

MEMO

TO:	Members of the City of Bloomington Common Council
CC:	Stephen Lucas, Attorney, Common Council
FROM:	Beth Cate, Corporation Counsel
DATE:	September 28, 2022
RE:	\$100K emergency annual fund to help residents with SB1 impacts

On August 5, 2022 the Indiana General Assembly passed and Governor Holcomb signed into law Senate Bill 1 (“S.B. 1”), which came into effect on September 15. This law bans nearly all abortions in the state. It also requires that any abortions allowed under the law’s very narrow exceptions be performed in hospitals or ambulatory outpatient surgical centers that are hospital-owned, rather than in the clinics that have safely performed for decades the vast majority of abortions in the state.

In response to the passage of S.B. 1, on August 17, 2022 the Common Council adopted Resolution 22-15, which the Mayor signed and approved on August 22, 2022, and which indicated that:

- (1) denying Hoosiers capable of pregnancy – including our fellow city and county residents – the right to bodily integrity and self-determination will impose tremendous physical, psychological, and economic harms, and
- (2) the law will impose those harms disproportionately on people of color, economically disadvantaged people, and all others who face discrimination in the health care system.

Three lawsuits have been filed, one in Monroe County, one in Marion County, and one in the Southern District of Indiana, challenging the legal validity of S.B. 1. The judge hearing the Monroe County case has stayed the enforcement of the law pending a decision on the merits, finding that “there is a reasonable likelihood that this significant restriction of personal autonomy offends the liberty guarantees of the Indiana Constitution and the Plaintiffs will prevail on the merits as to their claim that S.B. 1 violates Article I, §1 of the Indiana Constitution.” *Planned Parenthood Northwest, Hawai’i, Alaska, Indiana, Kentucky, Inc., et al. v. Members of the Medical Licensing Board of Indiana, et al.*, Order Granting Preliminary Injunction, Cause No. 53C06-2208-PL-001756 (Sept. 22, 2022).

The state has already filed an appeal of the stay and is seeking expedited action by the Indiana Supreme Court. If the state prevails S.B. 1 will go back into effect immediately, pending a decision on the merits. A final resolution of the legal validity of S.B. 1 may take years; in the meantime, the uncertainty surrounding the availability and provision of reproductive health care in Indiana is likely to create substantial challenges for persons who are pregnant or capable of becoming pregnant, health care professionals,

and community organizations that assist Hoosiers with access to services surrounding pregnancy and reproductive health.

Resolution 22-15 states the Council's intent to "take such steps as may be appropriate to protect and advance the rights of individuals in Indiana who can become pregnant and to uphold all persons' rights to privacy, dignity and self-determination." One critical step the City can take is to support organizations responding to the reproductive health care crisis that S.B. 1 has imposed on our community.

Accordingly, the Administration proposes that the City make available to such organizations \$100,000 in emergency grant funds in each of 2022 and 2023, which they can provide to applicants who help meet needs associated with pregnancy and reproductive health.

The \$100,000 for 2023 is reflected in the proposed 2023 budget. A public hearing on the 2023 budget has been noticed for September 28.

To make \$100,000 in grant funds available in 2022, we recommend that the Council approve an additional appropriation of \$100,000 from the General Fund to Classification - 3 Services and Charges within the budget of the Community and Family Resources Department (CFRD). A proposed Additional Appropriation Ordinance is attached. The Director of CFRD will conduct a competitive grant process to award these funds as soon as possible and by no later than December 31, 2022. The process will include application materials, evaluation criteria, and a funding agreement similar to other social services grantmaking programs.

Funds from this additional appropriation will address impacts of S.B. 1 and will be used consistent with valid local, state and federal law.

The Administration will give the public notice of this proposed additional 2022 appropriation by publication as required under Indiana Code 6-1.1-18-5(a) and Indiana Code 5-3-1-2(b). If, following the public hearing, Council approves the proposed additional appropriation, the Controller will promptly file a certified copy with the Department of Local Government Finance (DLGF) as required by state law, IC 6-1.1-18-5(b) and (e). The DLGF has 15 days to determine in writing whether sufficient funds are available to cover the appropriation. The Administration expects an affirmative ruling from the DLGF.

Council review and approval of this proposed additional appropriation ordinance will also satisfy the requirements of Bloomington Municipal Code 2.26.210, which calls for Council review and approval by resolution of expenditures of at least \$100,000.