

HB 434 - AS INTRODUCED

2021 SESSION

21-0642

05/06

HOUSE BILL **434**

AN ACT prohibiting the use of public funds for abortions.

SPONSORS: Rep. Sheehan, Hills. 23; Rep. Mooney, Hills. 21; Rep. Rice, Hills. 37; Rep. Creighton, Hills. 38; Rep. Simon, Graf. 14; Rep. M. Pearson, Rock. 34; Rep. Gould, Hills. 7; Rep. DeSimone, Rock. 14; Rep. B. King, Hills. 23; Rep. Pauer, Hills. 26; Sen. Daniels, Dist 11; Sen. Ricciardi, Dist 9; Sen. Ward, Dist 8

COMMITTEE: Judiciary

ANALYSIS

This bill prohibits the use of public funds for the purpose of performing or assisting in an abortion which is not necessary to save the life of the mother. The bill also prohibits school-based health clinics from distributing drugs classified by the FDA as "emergency contraception".

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT prohibiting the use of public funds for abortions.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Title. This act shall be known as the No Public Funds for Abortion Act.

2 2 Legislative Findings and Purpose.

3 I. The general court finds that:

4 (a) When a state appropriates public funds to establish a program, it is entitled to define
5 the limits of that program. *Rust v. Sullivan*, 500 U.S. 173, 194 (1991).

6 (b) The decision not to fund abortion places no governmental obstacle in the path of a
7 woman who chooses to terminate her pregnancy. *Rust v. Sullivan*, 500 U.S. 173, 201 (1991).

8 (c) New Hampshire may rationally distinguish between abortion and other medical
9 procedures because “no other procedure involves the purposeful termination of a potential life.”
10 *Harris v. McRae*, 448 U.S. 297, 325 (1980).

11 (d) It is permissible for New Hampshire to engage in unequal subsidization of abortion
12 and other medical services to encourage alternative activity deemed in the public interest. *Rust v.*
13 *Sullivan*, 500 U.S. 173, 201 (1991).

14 II. The purpose of this act is to ensure that public funds are not used to subsidize abortion.

15 3 New Subdivision; Public Funding of Abortion Prohibited. Amend RSA 132 by inserting after
16 section 41 the following new subdivision:

17 Public Funding of Abortion Prohibited

18 132:42 Definitions. In this subdivision:

19 I. “Abortion” means the act of using or prescribing any instrument, medicine, drug, or any
20 other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy
21 of a woman with knowledge that the termination by those means will with reasonable likelihood
22 cause the death of the mother’s embryo or fetus. Such use, prescription, or means is not an abortion
23 if done with the intent to save the life or preserve the health of the embryo or fetus, remove a dead
24 embryo or fetus caused by spontaneous abortion, or remove an ectopic pregnancy.

25 II. “Facility” or “health care facility” means any public or private hospital, clinic, center,
26 medical school, medical training institution, health care facility, physician’s office, infirmary,
27 dispensary, ambulatory surgical treatment center, or other institution or location wherein medical
28 care is provided to any person.

29 III. “Public funds” means funds of any kind or character belonging to or in the custody of any
30 institution, board, commission, department, or any other public agency of the state, or belonging to
31 or in the custody of any state official in his or her official capacity.

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1 132:43 Use of Public Funds for Abortion Prohibited.

2 I. No public funds made available by the state, and distributed or appropriated by any
3 institution, board, commission, department, agency, official, or employee of the state, shall be used
4 in any way to provide, perform, or induce an abortion or assist in the provision or performance of an
5 abortion.

6 II. No person, agency, organization, or any other party that receives funds authorized or
7 appropriated by the state, may use those funds to perform or provide facilities for abortion or for
8 training to provide or perform abortion.

9 III. No fund or committee authorized by this state for the special protection of women or
10 children shall be authorized to use or distribute public funds for payment for abortion, abortion
11 referrals, or abortion-related medical or social services.

12 IV. The limitations in paragraphs I, II, and III shall not apply to an abortion performed
13 when the life of the mother is endangered by a physical disorder, physical illness, or physical injury
14 including a life-endangering physical condition caused by or arising from the pregnancy itself.

15 132:44 Use of School Tuition and Fees for Abortion Prohibited. No part of any tuition or fees
16 paid to a public institution of higher education shall be used in any way to pay for an abortion,
17 provide or perform an abortion, make a referral for abortion, or provide facilities for an abortion or
18 for training to provide or perform abortion.

19 132:45 Abortion-Related Activities Prohibited in School-Based Health Clinics. The department
20 of education, school administrative units, and local school districts are prohibited from using state
21 funds to provide or procure an abortion or distribute drugs classified as “emergency contraception”
22 by the FDA.

23 132:46 State Employees Prohibited from Performing or Participating in Abortions.

24 I. No person employed by this state, within the scope of such person's employment, may
25 provide, perform, or participate in an abortion.

26 II. The limitations in this section shall not apply to an abortion performed when the life of
27 the mother is endangered by a physical disorder, physical illness, or physical injury including a life-
28 endangering physical condition caused by or arising from the pregnancy itself.

29 132:47 Use of Public Facilities and Assets for Abortion Prohibited.

30 I. No public institution, public facility, public equipment, or other physical asset owned,
31 leased, or controlled by this state shall be used for the purpose of providing, performing, or
32 participating in an abortion.

33 II. No public institution or facility shall lease, sell, or permit the subleasing of its facilities or
34 property to any physician or healthcare facility for use in the provision or performance of abortion.

35 III. The limitations in paragraphs I and II shall not apply to an abortion performed when
36 the life of the mother is endangered by a physical disorder, physical illness, or physical injury
37 including a life-endangering physical condition caused by or arising from the pregnancy itself.

1 132:48 Construction. Nothing in this subdivision shall be construed as creating or recognizing a
2 right to abortion. Nothing in this subdivision shall be construed as creating or recognizing a right to
3 federal or state funds for abortion.

4 132:49 Right of Intervention. The general court by joint resolution, may appoint one or more of
5 its members, who sponsored or cosponsored this act in his or her official capacity, to intervene as a
6 matter of right in any case in which the constitutionality of this law is challenged.

7 132:50 Severability. Any provision of the subdivision held to be invalid or unenforceable by its
8 terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum
9 effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability in
10 which event such provision shall be deemed severable herefrom and shall not affect the remainder
11 hereof or the application of such provision to other persons not similarly situated or to other,
12 dissimilar circumstances.

13 4 Effective Date. This act shall take effect 60 days after its passage.