

No. 1980-239

AN ACT

HB 1436

Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An act to consolidate, editorially revise, and codify the public welfare laws of the Commonwealth," limiting the expenditure of public funds for abortions, providing for reimbursement to counties for child welfare services, and making an appropriation.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code," is amended by adding sections to read:

Section 453. Expenditure of Public Funds for Abortions Limited.—*Since it is the public policy of the Commonwealth to favor child-birth over abortion, no Commonwealth funds and no Federal funds which are appropriated by the Commonwealth shall be expended by any State or local government agency for the performance of abortion: Provided, That nothing in this act shall be construed to deny the use of funds where a physician has certified in writing that the life of the mother would be endangered if the fetus were carried to full term or except for such medical procedures necessary for the victims of rape or incest when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nothing contained in this section shall be interpreted to restrict or limit in any way, appropriations, made by the Commonwealth or a local governmental agency to hospitals for their maintenance and operation, or, for reimbursement to hospitals for services rendered which are not for the performance of abortions.*

Section 709. Reimbursement to Counties.—(a) *Reimbursement for child welfare services made pursuant to section 704.1 shall not exceed the State funds appropriated each fiscal year.*

(b) *Commencing no later than July 1, 1981 the county institution districts or their successors shall be reimbursed in accordance with their fiscal year plans as approved by the department.*

(c) *The department shall, by regulation, define allowable costs for authorized child welfare services and shall not approve for reimbursement plans in the aggregate whose costs are in excess of the amount appropriated by the General Assembly. Legislative oversight shall be required in the form of an annual report to the Legislature from the department indicating, but not limited to, showing the amounts paid to each county for each fiscal year, the source of funds, the timeliness of payments and the extent to which funds were not available to meet allowable and authorized costs.*

Section 2. The sum of \$28,000,000 is hereby specifically appropriated to the Department of Public Welfare for the 1980-1981 fiscal year for payment to counties for child welfare programs and for the care of delinquent and deprived children committed by the courts to a private or public facility. The moneys appropriated by this section shall be in addition to those moneys appropriated by the act of June 18, 1980 (No.17A), known as the "General Appropriation Act of 1980." Reimbursement for child welfare services made pursuant to section 704.1 of the act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code," shall not exceed the amount of State funds appropriated.

Section 3. This act shall take effect immediately.

APPROVED—This 19th day of December, A. D. 1980 except as to the following:

Section 2. The sum of \$28,000,000 is hereby specifically appropriated to the Department of Public Welfare for the 1980-1981 fiscal year for payment to counties for child welfare programs and for the care of delinquent and deprived children committed by the courts to a private or public facility. The moneys appropriated by this section shall be in addition to those moneys appropriated by the act of June 18, 1980 (No.17A), known as the "General Appropriation Act of 1980." Reimbursement for child welfare services made pursuant to section 704.1 of the act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code," shall not exceed the amount of State funds appropriated.

This item is approved in the sum of \$4,000,000. This reduction is necessary due to insufficient General Fund moneys.

This bill contains amendments to the Public Welfare Code to limit reimbursement to counties for child welfare services to the amount of State funds appropriated in accordance with approved fiscal year plans. These amendments were necessitated by a funding crisis created by the lack of fiscal controls under previous law. These provisions are key to preventing future crisis of the kind experienced this past year in funding these critical services to our youth. This measure is another cornerstone in our continuing effort to restore and maintain fiscal integrity in the operation of State Government and ensure that government lives within its means.

Secondly, this bill contains an appropriation in the amount of \$28 million for the current fiscal year for child welfare services. While this appropriation of State funds was viewed by the General Assembly as a solution to this year's funding crisis in child welfare services, this amount is neither necessary to solve the problem nor fiscally responsible, considering our current financial situation.

The shortfalls in child welfare funding are simply not as severe as they may first have appeared. The difference between the State funds

already provided for the current fiscal year and the level requested by counties represents only 11% of the total expenditures on child welfare services. In fact, in many counties, more State funds are available for child welfare services this year than were available during 1979. In these cases, counties have had to choose between continuing existing programs and starting new ones in order to remain within the available State funds.

In general, counties across the State, with the assistance of my administration, have skillfully directed their available resources to efficient and effective in-home and community-based services, while reducing reliance on institutional facilities. This redirection of resources has substantially furthered the Federal and State policies of encouraging community-based care of children and youth. It is a tribute to the counties' commitment to these policies that this progress was attained in response to conditions of fiscal restraint.

Moreover it has become evident that additional Federal funds are available for child welfare services in Pennsylvania. This week, Congress appropriated \$6 million in additional funds which will be available to Pennsylvania under the Adoption Assistance and Child Welfare Reform Act for in-home services to children and youth. In addition, the Department of Public Welfare has discovered that numerous counties failed to claim entitlements for basic foster care placement subsidies under Title IVA of the Social Security Act. With the help of the department, counties are now making claims for all services which are eligible for Federal reimbursement, and this will increase the amount of Federal funds over the level previously expected for this year. We are also processing a retroactive claim for \$27.7 million of 1977-78 entitlements which the prior administration failed to collect from the Federal Government. Of this \$27.7 million, \$16 million is from Philadelphia, \$1.8 million is from Delaware County, \$2.5 million is from Montgomery County, \$3 million from Allegheny County, \$635,000 from Berks County, \$549,000 from Erie County, \$509,000 from Luzerne County, and smaller amounts from the other counties.

Finally, I have instructed the Secretary of Public Welfare to release \$3 million of Federal funds provided under Title IVD of the Social Security Act for child support services. These funds are currently not being used in counties which have been the maximum Federally reimbursable investment in child support activities. Once these funds are released, counties may use them to increase programmatic support for child welfare services.

In summary, as much as \$36 million in Federal funds may be available to assist county governments in meeting their child welfare needs without any additional appropriation of State funds.

Nonetheless, I have instructed appropriate agencies in my administration to determine the maximum amount available for retention in this appropriation without jeopardizing our overall fiscal picture. They have advised me that this amount is \$4 million.

Finally, I must note that the provisions of this bill relating to the public funding of abortions do not precisely reflect my personal views.

As I have stated in the past, my view is that abortion should be a permissible medical option in certain narrowly restricted situations, including threat to the life of the mother, rape, incest and provable, serious and irreparable harm to the health of the woman, and that public funding should be available to indigent persons in such cases.

Based upon my current experience as Governor, I must acknowledge some uncertainty as to whether regulations governing abortions in cases of threat to the health of the mother can, in reality, be drafted and applied in such a way as to prevent the use of public funds for abortions on the broader scale to which I am opposed.

This issue as such, however, is not before me at this time in the bill.

What is before me is an issue with complicated legal aspects. Not to sign this bill would, I am informed, occasion an immediate appeal to the courts to vacate the 1978 injunction against implementation of a more restrictive version of this legislation previously passed by the General Assembly (Act 148 of 1977), an appeal, which, I am advised by legal counsel, would in all likelihood be successful.

Thus, the real issue which does confront me is whether public funding for abortions should be restricted solely to cases where the life of the mother is in jeopardy or whether such assistance should also be made available in cases of rape or incest. The less restrictive provisions currently before me were approved overwhelmingly by both Houses of the General Assembly and would bring us into conformity with Federal legislation in this area recently adopted by the United States Congress.

In view of this, I have signed the provisions relating to public funding of abortion into law.

DICK THORNBURGH