

**2SSB 5602 - H AMD 779**

By Representative Macri

**ADOPTED 04/25/2019**

1 Strike everything after the enacting clause and insert the  
2 following:

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

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

7 (2) In 2018, the legislature passed Substitute Senate Bill No.  
8 6219. Along with reproductive health care coverage requirements, the  
9 bill mandated a literature review of barriers to reproductive health  
10 care. As documented by the report submitted to the legislature on  
11 January 1, 2019, young people, immigrants, people living in rural  
12 communities, transgender and gender nonconforming people, and people  
13 of color still face significant barriers to getting the reproductive  
14 health care they need.

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

20 (4) The literature review mandated by Substitute Senate Bill No.  
21 6219 found that, "[a]ccording to 2015 U.S. Transgender Survey data,  
22 thirty-two percent of transgender respondents in Washington State  
23 reported that in the previous year they did not see a doctor when  
24 needed because they could not afford it."

25 (5) Existing state law should be enhanced to ensure greater  
26 coverage of and timely access to reproductive health care for the  
27 benefit of all Washingtonians, regardless of gender identity or  
28 expression.

29 (6) Because stigma is also a key barrier to access to  
30 reproductive health care, all Washingtonians, regardless of gender  
31 identity, should be free from discrimination in the provision of

1 health care services, health care plan coverage, and in access to  
2 publicly funded health coverage.

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

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

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

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

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

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

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

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

32 (c) "Reproductive health care services" means any medical  
33 services or treatments, including pharmaceutical and preventive care  
34 service or treatments, directly involved in the reproductive system  
35 and its processes, functions, and organs involved in reproduction, in  
36 all stages of life. Reproductive health care services does not  
37 include infertility treatment.

38 (d) "Reproductive system" includes, but is not limited to:  
39 Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

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

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

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

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

21 (b) Voluntary sterilization procedures;

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

26 (d) The following preventive services:

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

29 (ii) Well-person preventive visits;

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

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

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

38 (a) May not require copayments, deductibles, or other forms of  
39 cost sharing(~~(-)~~);

1 (i) Except for:

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

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

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

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

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

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

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

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

35 (7) A health plan or student health plan, including student  
36 health plans deemed by the insurance commissioner to have a short-  
37 term limited purpose or duration or to be guaranteed renewable while  
38 the covered person is enrolled as a regular full-time undergraduate  
39 or graduate student at an accredited higher education institution,  
40 issued or renewed on or after January 1, 2021, may not issue

1 automatic initial denials of coverage for reproductive health care  
2 services that are ordinarily or exclusively available to individuals  
3 of one gender, based on the fact that the individual's gender  
4 assigned at birth, gender identity, or gender otherwise recorded in  
5 one or more government-issued documents, is different from the one to  
6 which such health services are ordinarily or exclusively available.

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

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

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

15 (c) "Reproductive health care services" means any medical  
16 services or treatments, including pharmaceutical and preventive care  
17 service or treatments, directly involved in the reproductive system  
18 and its processes, functions, and organs involved in reproduction, in  
19 all stages of life. Reproductive health care services does not  
20 include infertility treatment.

21 (d) "Reproductive system" includes, but is not limited to:  
22 Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

23 (e) "Well-person preventive visits" means the preventive annual  
24 visits recommended by the federal health resources and services  
25 administration women's preventive services guidelines, with the  
26 understanding that those visits must be covered for women, and when  
27 medically appropriate, for transgender, nonbinary, and intersex  
28 individuals.

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

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

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

38 NEW SECTION. Sec. 4. A new section is added to chapter 70.41  
39 RCW to read as follows:

1 (1) By September 1, 2019, every hospital must submit to the  
2 department its policies related to access to care regarding:

- 3 (a) Admission;
- 4 (b) Nondiscrimination; and
- 5 (c) Reproductive health care.

6 (2) The department shall post a copy of the policies received  
7 under subsection (1) of this section on its web site.

8 (3) If a hospital makes changes to any of the policies listed  
9 under subsection (1) of this section, it must submit a copy of the  
10 changed policy to the department within thirty days after the  
11 hospital approves the changes.

12 (4) A hospital must post a copy of the policies provided to the  
13 department under subsection (1) of this section and the form required  
14 under subsection (5) of this section to the hospital's own web site  
15 in a location where the policies are readily accessible to the public  
16 without a required login or other restriction.

17 (5) By September 1, 2019, the department shall, in consultation  
18 with stakeholders including a hospital association and patient  
19 advocacy groups, develop a simple and clear form to be submitted by  
20 hospitals along with the policies required in subsection (1) of this  
21 section. The form must provide the public with specific information  
22 about which reproductive health care services are and are not  
23 generally available at each hospital. The form must include contact  
24 information for the hospital in case patients have specific questions  
25 about services available at the hospital.

26 NEW SECTION. **Sec. 5.** A new section is added to chapter 48.43  
27 RCW to read as follows:

28 (1) The legislature intends to codify the state's current  
29 practice of requiring health carriers to bill enrollees with a single  
30 invoice and to segregate into a separate account the premium  
31 attributable to abortion services for which federal funding is  
32 prohibited. Washington has achieved full compliance with section 1303  
33 of the federal patient protection and affordable care act by  
34 requiring health carriers to submit a single invoice to enrollees and  
35 to segregate into a separate account the premium amounts attributable  
36 to coverage of abortion services for which federal funding is  
37 prohibited. Further, section 1303 states that the act does not  
38 preempt or otherwise have any effect on state laws regarding the

1 prohibition of, or requirement of, coverage, funding, or procedural  
2 requirements on abortions.

3 (2) In accordance with RCW 48.43.073 related to requirements for  
4 coverage and funding of abortion services, an issuer offering a  
5 qualified health plan must:

6 (a) Bill enrollees and collect payment through a single invoice  
7 that includes all benefits and services covered by the qualified  
8 health plan; and

9 (b) Include in the segregation plan required under applicable  
10 federal and state law a certification that the issuer's billing and  
11 payment processes meet the requirements of this section.

12 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.250  
13 RCW to read as follows:

14 (1) No later than January 1, 2020, the collaborative shall begin  
15 a review to identify, define, and endorse guidelines for the  
16 provision of high quality sexual and reproductive health services in  
17 clinical settings throughout Washington. This shall include the  
18 development of specific clinical recommendations to improve sexual  
19 and reproductive health care for:

- 20 (a) People of color;
- 21 (b) Immigrants and refugees;
- 22 (c) Victims and survivors of violence; and
- 23 (d) People with disabilities.

24 (2) The collaborative shall conduct its review consistent with  
25 the activities, processes, and reporting standards specified in RCW  
26 70.250.050. In conducting its review, the collaborative shall apply a  
27 whole-person framework to develop evidence-based, culturally  
28 sensitive recommendations to improve standards of care and health  
29 equity.

30 (3) By December 15, 2020, the collaborative, through the  
31 authority, shall provide a status report to the committees of the  
32 legislature with jurisdiction over matters related to health care and  
33 to the governor.

34 NEW SECTION. **Sec. 7.** The department of health shall develop  
35 recommendations for increasing awareness about financial support that  
36 is available for preexposure and postexposure prophylaxis. The  
37 department of health shall consult with the state board of health,  
38 the health care authority, and the health benefit exchange in

1 developing its recommendation related to outreach and education to  
2 affected populations. By December 1, 2019, the department of health  
3 shall provide its recommendations to the appropriate committees of  
4 the legislature.

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

7 NEW SECTION. **Sec. 9.** (1) Section 2 of this act takes effect  
8 January 1, 2020.

9 (2) Section 3 of this act takes effect January 1, 2021.

10 NEW SECTION. **Sec. 10.** Section 5 of this act is necessary for  
11 the immediate preservation of the public peace, health, or safety, or  
12 support of the state government and its existing public institutions,  
13 and takes effect immediately."

14 Correct the title.

EFFECT: Removes the requirement for the Health Care Authority to establish a family planning and related service program for persons over 19 years old who would be eligible for family planning services under Medicaid, except for the person's status as an undocumented or nonqualified resident.

Removes the requirement that medical assistance and state and school employee health plans cover screening for gonorrhea, chlamydia, syphilis, and human immunodeficiency virus, pre-exposure prophylaxis, post-exposure prophylaxis, and condoms at no cost-sharing to the client.

Requires health carriers offering a qualified health plan to bill enrollees and collect payment through a single invoice that includes all benefits and services covered by the qualified health plan. Requires that the segregation plans of health carriers include a certification that the health carrier's billing and payment processes meet the Office of the Insurance Commissioner's requirements for the segregation of premiums.

Changes the term "body parts" to "reproductive system" and eliminates the endocrine system from the definition. Specifies that the term "reproductive health care services" includes medical services (rather than only medical treatments) which include preventive care services and treatments. Specifies that the term "reproductive health care services" does not include infertility treatment. Specifies that the term "well-person preventive visits" applies to women and, when medically appropriate, to transgender, nonbinary, and intersex individuals.

Removes the requirement that health plans and student health plans cover: (1) Screening for gonorrhea, chlamydia, syphilis, and human immunodeficiency virus; and (2) pre-exposure prophylaxis and postexposure prophylaxis.



Requires that hospitals submit policies to the Department of Health (Department) related to access to care related to admissions, nondiscrimination, and reproductive health care. Directs the Department to post the policies on its web site and develop a form for hospitals to use when submitting policies. Requires the form to provide the public with information about which reproductive health care services are and are not available at the hospital.

Directs the Bree Collaborative to identify, define, and endorse guidelines for the provision of high quality sexual reproductive health services, including specific clinical recommendations to improve sexual and reproductive health care for people of color, immigrants and refugees, victims and survivors of violence, and people with disabilities. Requires the Bree Collaborative to provide a status report to the legislative committees with jurisdiction over health care and to the Governor.

Directs the Department to consult with other state agencies and develop recommendations for increasing awareness about financial support that is available for pre-exposure and postexposure prophylaxis. Requires the Department to report its recommendations to the appropriate committees of the legislature by December 1, 2019.

Corrects the statutory location of provisions related to the public employees' benefits board and school employees' benefits board.

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