
Secretary of State September 27, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2134, Akilah Weber. Reproductive health care.

Existing law, the Reproductive Privacy Act, prohibits the state from denying or interfering with a person's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the person. The act defines "abortion" as a medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth.

Existing law establishes the Department of Health Care Access and Information to oversee and administer various health programs. Existing law establishes the Medi-Cal program, under which qualified low-income individuals receive health care services. Existing law establishes a schedule of benefits under the Medi-Cal program and provides for various services, including comprehensive clinical family planning services that are rendered through the Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program.

This bill would establish the California Reproductive Health Equity Program within the Department of Health Care Access and Information to ensure abortion and contraception services are affordable for and accessible to all patients and to provide financial support for safety net providers of these services. The bill would authorize a Medi-Cal enrolled provider to apply to the department for a grant, and a continuation award after the initial grant, to provide abortion and contraception services at no cost or a reduced cost to an individual with a household income at or below 400% of the federal poverty level who is uninsured or has health care coverage that does not include both abortion and contraception, and who is not eligible to receive both abortion and contraception at no cost through the Medi-Cal and Family PACT programs. The bill would establish the California Reproductive Health Equity Fund, a continuously appropriated fund, to provide this grant funding. The bill would require the department to conduct an annual evaluation of the program and report its findings to the Legislature.

By creating a continuously appropriated fund, the bill would make an appropriation.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care, and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires group health care service plan contracts and disability insurance policies to cover contraceptive services and methods without cost sharing, as specified. Existing law authorizes a religious employer to request a contract or policy that does not include contraception coverage for its employees.

This bill would require a health care service plan or health insurer that provides health coverage to employees of a religious employer that does not include coverage and benefits for both abortion and contraception to provide an enrollee or insured with written information at specified times on the abortion and contraception benefits or services that may be available at no cost through the California Reproductive Health Equity Program. Because a willful violation of this provision by a health care service plan would be a crime, the bill would impose a state-mandated local program.

This bill would require the Department of Industrial Relations to post on its internet website information regarding abortion and contraception benefits or services that may be available at no cost through the California Reproductive Health Equity Program to employees whose employer-sponsored health coverage does not include coverage for both abortion and contraception.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1367.32 is added to the Health and Safety Code, to read:

1367.32. (a) A health care service plan that provides health coverage to the employees of a religious employer that does not include coverage and benefits for both abortion and contraception shall provide, in writing upon initial enrollment and annually thereafter upon renewal, each enrollee with information regarding both of the following:

(1) Abortion and contraception benefits or services that are not included in the enrollee's health care service plan contract.

(2) Abortion and contraception benefits or services that may be available at no cost through the California Reproductive Health Equity Program.

(b) For purposes of this section:

(1) "Abortion" has the same meaning as defined in Section 123464.

(2) "California Reproductive Health Equity Program" means the program established pursuant to Section 127632.

(3) "Contraception" means the services and contraceptive methods described in paragraph (1) of subdivision (b) of Section 1367.25.

(4) "Religious employer" has the same meaning as described in Section 1367.25.

(c) This section does not alter the applicability of any other requirement of this chapter.

SEC. 2. Chapter 6 (commencing with Section 127630) is added to Part 2 of Division 107 of the Health and Safety Code, to read:

CHAPTER 6. REPRODUCTIVE HEALTH EQUITY

127630. For purposes of this chapter:

(a) "Abortion" has the same meaning as defined in Section 123464.

(b) "Contraception" means the services and contraceptive methods described in paragraph (1) of subdivision (b) of Section 1367.25.

(c) "Department" means the Department of Health Care Access and Information.

(d) "Fund" means the California Reproductive Health Equity Fund established pursuant to Section 127631.

(e) "Program" means the California Reproductive Health Equity Program established pursuant to Section 127632.

(f) "Religious employer" has the same meaning as described in Section 1367.25.

127631. (a) The California Reproductive Health Equity Fund is hereby established.

(b) The primary purpose of the fund is to provide grant funding to safety net providers of abortion and contraception services through the California Reproductive Health Equity Program and to otherwise ensure affordability of and access to abortion and contraception to anyone who seeks care in California, regardless of their ability to pay for care.

(c) The fund shall also be used to pay for the cost of administering the program and for any other purpose authorized by this chapter. The level of expenditure by the department for the administrative support of the program created pursuant to this chapter shall be subject to review and approval annually through the annual budget process.

(d) The department may receive private donations to be deposited into the fund.

(e) The money in the fund is continuously appropriated to the department for the purposes of this chapter. The department shall manage this fund prudently in accordance with the law.

127632. (a) The California Reproductive Health Equity Program is hereby established within the department.

(b) The purpose of the program is to ensure abortion and contraception are affordable for and accessible to all patients, regardless of their ability to pay, and to provide financial support for safety net providers of these services to offset the costs of providing uncompensated care to patients with low incomes who would otherwise lack access to care.

127633. (a) A Medi-Cal enrolled provider, as determined by the State Department of Health Care Services, may apply for a grant, and a continuation award after the initial grant, under this chapter if they agree to provide abortion and contraception services in accordance with all of the following:

(1) The abortion and contraception services provided are within the provider's scope of practice and licensure.

(2) The provider agrees to be identified, in a manner determined by the department, as a participating provider in the program. An institutional provider shall not be required to identify any individual who is an abortion provider as a condition of a grant awarded pursuant to this chapter.

(3) To the extent services provided are covered pursuant to Section 14132 of the Welfare and Institutions Code, the services shall be provided at no cost or a reduced cost to an individual with a household income at or below 400 percent of the federal poverty level who meets both of the following criteria:

(A) Is uninsured or has health care coverage that does not include both abortion and contraception.

(B) Is not otherwise eligible to receive both abortion and contraception at no cost through the Medi-Cal and Family PACT programs.

(b) For purposes of this chapter, an individual's self-declaration of income and source of health care coverage made to the provider at the time of service shall be all that is required to determine whether the individual may be able to access no-cost or reduced-cost services pursuant to this chapter.

(c) This chapter does not require a provider to accept additional patients if, in the reasonable professional judgment of the provider, accepting additional patients would endanger access to, or continuity of, care for existing patients.

(d) The department shall work with the State Department of Health Care Services to notify Medi-Cal enrolled providers of the availability of funding under this chapter, including any pertinent deadlines and other requirements.

127634. (a) An application for a grant under this chapter shall be made on a form to be developed by the department.

(b) An application shall include both of the following:

(1) A justification of the amount of grant funds requested, including both of the following:

(A) The cost of uncompensated abortion and contraceptive services the applicant provided to patients with household incomes at or below 400 percent of the federal poverty level in the previous 12 months.

(B) The anticipated cost of uncompensated abortion and contraception services to be provided to patients with household incomes at or below 400 percent of the federal poverty level in the upcoming 12 months.

(2) Other pertinent information that the department requires.

(c) The department shall develop an application form and shall begin accepting applications for grants pursuant to this chapter on or before January 1, 2023.

(d) For purposes of subdivision (b), the cost of uncompensated abortion and contraception services shall:

(1) Be calculated based on the amount the provider would expect to receive for providing these services to a patient enrolled in the Medi-Cal program.

(2) Include those services provided through prescription, including laboratory and pharmaceutical, as well as services that are the result of complications related to services provided pursuant to this chapter, to the extent they would be covered pursuant to Section 14132 of the Welfare and Institutions Code.

(e) For purposes of this section, the department shall not require the submission of personal information about individuals receiving uncompensated abortion and contraception services as part of an application. Information required by the department shall only include information in summary, statistical, or other forms that do not identify particular individuals.

(f) An application for a grant under this chapter shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

127635. (a) Within the limits of funds available, the department may award grants that, in the department's judgment, best promote the purposes described in Section 127632, taking into account all of the following:

(1) The extent to which abortion and contraception services are needed locally.

(2) The ability of the applicant to advance health equity.

(3) The relative need of the applicant.

(b) The department shall determine the amount of an award on the basis of the amount of funds requested.

(c) Unless otherwise specified by the department, an initial grant shall be for a 12-month period.

(d) Determination regarding a grant award shall be made within 60 days of receipt of a completed application.

127636. (a) An application for a continuation award under this chapter shall be made on a form to be developed by the department.

(b) Decisions regarding continuation awards and the funding level of those awards shall be made after consideration of factors that include the recipient's anticipated level of need and the availability of funds.

(c) Unless otherwise specified by the department, a continuation award shall be for a 12-month period.

(d) An application for a continuation award under this chapter shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

127637. Funds awarded pursuant to this chapter shall be expended solely for the purpose for which the funds were awarded, in accordance with the approved application and budget, implementation guidance issued by the department, and the terms and conditions of the grant or continuation award.

127638. In implementing the program, the department shall consult with interested parties, including the State Department of Health Care Services, the Department of Managed Health Care, the Department of Insurance, abortion and contraception providers, consumer advocates, and other stakeholders it deems appropriate.

127639. The department shall conduct an evaluation of the program and shall report its findings to the Legislature by no later than July 1, 2024, and on an annual basis no later than each July 1 thereafter. The department may use funds in the fund for the evaluation of the program. The report shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 3. Section 10123.210 is added to the Insurance Code, to read:

10123.210. (a) A health insurer that provides health coverage to the employees of a religious employer that does not include coverage and benefits for both abortion and contraception shall provide, in writing upon initial enrollment and annually thereafter upon renewal, each insured with information regarding both of the following:

(1) Abortion and contraception benefits or services that are not included in the insured's health insurance policy.

(2) Abortion and contraception benefits or services that may be available at no cost through the California Reproductive Health Equity Program.

(b) For purposes of this section:

(1) "Abortion" has the same meaning as defined in Section 123464 of the Health and Safety Code.

(2) "California Reproductive Health Equity Program" means the program established pursuant to Section 127632 of the Health and Safety Code.

(3) "Contraception" means the services and contraceptive methods described in paragraph (1) of subdivision (b) of Section 10123.196.

(4) "Religious employer" has the same meaning as described in Section 10123.196.

(c) This section does not alter the applicability of any other requirement of this chapter.

SEC. 4. Section 2808.1 is added to the Labor Code, to read:

2808.1. (a) Commencing January 1, 2023, the Department of Industrial Relations shall post on its internet website information regarding abortion and contraception benefits or services that may be available at no cost through the California Reproductive Health Equity Program to employees

whose employer-sponsored health coverage does not include coverage for both abortion and contraception.

(b) For purposes of this section:

(1) “Abortion” has the same meaning as defined in Section 123464 of the Health and Safety Code.

(2) “California Reproductive Health Equity Program” means the program established pursuant to Section 127632 of the Health and Safety Code.

(3) “Contraception” means the services and contraceptive methods described in paragraph (1) of subdivision (b) of Section 1367.25 of the Health and Safety Code.

SEC. 5. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 6. The Legislature finds and declares that Section 2 of this act, which adds Sections 127634 and 127636 to the Health and Safety Code, imposes a limitation on the public’s right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

To protect confidential and personal medical information, it is necessary that grant applications be protected from public disclosure.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.