
SECOND SUBSTITUTE SENATE BILL 5602

State of Washington

66th Legislature

2019 Regular Session

By Senate Ways & Means (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, Lias, Mullet, and Carlyle)

READ FIRST TIME 03/01/19.

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 still face significant barriers to getting the reproductive
16 health 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) Washingtonians who are transgender and gender nonconforming
7 have important reproductive health care needs as well. These needs go
8 unmet when, in the process of seeking care, transgender and gender
9 nonconforming people are stigmatized or are denied critical health
10 services because of their gender identity or expression.

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 robust reproductive health
26 services to maintain and improve their reproductive health.

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

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

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

36 (3) The authority shall establish a comprehensive community
37 education and outreach campaign, working with stakeholder and
38 community organizations, to provide culturally and linguistically
39 accessible information to facilitate participation in the program

1 including, but not limited to, enrollment procedures, program
2 services, and benefit utilization.

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

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

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

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

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

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

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

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

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

37 (5) This section must not be construed to authorize
38 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) 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. This includes condoms,
16 regardless of the gender or sexual orientation of the covered person,
17 and regardless of whether they are to be used for contraception or
18 exclusively for the prevention of sexually transmitted infections;

19 (b) Voluntary sterilization procedures;

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

24 (d) The following preventive services:

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

27 (ii) Well-person preventive visits;

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

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

35 (g) Screening for gonorrhea, chlamydia, syphilis, and human
36 immunodeficiency virus; and

37 (h) Pre-exposure prophylaxis and postexposure prophylaxis.

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

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

3 (i) Except for:

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

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

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

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

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

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

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

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

37 (7) A health plan or student health plan, including student
38 health plans deemed by the insurance commissioner to have a short-
39 term limited purpose or duration or to be guaranteed renewable while
40 the covered person is enrolled as a regular full-time undergraduate

1 or graduate student at an accredited higher education institution,
2 issued or renewed on or after January 1, 2021, may not issue
3 automatic initial denials of coverage for reproductive health care
4 services that are ordinarily or exclusively available to individuals
5 of one gender, based on the fact that the individual's gender
6 assigned at birth, gender identity, or gender otherwise recorded in
7 one or more government-issued documents, is different from the one to
8 which such health services are ordinarily or exclusively available.

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

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

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

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

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

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

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

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

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

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

3 Beginning January 1, 2021, the authority shall provide coverage
4 under this chapter for:

5 (1) Screening for gonorrhea, chlamydia, syphilis, and human
6 immunodeficiency virus;

7 (2) Pre-exposure prophylaxis and postexposure prophylaxis; and

8 (3) Condoms, regardless of the gender or sexual orientation of
9 the covered person, and regardless of whether they are used for
10 contraception or exclusively for the prevention of sexually
11 transmitted infections.

12 NEW SECTION. **Sec. 6.** A new section is added to chapter 74.09
13 RCW to read as follows:

14 (1) A health plan offered to employees, school employees, and
15 their covered dependents under this chapter issued or renewed on or
16 after January 1, 2021, shall provide coverage for:

17 (a) Screening for gonorrhea, chlamydia, syphilis, and human
18 immunodeficiency virus;

19 (b) Pre-exposure prophylaxis and postexposure prophylaxis; and

20 (c) Condoms, regardless of the gender or sexual orientation of
21 the covered person, and regardless of whether they are used for
22 contraception or exclusively for the prevention of sexually
23 transmitted infections.

24 (2) The coverage required by this section may not require
25 copayments, deductibles, or other forms of cost sharing, unless the
26 health plan is offered as a qualifying health plan for a health
27 savings account. For such qualifying health plan, the plan's cost
28 sharing for the coverage required by this section must be established
29 at the minimum level necessary to preserve the enrollee's ability to
30 claim tax exempt contributions and withdrawals from the enrollee's
31 health savings account under internal revenue service laws and
32 regulations.

33 NEW SECTION. **Sec. 7.** This act may be known and cited as the
34 reproductive health care access for all act.

35 NEW SECTION. **Sec. 8.** (1) Sections 2 and 3 of this act take
36 effect January 1, 2020.

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

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