

# State of South Dakota

## EIGHTY-SEVENTH SESSION LEGISLATIVE ASSEMBLY, 2012

643T0612

### HOUSE BILL NO. 1185

Introduced by: Representatives Hansen (Jon), Deelstra, Gosch, Haggar, Hickey, Hunt, Nelson (Stace), Olson (Betty), Rausch, Tornow, and Wick and Senator Brown

1 FOR AN ACT ENTITLED, An Act to prohibit all qualified health plans offered through a  
2 health care exchange or other health plans offered in the state from including abortion  
3 coverage, except by optional and separate supplemental coverage.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. Pursuant to the Patient Protection and Affordable Care Act, Pub. L. No. 111-148,  
6 no qualified health plan offered through a health insurance exchange established in the state may  
7 include elective abortion coverage. Nothing in this Act may be construed as preventing anyone  
8 from purchasing optional supplemental coverage for elective abortions for which there shall be  
9 paid a separate premium, in accordance with section 4 of this Act, in the health insurance market  
10 outside of the state health insurance exchange.

11 Section 2. No health plan, including health insurance contracts, plans, or policies offered  
12 outside of the exchange, but within the state, may provide coverage for elective abortions except  
13 by optional separate supplemental coverage for abortion for which there shall be paid a separate  
14 premium in accordance with section 4 of this Act.

15 Section 3. For purposes of this Act, an elective abortion is an abortion performed for any



1 reason other than to prevent the death of the mother upon whom the abortion is performed.  
2 However, an abortion is not deemed one to prevent the death of the mother based on a claim or  
3 diagnosis that she intends to engage in conduct which will result in her death.

4 Section 4. The issuer of any health plan providing elective abortion coverage:

- 5 (1) Shall calculate on an average actuarial basis the premium for such coverage so that  
6 it fully covers the estimated cost of covering elective abortions, per enrollee. In  
7 calculating the premium, the issuer of the plan may not take into account any cost  
8 reduction in any health plan covering an enrollee estimated to result from the  
9 provision of abortion coverage, including prenatal care, delivery, or postnatal care;
- 10 (2) If the enrollee is enrolling in a health plan providing any other coverage at the same  
11 time as the enrollee is enrolling in a plan providing elective abortion coverage, the  
12 insurer shall require a separate signature, distinct from that to enroll in the health plan  
13 providing other coverage, to enroll the applicant in the separate supplemental plan  
14 providing elective abortion coverage; and
- 15 (3) Shall provide a notice to enrollees, at the time of enrollment, that:
- 16 (a) Specifically states the cost of the separate premium for coverage of elective  
17 abortions, distinct and apart from the cost of the premium for any health plan  
18 providing any other coverage in any health plan covering an enrollee;
- 19 (b) States that enrollment in elective abortion coverage is optional; and
- 20 (c) If the enrollee is enrolling in a health plan providing any other coverage at the  
21 same time as the enrollee is enrolling in a plan providing elective abortion  
22 coverage, states that the enrollee, may choose to enroll in the plan providing  
23 other coverage without enrolling in the plan providing elective abortion  
24 coverage.

1       Section 5. The issuer of any health plan providing any coverage other than elective abortion  
2       may not discount or reduce the premium for such coverage on the basis that an enrollee has  
3       elective abortion coverage.

4       Section 6. Any employer who offers employees a health plan providing elective abortion  
5       coverage shall, at the time of beginning employment, and at least once in each calendar year  
6       thereafter, provide each employee the option to choose or reject elective abortion coverage.

7       Section 7. Any entity offering a group health plan providing elective abortion coverage,  
8       other than employers offering such a plan to their employees, shall, at the time each group  
9       member begins such coverage, and at least once in each calendar year thereafter, provide each  
10      group member the option to choose or reject elective abortion coverage.

11      Section 8. Nothing in this section may be construed to apply in circumstances in which  
12      federal law preempts state health insurance regulation.