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**SECOND SUBSTITUTE SENATE BILL 5602**

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**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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