S-1699.1

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**SUBSTITUTE SENATE BILL 5602**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Health & Long Term Care (originally sponsored by Senators Randall, Wilson, C., Nguyen, Das, Saldaña, Cleveland, Takko, Kuderer, Hasegawa, Rolfes, Van De Wege, Keiser, Hunt, Wellman, Billig, Dhingra, Conway, Pedersen, Frockt, Salomon, Palumbo, Darneille, McCoy, Liias, Mullet, and Carlyle)

AN ACT Relating to eliminating barriers to reproductive health care for all; amending RCW 48.43.072; adding new sections to chapter 74.09 RCW; creating new sections; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds and declares:

(1) It is the public policy of this state to provide the maximum access to reproductive health care and reproductive health care coverage for all people in Washington state.

(2) In 2018, the legislature passed Substitute Senate Bill No. 6219. Along with reproductive health care coverage requirements, the bill mandated a literature review of barriers to reproductive health care. As documented by the report submitted to the legislature on January 1, 2019, young people, immigrants, people living in rural communities, transgender and gender nonconforming people, and people of color still face significant barriers to getting the reproductive health care they need.

(3) Immigrants in Washington state are a vital contributor to the culture, economy, and life of the people of Washington. Yet federal law prohibits some immigrants, who would otherwise be eligible for medical coverage, from receiving the health benefits and timely access to health care provided through federally funded coverage programs.

(4) This lack of coverage negatively affects the reproductive health, family planning, and reproductive autonomy of excluded immigrants living in Washington state.

(5) Washingtonians who are transgender and gender nonconforming have important reproductive health care needs as well. These needs go unmet when, in the process of seeking care, transgender and gender nonconforming people are stigmatized or are denied critical health services because of their gender identity or expression.

(6) The literature review mandated by Substitute Senate Bill No. 6219 found that, "[a]ccording to 2015 U.S. Transgender Survey data, thirty-two percent of transgender respondents in Washington State reported that in the previous year they did not see a doctor when needed because they could not afford it."

(7) Existing state law should be enhanced to ensure greater coverage of and timely access to reproductive health care for the benefit of all Washingtonians, regardless of immigration status, or gender identity or expression.

(8) Because stigma is also a key barrier to access to reproductive health care, all Washingtonians, regardless of gender identity or immigration status, should be free from discrimination in the provision of health care services, health care plan coverage, and in access to publicly funded health coverage.

(9) All people should have access to robust reproductive health services to maintain and improve their reproductive health.

NEW SECTION. **Sec.**  A new section is added to chapter 74.09 RCW to read as follows:

(1) By January 1, 2020, the authority shall administer a program for individuals over nineteen years of age who would be eligible for the Washington state family planning waiver program, currently known as the take charge program, if not for 8 U.S.C. Sec. 1611 or 1612.

(2) The program shall provide services identical to those services covered by the Washington state family planning waiver program as of August 2018.

(3) The authority shall establish a comprehensive community education and outreach campaign, working with stakeholder and community organizations, to provide culturally and linguistically accessible information to facilitate participation in the program including, but not limited to, enrollment procedures, program services, and benefit utilization.

NEW SECTION. **Sec.**  A new section is added to chapter 74.09 RCW to read as follows:

(1) In the provision of reproductive health care services through programs under this chapter, the authority, managed care plans, and providers that administer or deliver such services must not discriminate in the delivery of a service provided through a program of the authority based on the covered person's gender identity or expression.

(2) The authority and any managed care plans delivering or administering services purchased or contracted for by the authority, may not issue automatic initial denials of coverage for reproductive health care services that are ordinarily or exclusively available to individuals of one gender, based on the fact that the individual's gender assigned at birth, gender identity, or gender otherwise recorded in one or more government-issued documents, is different from the one to which such health services are ordinarily or exclusively available.

(3) Denials as described in subsection (2) of this section are prohibited discrimination under chapter 49.60 RCW.

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Body parts" includes, but is not limited to: Genitals, gonads, the uterus, ovaries, fallopian tubes, breasts, and the endocrine system.

(b) "Gender expression" means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's gender assigned at birth.

(c) "Gender identity" means a person's internal sense of the person's own gender, regardless of the person's gender assigned at birth.

(d) "Reproductive health care services" means any medical treatment, including pharmaceutical care, of reproductive processes, functions, systems, and body parts involved in reproduction, in all stages of life.

(5) This section must not be construed to authorize discrimination on the basis of a covered person's gender identity or expression in the administration of any other medical assistance programs administered by the authority.

**Sec.**  RCW 48.43.072 and 2018 c 119 s 2 are each amended to read as follows:

(1) A health plan or student health plan, including student health plans deemed by the insurance commissioner to have a short-term limited purpose or duration or to be guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, issued or renewed on or after January 1, ((~~2019~~)) 2021, shall provide coverage for:

(a) All contraceptive drugs, devices, and other products, approved by the federal food and drug administration, including over‑the‑counter contraceptive drugs, devices, and products, approved by the federal food and drug administration. This includes condoms, regardless of the gender or sexual orientation of the covered person, and regardless of whether they are to be used for contraception or exclusively for the prevention of sexually transmitted infections;

(b) Voluntary sterilization procedures;

(c) The consultations, examinations, procedures, and medical services that are necessary to prescribe, dispense, insert, deliver, distribute, administer, or remove the drugs, devices, and other products or services in (a) and (b) of this subsection((~~.~~));

(d) The following preventive services:

(i) Screening for physical, mental, sexual, and reproductive health care needs that arise from a sexual assault; and

(ii) Well-person preventive visits;

(e) Medically necessary services and prescription medications for the treatment of physical, mental, sexual, and reproductive health care needs that arise from a sexual assault; and

(f) The following reproductive health-related over-the-counter drugs and products approved by the federal food and drug administration: Prenatal vitamins for pregnant persons; and breast pumps for covered persons expecting the birth or adoption of a child.

(2) The coverage required by subsection (1) of this section:

(a) May not require copayments, deductibles, or other forms of cost sharing((~~,~~)):

(i) Except for:

(A) The medically necessary services and prescription medications required by subsection (1)(e) of this section; and

(B) The drugs and products in subsection (1)(f) of this section; or

(ii) Unless the health plan is offered as a qualifying health plan for a health savings account. For such a qualifying health plan, the carrier must establish the plan's cost sharing for the coverage required by subsection (1) of this section at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions and withdrawals from ((~~his or her~~)) the enrollee's health savings account under internal revenue service laws and regulations; and

(b) May not require a prescription to trigger coverage of over‑the‑counter contraceptive drugs, devices, and products, approved by the federal food and drug administration, except those reproductive health related drugs and products as set forth in subsection (1)(f) of this section.

(3) A health carrier may not deny the coverage required in subsection (1) of this section because an enrollee changed ((~~his or her~~)) the enrollee's contraceptive method within a twelve-month period.

(4) Except as otherwise authorized under this section, a health benefit plan may not impose any restrictions or delays on the coverage required under this section, such as medical management techniques that limit enrollee choice in accessing the full range of contraceptive drugs, devices, or other products, approved by the federal food and drug administration.

(5) Benefits provided under this section must be extended to all enrollees, enrolled spouses, and enrolled dependents.

(6) This section may not be construed to allow for denial of care on the basis of race, color, national origin, sex, sexual orientation, gender expression or identity, marital status, age, citizenship, immigration status, or disability.

(7) A health plan or student health plan, including student health plans deemed by the insurance commissioner to have a short-term limited purpose or duration or to be guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, issued or renewed on or after January 1, 2021, may not issue automatic initial denials of coverage for reproductive health care services that are ordinarily or exclusively available to individuals of one gender, based on the fact that the individual's gender assigned at birth, gender identity, or gender otherwise recorded in one or more government-issued documents, is different from the one to which such health services are ordinarily or exclusively available.

(8) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Body parts" includes, but is not limited to: Genitals, gonads, the uterus, ovaries, fallopian tubes, breasts, and the endocrine system.

(b) "Gender expression" means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's gender assigned at birth.

(c) "Gender identity" means a person's internal sense of the person's own gender, regardless of the person's gender assigned at birth.

(d) "Reproductive health care services" means any medical treatment, including pharmaceutical care, of reproductive processes, functions, systems, and body parts involved in reproduction, in all stages of life.

(e) "Well-person preventive visits" means the preventive annual visits recommended by the federal health resources and services administration women's preventive services guidelines, with the understanding that those visits must be covered regardless of the covered person's gender identity or expression or perceived gender identity or expression.

(9) This section must not be construed to authorize discrimination on the basis of gender identity or expression, or perceived gender identity or expression, in the provision of nonreproductive health care services.

(10) The commissioner, under RCW 48.30.300, and the human rights commission, under chapter 49.60 RCW shall share enforcement authority over complaints of discrimination under this section as set forth in RCW 49.60.178.

(11) The commissioner may adopt rules to implement this section.

NEW SECTION. **Sec.**  This act may be known and cited as the reproductive health care access for all act.

NEW SECTION. **Sec.**  (1) Sections 2 and 3 of this act take effect January 1, 2020.

(2) Section 4 of this act takes effect January 1, 2021.

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