

**FIRST ENGROSSMENT
with House Amendments**

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2354

Introduced by

Senators Krauter, Erbele, Heitkamp

Representatives Fairfield, Hunskor, Renner

1 A BILL for an Act to create and enact a new section to chapter 50-06 of the North Dakota
2 Century Code, relating to an alternatives-to-abortion services program; to provide an
3 appropriation; and to provide an expiration date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 50-06 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Alternatives-to-abortion services program.**

- 8 1. The department of human services shall establish and operate a program to
9 provide alternatives-to-abortion services to eligible individuals.
10 "Alternatives-to-abortion services" are those services that provide information,
11 counseling, and support services that assist women to choose childbirth and to
12 make informed decisions regarding the choice of adoption or parenting with
13 respect to their children.
- 14 2. An eligible individual is:
- 15 a. A woman who is pregnant or who reasonably believes she may be pregnant;
 - 16 b. The parent or legal guardian of an infant under twelve months of age; or
 - 17 c. The spouse or other partner of an individual described in subdivision a or b.
- 18 3. The department shall contract with a nonprofit private entity that, under a
19 performance-based contract that is based on live birth, adoption, and abortion
20 statistical outcomes, is designated as the prime contractor and has the principal
21 responsibility for administering the program, including subcontracting with service
22 providers and providing reports to the department regarding outcomes of the
23 service providers' activities. The prime contractor may be reimbursed up to fifteen
24 percent of the total contract for administration.

- 1 4. The prime contractor shall subcontract with service providers for reimbursement of
2 alternatives-to-abortion services provided to eligible individuals on a fee-for-service
3 basis.
- 4 5. The prime contractor may expend up to fifteen percent of the appropriation to
5 administer the program and may expend funds to reimburse service providers and
6 to provide additional supportive services to assist providers in providing
7 alternatives-to-abortion services to eligible individuals, including providing for a
8 toll-free referral system, advertising alternatives-to-abortion services, purchasing
9 educational materials, and providing grants for new sites and new project
10 development. An entity may not become a prime contractor unless it has a stated
11 policy of actively promoting childbirth instead of abortion.
- 12 6. An entity may not become a service provider unless it operates a service provider
13 project that has a stated policy of actively promoting childbirth instead of abortion
14 and its project is physically and financially separate from any entity that advocates,
15 performs, counsels for, or refers for abortion.
- 16 7. No prime contractor or service provider project may perform an abortion, counsel
17 for or refer for abortion, or advocate abortion.
- 18 8. The prime contractor shall reimburse service providers for alternatives-to-abortion
19 services provided to eligible individuals. Service providers may not be reimbursed
20 for providing inpatient hospital services, making cash payments to intended
21 recipients of services, purchasing or improving land, or purchasing, constructing,
22 or permanently improving any facility.
- 23 9. A religious organization is eligible, on the same basis as any other
24 nongovernmental organization, as a contractor to provide services so long as the
25 program is implemented consistent with the Constitution of the United States and
26 the Constitution of North Dakota. The department may not discriminate against an
27 organization that is or applies to be a contractor on the basis that the organization
28 has a religious character.
- 29 10. A religious organization acting as a prime contractor or service provider retains its
30 independence from state and local governments, including the organization's
31 control over the definition, development, practice, and expression of its religious

- 1 beliefs. The department may not require a religious organization to alter its form of
2 internal governance or remove religious art, icons, scripture, or other symbols.
- 3 11. The contractor may not exclude or show preferential referrals to a service provider
4 based upon the service provider's contraceptive and abstinence programs.
- 5 12. If an eligible individual objects to the organization from which the individual
6 receives, or would receive, alternatives-to-abortion services, the prime contractor
7 shall provide the individual, within a reasonable period of time after the date of the
8 objection, with the names and addresses of alternative service providers that offer
9 a range of services similar to those offered by the original service provider. The
10 service provider shall provide eligible individuals receiving alternatives-to-abortion
11 services notice of the rights of these individuals under this subsection.
- 12 13. A religious organization may not discriminate against an eligible individual in
13 regard to alternatives-to-abortion services on the basis of religion, a religious
14 belief, or refusal to actively participate in a religious practice.
- 15 14. The state may audit a religious organization's use of funds under this section in the
16 same manner it would audit a nonreligious organization's use of funds under this
17 section. If the organization has segregated the funds received under this section
18 into separate accounts, only those separate accounts are subject to audit.
- 19 15. No grant funds obtained pursuant to this section may be expended for sectarian
20 worship, instruction, or proselytization.
- 21 16. This section does not preempt any provision of the Constitution of North Dakota or
22 state law which prohibits or restricts the expenditure of state funds by religious
23 organizations.
- 24 17. The department shall contract with a nonprofit private entity for the establishment
25 and operation of a statewide, toll-free telephone referral service through which a
26 person seeking services to assist a woman through pregnancy, childbirth, or
27 adoption is referred to an appropriate service agency. The toll-free telephone
28 referral service must refer to all appropriate agencies in a specific geographical
29 area and may not refer a person to any agency that provides abortion counseling
30 or referral services or advocates for, or performs abortions.

1 **SECTION 2. APPROPRIATION.** There is appropriated out of any moneys from special
2 funds derived from federal funds and other income for the temporary assistance to needy
3 families program, the sum of \$250,000, or so much of the sum as may be necessary, to the
4 department of human services for the purpose of establishing and operating an
5 alternatives-to-abortion services program and a toll-free referral system, for the biennium
6 beginning July 1, 2001, and ending June 30, 2003.

7 **SECTION 3. EXPIRATION DATE.** This Act is effective through June 30, 2003, and
8 after that date is ineffective.