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**SENATE BILL 5602**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**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, Lias, Mullet, and Carlyle

1 AN ACT Relating to eliminating barriers to reproductive health  
2 care for all; amending RCW 48.43.072; adding new sections to chapter  
3 74.09 RCW; creating new sections; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds and declares:

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

9 (2) In 2018, the legislature passed Substitute Senate Bill No.  
10 6219. Along with reproductive health care coverage requirements, the  
11 bill mandated a literature review of barriers to reproductive health  
12 care. As documented by the report submitted to the legislature on  
13 January 1, 2019, young people, immigrants, people living in rural  
14 communities, transgender and gender nonconforming people, and people  
15 of color face significant barriers to getting the reproductive health  
16 care they need.

17 (3) Immigrants in Washington state are a vital contributor to the  
18 culture, economy, and life of the people of Washington. Yet federal  
19 law prohibits some immigrants, who would otherwise be eligible for  
20 medical coverage, from receiving the health benefits and timely

1 access to health care provided through federally funded coverage  
2 programs.

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

6 (5) Immigrants and other Washingtonians who are transgender and  
7 gender nonconforming have important reproductive health care needs as  
8 well. These needs go unmet when transgender and gender nonconforming  
9 people are stigmatized when they seek care, or are denied critical  
10 health services because of their gender.

11 (6) The literature review mandated by Substitute Senate Bill No.  
12 6219 found that, "[a]ccording to 2015 U.S. Transgender Survey data,  
13 thirty-two percent of transgender respondents in Washington State  
14 reported that in the previous year they did not see a doctor when  
15 needed because they could not afford it."

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

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

25 (9) All people should have access to additional services to  
26 improve their reproductive health, without barriers such as cost  
27 sharing.

28 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09  
29 RCW to read as follows:

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

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

37 (3) The authority shall establish a comprehensive community  
38 education and outreach campaign, working with stakeholder and  
39 community organizations, to provide culturally and linguistically

1 accessible information to facilitate participation in the program  
2 including, but not limited to, enrollment procedures, program  
3 services, and benefit utilization.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.09  
5 RCW to read as follows:

6 (1) In administering reproductive health care services through  
7 programs under this chapter, the authority and any managed care plans  
8 and providers delivering or administering services purchased or  
9 contracted for by the authority, must provide medically necessary  
10 covered reproductive health care services to any covered person,  
11 regardless of the covered person's gender identity or expression.

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

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

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

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

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

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

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

38 (5) This section must not be construed to authorize  
39 discrimination on the basis of a covered person's gender identity or

1 expression in the administration of any other medical assistance  
2 programs administered by the authority.

3 **Sec. 4.** RCW 48.43.072 and 2018 c 119 s 2 are each amended to  
4 read as follows:

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

12 (a) (i) All contraceptive drugs, devices, and other products,  
13 approved by the federal food and drug administration, including  
14 over-the-counter contraceptive drugs, devices, and products, approved  
15 by the federal food and drug administration, regardless of whether  
16 they are to be used by the covered person or the partner of the  
17 covered person, and regardless of whether they are to be used for  
18 contraception or exclusively for the prevention of sexually  
19 transmitted infections;

20 ((b)) (ii) Voluntary sterilization procedures;

21 ((c)) (iii) The consultations, examinations, procedures, and  
22 medical services that are necessary to prescribe, dispense, insert,  
23 deliver, distribute, administer, or remove the drugs, devices, and  
24 other products or services in (a) ((and b)) (i) and (ii) of this  
25 subsection.

26 (b) Pre-exposure prophylaxis and post-exposure prophylaxis.

27 (c) The following preventive services:

28 (i) Screening and counseling for physical, mental, sexual, and  
29 reproductive health care needs following a sexual assault;

30 (ii) Breast cancer chemoprevention counseling for women who are  
31 at increased risk for breast cancer, and risk-reducing medications  
32 where medically appropriate;

33 (iii) Well-person preventive visits;

34 (iv) Annual screening and counseling for human papillomavirus for  
35 those under thirty years of age, and screening and counseling every  
36 five years for those between thirty and sixty-five years of age;

37 (v) Screening and counseling for anemia; and

38 (vi) Screening for:

39 (A) Urinary tract infection; and

1 (B) Urinary incontinence.

2 (d) The following treatment services:

3 (i) Treatment for physical, mental, sexual, and reproductive  
4 health care needs following a sexual assault;

5 (ii) Treatment for anemia; and

6 (iii) Treatment for:

7 (A) Urinary tract infection; and

8 (B) Urinary incontinence.

9 (e) Other reproductive health-related over-the-counter drugs and  
10 products approved by the federal food and drug administration  
11 including, but not limited to, prenatal vitamins for pregnant persons  
12 and breast pumps for covered persons expecting the birth or adoption  
13 of a child.

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

15 (a) May not require copayments, deductibles, or other forms of  
16 cost sharing, with the exception of pre-exposure prophylaxis, the  
17 treatment services required by subsection (1)(d) of this section, and  
18 the drugs and products in subsection (1)(e) of this section, which  
19 may be subject to cost sharing, unless the health plan is offered as  
20 a qualifying health plan for a health savings account. For such a  
21 qualifying health plan, the carrier must establish the plan's cost  
22 sharing for the coverage required by subsection (1) of this section  
23 at the minimum level necessary to preserve the enrollee's ability to  
24 claim tax exempt contributions and withdrawals from ((his or her))  
25 the enrollee's health savings account under internal revenue service  
26 laws and regulations; and

27 (b) May not require a prescription to trigger coverage of  
28 over-the-counter contraceptive drugs, devices, and products, approved  
29 by the federal food and drug administration.

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

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

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

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

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

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

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

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

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

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

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

39 (9) This section must not be construed to authorize  
40 discrimination on the basis of gender identity or expression, or

1 perceived gender identity or expression, in the provision of  
2 nonreproductive health care services.

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

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

8 NEW SECTION. Sec. 5. This act may be known and cited as the  
9 reproductive health care access for all act.

10 NEW SECTION. Sec. 6. (1) Sections 2 and 3 of this act take  
11 effect January 1, 2020.

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

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