

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-1182.01 Christy Chase x2008

HOUSE BILL 18-1438

HOUSE SPONSORSHIP

Esgar, Duran, Ginal, Hooton, Jackson, Kennedy, Lontine

SENATE SPONSORSHIP

(None),

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 CONCERNING HEALTH CARE COVERAGE FOR REPRODUCTIVE HEALTH
102 CARE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 2 of the bill requires all individual and group health benefit plans issued, amended, or renewed on or after January 1, 2020, to provide coverage for specified reproductive health care services, drugs, devices, products, and procedures. Carriers are prohibited from imposing a deductible, coinsurance, copayment, or other cost-sharing requirement for the coverage required under the bill and from imposing restrictions or

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

delays on the coverage. Under specified circumstances, section 2 permits a carrier to offer a religious employer a plan that does not include coverage for abortion procedures that are contrary to the religious employer's religious tenets. Section 2 also prohibits a carrier from excluding an individual from participation in, denying an individual benefits under, or otherwise discriminating against an individual in the administration of a plan on the basis of the individual's actual or perceived race, color, national origin, sex, sexual orientation, gender identity, religion, age, or disability.

Section 4 directs the department of health care policy and financing to administer a program to reimburse the cost of specified reproductive health care services, drugs, devices, products, and procedures provided to eligible individuals, which is defined to include individuals with reproductive health care needs who are enrolled in the medicaid program or the children's basic health plan or who are otherwise disqualified for participation in the medicaid program based on their immigration status.

The program must also provide medicaid or children's basic health plan benefits, as applicable, to pregnant individuals for 180 days, rather than the mandated 60 days, post-pregnancy, regardless of whether the individual's medicaid or children's basic health plan eligibility would otherwise terminate during that period based on an increase in income.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds that:

4 (a) Every individual possesses fundamental rights to privacy,
5 dignity, and autonomy to make personal reproductive decisions, including
6 the decision to seek reproductive health care such as prenatal care,
7 contraception, and abortion;

8 (b) Comprehensive reproductive health care, including safe
9 abortion, is a vital component of an individual's overall health, and access
10 to abortion is also a core component to individuals' social and economic
11 equality. Indeed, the United States Supreme Court has firmly and
12 repeatedly held, and specifically stated in *Planned Parenthood of*
13 *Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992), that the due

1 process clause of the fourteenth amendment to the United States
2 constitution protects a person's right to "personal decisions relating to
3 marriage, procreation, contraception, family relationships, child rearing,
4 and education" and recognized that "[t]he ability of women to participate
5 equally in the economic and social life of the Nation has been facilitated
6 by their ability to control their reproductive lives".

7 (c) Before, during, and after pregnancy, adequate and affordable
8 access to quality health care and high-quality providers helps ensure
9 healthy births, healthy babies, and healthy parents. However, women who
10 lack adequate prenatal care are three to four times more likely to die of
11 pregnancy-related complications. In Colorado, maternal mortality rates
12 have been rising, nearly doubling between 2008 and 2013.

13 (d) Moreover, nearly half of pregnancies in the United States are
14 unintended; individuals who lack insurance coverage or access to
15 subsidized services are more likely to have unintended pregnancies and
16 childbearing; and unintended childbearing is associated with negative
17 consequences such as delayed prenatal care, increased risk of physical
18 violence during pregnancy, maternal depression, decreased likelihood of
19 breastfeeding, low birth weight, decreased mental and physical health
20 during childhood, and lower educational attainment for the child;

21 (e) To raise healthy families and contribute to a strong
22 community, individuals also need affordable access to the full range of
23 reproductive health care services, including screenings for cancer and
24 sexually transmitted infections (STIs), contraceptive services, abortion
25 care, prenatal care, labor and delivery services, and breastfeeding support
26 and services. In Colorado, STI rates continue to be a serious health
27 concern: For four of the most common STIs, Colorado has a higher

1 incidence rate than more than fifteen other states.

2 (f) The right to make private, individual health care decisions can
3 be meaningless if reproductive health care is unaffordable. Insurance
4 coverage for and otherwise affordable access to preventive reproductive
5 health care services, including full pregnancy coverage, are critical to
6 comprehensive health care and to allowing individuals and families to
7 thrive. Therefore, it is necessary to ensure that every person in this state,
8 regardless of income or immigration status, has access to the full range
9 of reproductive health care services, drugs, devices, products, and
10 procedures without the barrier of cost-sharing. In the long run, providing
11 comprehensive reproductive health care for all Coloradans will help
12 ensure the economic security, health, and well-being of Colorado
13 residents.

14 **SECTION 2.** In Colorado Revised Statutes, 10-16-104, **amend**
15 **as it will become effective January 1, 2019, (3)(a)(I)(A); and add (3.5)**
16 **as follows:**

17 **10-16-104. Mandatory coverage provisions - definitions -**
18 **rules. (3) Maternity coverage. (a) (I) (A)** All group sickness and
19 accident insurance policies providing coverage within the state and issued
20 to an employer by an entity subject to part 2 of this article 16, all group
21 health service contracts issued by an entity subject to part 3 or 4 of this
22 article 16 and issued to an employer, all individual sickness and accident
23 insurance policies issued by an entity subject to part 2 of this article 16,
24 and all individual health care or indemnity contracts issued by an entity
25 subject to part 3 or 4 of this article 16, except supplemental policies
26 covering a specified disease or other limited benefit, must insure against
27 the expense of normal pregnancy and childbirth or provide coverage for

1 maternity care and provide coverage for contraception in the same
2 manner as any other sickness, injury, disease, or condition is otherwise
3 covered under the policy or contract; except that coverage for
4 contraception must be consistent with the requirements in section
5 10-16-104.2 AND SUBSECTION (3.5) OF THIS SECTION.

6 (3.5) **Reproductive health care.** (a) ALL INDIVIDUAL AND GROUP
7 HEALTH BENEFIT PLANS THAT ARE ISSUED, AMENDED, OR RENEWED IN THE
8 STATE ON OR AFTER JANUARY 1, 2020, EXCEPT SUPPLEMENTAL POLICIES
9 COVERING A SPECIFIED DISEASE OR OTHER LIMITED BENEFIT, MUST
10 PROVIDE COVERAGE FOR ALL OF THE FOLLOWING SERVICES, DRUGS,
11 DEVICES, PRODUCTS, AND PROCEDURES:

12 (I) WOMEN'S PREVENTIVE HEALTH SERVICES IDENTIFIED BY THE
13 HEALTH RESOURCES AND SERVICES ADMINISTRATION IN THE UNITED
14 STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES OR THE WOMEN'S
15 PREVENTIVE SERVICES INITIATIVE AS OF JANUARY 1, 2017, IN THE
16 FOLLOWING AREAS:

- 17 (A) BREAST CANCER SCREENING FOR AVERAGE-RISK WOMEN;
18 (B) BREASTFEEDING SERVICES AND SUPPLIES;
19 (C) SCREENING FOR CERVICAL CANCER;
20 (D) CONTRACEPTION, SUBJECT TO SUBSECTION (3.5)(b) OF THIS
21 SECTION;
22 (E) SCREENING FOR GESTATIONAL DIABETES MELLITUS;
23 (F) SCREENING FOR HIV INFECTION;
24 (G) SCREENING FOR INTERPERSONAL AND DOMESTIC VIOLENCE;
25 (H) COUNSELING FOR SEXUALLY TRANSMITTED INFECTION; AND
26 (I) WELL WOMAN PREVENTIVE VISITS;
27 (II) SCREENING TO DETERMINE WHETHER COUNSELING AND

1 TESTING RELATED TO THE BRCA1 OR BRCA2 GENETIC MUTATIONS IS
2 INDICATED AND TESTING AND GENETIC COUNSELING RELATED TO THE
3 BRCA1 OR BRCA2 GENETIC MUTATIONS IF INDICATED;

4 (III) ABORTION, TO THE EXTENT PERMITTED BY THE COLORADO
5 CONSTITUTION; AND

6 (IV) VOLUNTARY STERILIZATION AND SERVICES RELATED TO
7 STERILIZATION, INCLUDING MANAGEMENT OF SIDE EFFECTS.

8 (b) FOR PURPOSES OF THE COVERAGE REQUIRED BY THIS
9 SUBSECTION (3.5) FOR CONTRACEPTION, A HEALTH BENEFIT PLAN SUBJECT
10 TO THIS SUBSECTION (3.5) MUST PROVIDE COVERAGE FOR:

11 (I) ANY CONTRACEPTIVE DRUG, DEVICE, OR PRODUCT APPROVED
12 BY THE FDA, SUBJECT TO ALL OF THE FOLLOWING:

13 (A) IF THERE IS A THERAPEUTIC EQUIVALENT OF A CONTRACEPTIVE
14 DRUG, DEVICE, OR PRODUCT APPROVED BY THE FDA, THE HEALTH BENEFIT
15 PLAN MAY PROVIDE COVERAGE FOR EITHER THE REQUESTED
16 CONTRACEPTIVE DRUG, DEVICE, OR PRODUCT OR ONE OR MORE
17 THERAPEUTIC EQUIVALENTS OF THE REQUESTED DRUG, DEVICE, OR
18 PRODUCT;

19 (B) IF A CONTRACEPTIVE DRUG, DEVICE, OR PRODUCT COVERED BY
20 THE HEALTH BENEFIT PLAN IS DEEMED MEDICALLY INADVISABLE BY THE
21 COVERED PERSON'S PROVIDER, THE HEALTH BENEFIT PLAN MUST COVER AN
22 ALTERNATIVE CONTRACEPTIVE DRUG, DEVICE, OR PRODUCT PRESCRIBED
23 BY THE PROVIDER;

24 (C) A HEALTH BENEFIT PLAN MUST PROVIDE COVERAGE WITHOUT
25 A PRESCRIPTION FOR ALL CONTRACEPTIVE DRUGS THAT ARE AVAILABLE
26 FOR OVER-THE-COUNTER SALE AND ARE APPROVED BY THE FDA; AND

27 (D) A HEALTH BENEFIT PLAN MAY NOT INFRINGE UPON A COVERED

1 PERSON'S CHOICE OF CONTRACEPTIVE DRUG, DEVICE, OR PRODUCT AND
2 MAY NOT REQUIRE PRIOR AUTHORIZATION, STEP THERAPY, OR OTHER
3 UTILIZATION CONTROL TECHNIQUES FOR MEDICALLY APPROPRIATE
4 COVERED CONTRACEPTIVE DRUGS, DEVICES, OR OTHER PRODUCTS
5 APPROVED BY THE FDA;

6 (II) SERVICES RELATED TO THE ADMINISTRATION AND MONITORING
7 OF CONTRACEPTIVE DRUGS, DEVICES, AND PRODUCTS, INCLUDING
8 MANAGEMENT OF SIDE EFFECTS;

9 (III) COUNSELING FOR CONTINUED ADHERENCE TO A PRESCRIBED
10 REGIMEN;

11 (IV) DEVICE INSERTION AND REMOVAL; AND

12 (V) THE PROVISION OF ALTERNATIVE CONTRACEPTIVE DRUGS,
13 DEVICES, OR PRODUCTS DEEMED MEDICALLY APPROPRIATE IN THE
14 JUDGMENT OF THE COVERED PERSON'S PROVIDER.

15 (c) A CARRIER SHALL NOT IMPOSE ANY DEDUCTIBLE,
16 COINSURANCE, COPAYMENT, OR OTHER COST-SHARING REQUIREMENT ON
17 A COVERED PERSON FOR THE COVERAGE REQUIRED BY THIS SUBSECTION
18 (3.5), EXCEPT TO THE EXTENT THAT COVERAGE WITHOUT COST-SHARING
19 WOULD DISQUALIFY A HIGH-DEDUCTIBLE HEALTH BENEFIT PLAN FROM
20 ELIGIBILITY FOR A HEALTH SAVINGS ACCOUNT PURSUANT TO 26 U.S.C.
21 SEC. 223. A CARRIER SHALL REIMBURSE A PROVIDER FOR PROVIDING THE
22 SERVICES DESCRIBED IN THIS SUBSECTION (3.5) WITHOUT ANY DEDUCTION
23 FOR COINSURANCE, COPAYMENTS, OR ANY OTHER COST-SHARING
24 AMOUNTS.

25 (d) EXCEPT AS AUTHORIZED UNDER THIS SUBSECTION (3.5), A
26 CARRIER SHALL NOT IMPOSE ANY RESTRICTIONS OR DELAYS ON THE
27 COVERAGE REQUIRED BY THIS SUBSECTION (3.5). IF AN OUT-OF-NETWORK

1 PROVIDER PROVIDES SERVICES, DRUGS, DEVICES, PRODUCTS, OR
2 PROCEDURES REQUIRED BY THIS SUBSECTION (3.5), THE CARRIER SHALL
3 COVER THE SERVICES, DRUGS, DEVICES, PRODUCTS, OR PROCEDURES
4 WITHOUT IMPOSING ANY COST-SHARING REQUIREMENT ON THE COVERED
5 PERSON IF:

6 (I) THERE IS NO IN-NETWORK PROVIDER TO FURNISH THE SERVICE,
7 DRUG, DEVICE, PRODUCT, OR PROCEDURE THAT IS GEOGRAPHICALLY
8 ACCESSIBLE OR ACCESSIBLE IN A REASONABLE AMOUNT OF TIME, AS
9 DEFINED BY THE COMMISSIONER BY RULE; OR

10 (II) AN IN-NETWORK PROVIDER IS UNABLE OR UNWILLING TO
11 PROVIDE THE SERVICE IN A TIMELY MANNER.

12 (e) THIS SUBSECTION (3.5) DOES NOT REQUIRE A CARRIER TO
13 COVER:

14 (I) EXPERIMENTAL OR INVESTIGATIONAL TREATMENTS;

15 (II) CLINICAL TRIALS OR DEMONSTRATION PROJECTS, EXCEPT TO
16 THE EXTENT REQUIRED UNDER SUBSECTION (20) OF THIS SECTION;

17 (III) TREATMENTS THAT DO NOT CONFORM TO ACCEPTABLE AND
18 CUSTOMARY STANDARDS OF MEDICAL PRACTICE; OR

19 (IV) TREATMENTS FOR WHICH THERE ARE INSUFFICIENT DATA TO
20 DETERMINE EFFICACY.

21 (f) (I) A CARRIER MAY OFFER TO A RELIGIOUS EMPLOYER A HEALTH
22 BENEFIT PLAN THAT DOES NOT INCLUDE COVERAGE FOR ABORTION
23 PROCEDURES THAT ARE CONTRARY TO THE RELIGIOUS EMPLOYER'S
24 RELIGIOUS TENETS ONLY IF THE CARRIER NOTIFIES IN WRITING ALL
25 EMPLOYEES WHO ARE ELIGIBLE TO BE ENROLLED IN THE RELIGIOUS
26 EMPLOYER'S HEALTH BENEFIT PLAN OF THE PROCEDURES THE EMPLOYER
27 REFUSES TO COVER FOR RELIGIOUS REASONS.

1 (II) FOR PURPOSES OF THIS SUBSECTION (3.5)(f), A "RELIGIOUS
2 EMPLOYER" IS AN ENTITY FOR WHICH EACH OF THE FOLLOWING IS TRUE:

3 (A) THE INCULCATION OF RELIGIOUS VALUES IS THE PURPOSE OF
4 THE ENTITY;

5 (B) THE ENTITY PRIMARILY EMPLOYS PERSONS WHO SHARE THE
6 RELIGIOUS TENETS OF THE ENTITY;

7 (C) THE ENTITY SERVES PRIMARILY PERSONS WHO SHARE THE
8 RELIGIOUS TENETS OF THE ENTITY; AND

9 (D) THE ENTITY IS A NONPROFIT ORGANIZATION AS DESCRIBED IN
10 SECTION 6033 (a)(3)(A)(i) OR 6033 (a)(3)(A)(iii) OF THE FEDERAL
11 "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

12 (g) IF THE COMMISSIONER CONCLUDES THAT ENFORCEMENT OF
13 THIS SUBSECTION (3.5) MAY ADVERSELY AFFECT THE ALLOCATION OF
14 FEDERAL FUNDS TO THIS STATE, THE COMMISSIONER MAY GRANT AN
15 EXEMPTION TO THE REQUIREMENTS, BUT ONLY TO THE MINIMUM EXTENT
16 NECESSARY TO ENSURE THE CONTINUED RECEIPT OF FEDERAL FUNDS.

17 (h) A CARRIER THAT IS SUBJECT TO THIS SUBSECTION (3.5) SHALL
18 MAKE READILY ACCESSIBLE TO COVERED PERSONS AND POTENTIAL
19 COVERED PERSONS, IN A CONSUMER-FRIENDLY FORMAT, INFORMATION
20 ABOUT THE COVERAGE DESCRIBED IN THIS SUBSECTION (3.5). THE CARRIER
21 MUST PROVIDE THE INFORMATION ON ITS WEBSITE AND IN WRITING UPON
22 REQUEST BY A COVERED PERSON OR POTENTIAL COVERED PERSON.

23 (i) (I) A CARRIER SHALL NOT, ON THE BASIS OF ACTUAL OR
24 PERCEIVED RACE, COLOR, NATIONAL ORIGIN, SEX, SEXUAL ORIENTATION,
25 GENDER IDENTITY, RELIGION, AGE, OR DISABILITY:

26 (A) EXCLUDE AN INDIVIDUAL FROM PARTICIPATION IN, DENY AN
27 INDIVIDUAL BENEFITS UNDER, OR OTHERWISE SUBJECT AN INDIVIDUAL TO

1 DISCRIMINATION IN THE ADMINISTRATION OF THE TERMS AND CONDITIONS
2 OF A HEALTH BENEFIT PLAN SUBJECT TO THIS SUBSECTION (3.5); OR

3 (B) DISCRIMINATE IN THE COVERAGE OF OR PAYMENT FOR THE
4 SERVICES, DRUGS, DEVICES, PRODUCTS, AND PROCEDURES DESCRIBED IN
5 THIS SUBSECTION (3.5).

6 (II) A CARRIER WHO VIOLATES THIS SUBSECTION (3.5)(i) COMMITS
7 A DISCRIMINATORY AND UNLAWFUL PRACTICE UNDER SECTION 24-34-601
8 AND IS SUBJECT TO PENALTIES, CIVIL LIABILITY, AND OTHER RELIEF
9 SPECIFIED IN PART 6 OF ARTICLE 34 OF TITLE 24.

10 **SECTION 3.** In Colorado Revised Statutes, 10-16-102, **add**
11 (27.5) as follows:

12 **10-16-102. Definitions.** As used in this article 16, unless the
13 context otherwise requires:

14 (27.5) "FDA" MEANS THE FEDERAL FOOD AND DRUG
15 ADMINISTRATION.

16 **SECTION 4.** In Colorado Revised Statutes, **add** 25.5-5-324 as
17 follows:

18 **25.5-5-324. Reproductive health care program - required**
19 **reimbursements - limited or no federal financial participation -**
20 **definitions - rules - data collection.** (1) AS USED IN THIS SECTION,
21 UNLESS THE CONTEXT OTHERWISE REQUIRES:

22 (a) "CHILDREN'S BASIC HEALTH PLAN" MEANS THE HEALTH PLAN
23 CREATED PURSUANT TO ARTICLE 8 OF THIS TITLE 25.5.

24 (b) "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WITH
25 REPRODUCTIVE HEALTH CARE NEEDS WHO:

26 (I) IS ELIGIBLE FOR AND ENROLLED IN THE MEDICAL ASSISTANCE
27 PROGRAM;

1 (II) WOULD BE ELIGIBLE TO ENROLL IN THE MEDICAL ASSISTANCE
2 PROGRAM BUT FOR 8 U.S.C. SECS. 1611 AND 1612 AND SECTION
3 25.5-5-101 (2)(b); OR

4 (III) IS ELIGIBLE FOR AND ENROLLED IN THE CHILDREN'S BASIC
5 HEALTH PLAN.

6 (c) "FDA" MEANS THE FEDERAL FOOD AND DRUG
7 ADMINISTRATION.

8 (d) "MEDICAL ASSISTANCE PROGRAM" MEANS THE PROGRAM
9 ESTABLISHED IN THIS ARTICLE 5 AND ARTICLES 4 AND 6 OF THIS TITLE 25.5.

10 (e) "REPRODUCTIVE HEALTH CARE PROGRAM" MEANS THE
11 PROGRAM ESTABLISHED IN THIS SECTION.

12 (2) THE STATE DEPARTMENT SHALL ADMINISTER A REPRODUCTIVE
13 HEALTH CARE PROGRAM TO REIMBURSE THE COST OF THE FOLLOWING
14 MEDICALLY NECESSARY REPRODUCTIVE HEALTH CARE SERVICES, DRUGS,
15 DEVICES, PRODUCTS, AND PROCEDURES FOR ELIGIBLE INDIVIDUALS:

16 (a) WOMEN'S PREVENTIVE HEALTH SERVICES IDENTIFIED BY THE
17 HEALTH RESOURCES AND SERVICES ADMINISTRATION IN THE UNITED
18 STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES OR THE WOMEN'S
19 PREVENTIVE SERVICES INITIATIVE AS OF JANUARY 1, 2017, IN THE
20 FOLLOWING AREAS:

21 (I) BREAST CANCER SCREENING FOR AVERAGE-RISK WOMEN;

22 (II) BREASTFEEDING SERVICES AND SUPPLIES;

23 (III) SCREENING FOR CERVICAL CANCER;

24 (IV) CONTRACEPTION, SUBJECT TO SUBSECTION (3) OF THIS
25 SECTION;

26 (V) SCREENING FOR GESTATIONAL DIABETES MELLITUS;

27 (VI) SCREENING FOR HIV INFECTION;

1 (VII) SCREENING FOR INTERPERSONAL AND DOMESTIC VIOLENCE;

2 (VIII) COUNSELING FOR SEXUALLY TRANSMITTED INFECTION; AND

3 (IX) WELL WOMAN PREVENTIVE VISITS;

4 (b) SCREENING TO DETERMINE WHETHER COUNSELING AND
5 TESTING RELATED TO THE BRCA1 OR BRCA2 GENETIC MUTATIONS IS
6 INDICATED AND TESTING AND GENETIC COUNSELING RELATED TO THE
7 BRCA1 OR BRCA2 GENETIC MUTATIONS IF INDICATED;

8 (c) ABORTION, TO THE EXTENT PERMITTED BY THE COLORADO
9 CONSTITUTION; AND

10 (d) VOLUNTARY STERILIZATION AND SERVICES RELATED TO
11 STERILIZATION, INCLUDING MANAGEMENT OF SIDE EFFECTS.

12 (3) FOR PURPOSES OF THE BENEFITS REQUIRED BY SUBSECTION
13 (2)(a)(IV) OF THIS SECTION FOR CONTRACEPTION, THE REPRODUCTIVE
14 HEALTH CARE PROGRAM MUST REIMBURSE THE COST OF:

15 (a) ANY CONTRACEPTIVE DRUG, DEVICE, OR PRODUCT APPROVED
16 BY THE FDA, SUBJECT TO ALL OF THE FOLLOWING:

17 (I) IF THERE IS A THERAPEUTIC EQUIVALENT OF A CONTRACEPTIVE
18 DRUG, DEVICE, OR PRODUCT APPROVED BY THE FDA, THE REPRODUCTIVE
19 HEALTH CARE PROGRAM MAY REIMBURSE THE COST OF EITHER THE
20 REQUESTED CONTRACEPTIVE DRUG, DEVICE, OR PRODUCT OR ONE OR MORE
21 THERAPEUTIC EQUIVALENTS OF THE REQUESTED DRUG, DEVICE, OR
22 PRODUCT;

23 (II) IF A CONTRACEPTIVE DRUG, DEVICE, OR PRODUCT IS DEEMED
24 MEDICALLY INADVISABLE BY THE ELIGIBLE INDIVIDUAL'S PROVIDER, THE
25 REPRODUCTIVE HEALTH CARE PROGRAM MUST REIMBURSE THE COST FOR
26 AN ALTERNATIVE CONTRACEPTIVE DRUG, DEVICE, OR PRODUCT
27 PRESCRIBED BY THE PROVIDER;

1 (III) THE REPRODUCTIVE HEALTH CARE PROGRAM MUST PROVIDE
2 THE REIMBURSEMENT WITHOUT A PRESCRIPTION FOR ALL CONTRACEPTIVE
3 DRUGS THAT ARE AVAILABLE FOR OVER-THE-COUNTER SALE AND ARE
4 APPROVED BY THE FDA; AND

5 (IV) THE REPRODUCTIVE HEALTH CARE PROGRAM MAY NOT
6 INFRINGE UPON AN ELIGIBLE INDIVIDUAL'S CHOICE OF CONTRACEPTIVE
7 DRUG, DEVICE, OR PRODUCT AND MAY NOT REQUIRE PRIOR
8 AUTHORIZATION, STEP THERAPY, OR OTHER UTILIZATION CONTROL
9 TECHNIQUES FOR MEDICALLY NECESSARY COVERED CONTRACEPTIVE
10 DRUGS, DEVICES, OR OTHER PRODUCTS APPROVED BY THE FDA;

11 (b) SERVICES RELATED TO THE ADMINISTRATION AND MONITORING
12 OF CONTRACEPTIVE DRUGS, DEVICES, AND PRODUCTS, INCLUDING
13 MANAGEMENT OF SIDE EFFECTS;

14 (c) COUNSELING FOR CONTINUED ADHERENCE TO A PRESCRIBED
15 REGIMEN;

16 (d) DEVICE INSERTION AND REMOVAL; AND

17 (e) THE PROVISION OF ALTERNATIVE CONTRACEPTIVE DRUGS,
18 DEVICES, OR PRODUCTS DEEMED MEDICALLY NECESSARY IN THE
19 JUDGMENT OF THE ELIGIBLE INDIVIDUAL'S PROVIDER.

20 (4) FOR A PREGNANT INDIVIDUAL WHO IS DETERMINED ELIGIBLE
21 UNDER SECTION 25.5-5-101 OR 25.5-8-109, NOTWITHSTANDING SECTIONS
22 25.5-5-101 (1)(c) AND 25.5-8-109 (5)(a)(I), BENEFITS UNDER THE
23 MEDICAL ASSISTANCE PROGRAM OR THE CHILDREN'S BASIC HEALTH PLAN,
24 AS APPLICABLE, CONTINUE FOR THE ONE HUNDRED EIGHTY DAYS
25 FOLLOWING THE PREGNANCY, EVEN IF THE INDIVIDUAL'S ELIGIBILITY
26 WOULD OTHERWISE TERMINATE DURING THAT PERIOD DUE TO AN
27 INCREASE IN INCOME.

1 (5) THE STATE DEPARTMENT SHALL COLLECT DATA AND ANALYZE
2 THE COST-EFFECTIVENESS OF THE SERVICES, DRUGS, DEVICES, PRODUCTS,
3 AND PROCEDURES REIMBURSED BY THE REPRODUCTIVE HEALTH CARE
4 PROGRAM PURSUANT TO THIS SECTION.

5 (6) THE STATE BOARD SHALL ADOPT RULES AS NECESSARY TO
6 IMPLEMENT THIS SECTION, INCLUDING RULES SPECIFYING THE MANNER BY
7 WHICH ELIGIBLE INDIVIDUALS ARE ABLE TO ENROLL IN THE REPRODUCTIVE
8 HEALTH CARE PROGRAM.

9 (7) THE STATE DEPARTMENT SHALL REIMBURSE THE COST OF
10 MEDICALLY NECESSARY REPRODUCTIVE HEALTH CARE SERVICES, DRUGS,
11 DEVICES, PRODUCTS, AND PROCEDURES FOR ELIGIBLE INDIVIDUALS
12 REGARDLESS OF WHETHER AN ELIGIBLE INDIVIDUAL OR A BENEFIT
13 REQUIRED BY THIS SECTION RECEIVES FEDERAL FINANCIAL PARTICIPATION
14 UNDER THE MEDICAL ASSISTANCE PROGRAM OR CHILDREN'S BASIC HEALTH
15 PLAN.

16 **SECTION 5. Act subject to petition - effective date -**
17 **applicability.** (1) This act takes effect January 1, 2020; except that, if a
18 referendum petition is filed pursuant to section 1 (3) of article V of the
19 state constitution against this act or an item, section, or part of this act
20 within the ninety-day period after final adjournment of the general
21 assembly, then the act, item, section, or part will not take effect unless
22 approved by the people at the general election to be held in November
23 2018 and, in such case, will take effect on January 1, 2020.

24 (2) Section 2 of this act applies to health benefit plans issued,
25 amended, or renewed on or after the applicable effective date of this act.