

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 21-0231.01 Shelby Ross x4510

SENATE BILL 21-009

SENATE SPONSORSHIP

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Senate Committees

Health & Human Services
Appropriations

House Committees

Health & Insurance
Appropriations

HOUSE
3rd Reading Unamended
June 3, 2021

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A REPRODUCTIVE HEALTH CARE**
102 **PROGRAM, AND, IN CONNECTION THEREWITH, PROVIDING**
103 **CONTRACEPTIVE METHODS AND COUNSELING SERVICES TO**
104 **PARTICIPANTS AND MAKING AN APPROPRIATION.**

HOUSE
2nd Reading Unamended
June 1, 2021

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>.)

SENATE
3rd Reading Unamended
May 12, 2021

The bill creates the reproductive health care program that provides contraceptive methods and counseling services to participants.

SENATE
Amended 2nd Reading
May 11, 2021

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.*

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

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

4 (a) Undocumented immigrants in the United States face many
5 barriers to accessing health care and contraceptives. Policies and
6 protocols block many immigrants from affordable health coverage,
7 including programs that their tax dollars support. Immigrant Latinx are
8 more likely to work in industries that do not offer health coverage and are
9 less likely to afford costly private insurance. The inability to gain
10 insurance coverage due to a person's immigration status is a critical
11 barrier. Nationally, 38% of Latinas are uninsured, at double the rate of the
12 next racial or ethnic group, and a quarter of Latinas live in poverty. In
13 Colorado, Latinx have the highest uninsured rate at 27% of the state's
14 population.

15 (b) Forty-five percent of all pregnancies in the United States are
16 unintended, with greater proportions among adolescents, young people,
17 racial and ethnic minorities, and those with lower levels of education and
18 income. Approximately half of unintended pregnancies are among people
19 who were not using contraception at the time they became pregnant. Fifty
20 percent of Lantina pregnancies are unintended, and Latina youth
21 experience pregnancy at roughly twice the rate of their white
22 counterparts.

23 (c) In addition to increasing the risk of poor maternal and infant
24 outcomes, unintended pregnancies in 2010 resulted in \$21 billion in
25 federal health care expenditures. Family planning services and supplies
26 comprise only 0.03% of overall medicaid program expenditures. Oral

1 contraceptives reduce unintended pregnancies and save taxpayers billions
2 of dollars in health care expenditures. In 2013, the federal centers for
3 disease control and prevention (CDC) published the "U.S. Selected
4 Practice Recommendations for Contraceptive Use", adapted from
5 evidence-based guidance developed by the World Health Organization
6 (WHO) to be used by policy makers, program managers, and the scientific
7 community when developing family planning guidance at any level.

8 (d) The effectiveness of a contraceptive method depends on both
9 the inherent efficacy of the method itself and on how consistently and
10 correctly it is used. Both consistent and correct use can vary greatly with
11 age, income, desire to prevent or delay pregnancy, and culture. The WHO
12 and CDC have urged policymakers to reduce barriers such as unnecessary
13 screening and testing, inability to receive the contraceptive on the same
14 day as the visit, waiting until the woman's next menstrual cycle, and
15 restricting the number of pill packs provided.

16 (e) The CDC recommends that patients are prescribed or provided
17 a one-year supply at the initial and return visits, depending on the
18 woman's preference and anticipated use. A systematic review suggests
19 that providing a greater number of pill packs is associated with increased
20 continuation, fewer pregnancy tests, fewer pregnancies, and lower cost
21 per client. Studies that compared the provisions of one pill pack versus
22 twelve and thirteen pill packs or three pill packs versus seven pill packs
23 found increased continuation of oral contraceptive use among women
24 provided with more pill packs. Women who receive a one-year supply or
25 more of oral contraceptives are 30% less likely to experience an
26 unintended pregnancy than those who receive one- or three-month
27 supplies at a time.

1 (f) During the COVID-19 pandemic, it is crucial that family
2 planning services remain accessible while keeping providers and patients
3 safe. The needs of various populations must be considered, including
4 adolescents, essential workers, and those who face issues around
5 childcare, transportation, and affordability. Additionally, providers may
6 want to implement alternative models for providing contraception,
7 including telehealth and pharmacy-prescribed contraceptives.

8 (2) Therefore, the general assembly declares it is important for
9 Colorado to administer a reproductive health care program that provides
10 contraceptive methods and counseling services to eligible individuals
11 regardless of their citizenship or immigration status.

12 **SECTION 2.** In Colorado Revised Statutes, **add 25.5-2-103** as
13 follows:

14 **25.5-2-103. Reproductive health care program - report - rules**
15 **- definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
16 OTHERWISE REQUIRES:

17 (a) "CONTRACEPTIVE METHODS AND COUNSELING SERVICES"
18 MEANS:

19 (I) ANY FDA-APPROVED CONTRACEPTIVE DRUG, DEVICE, OR
20 PRODUCT;

21 (II) SERVICES RELATED TO THE ADMINISTRATION AND MONITORING
22 OF FDA-APPROVED CONTRACEPTIVE DRUGS, DEVICES, AND PRODUCTS,
23 INCLUDING MANAGEMENT OF SIDE EFFECTS;

24 (III) COUNSELING SERVICES FOR CONTINUED ADHERENCE TO A
25 PRESCRIBED REGIMEN;

26 (IV) DEVICE INSERTION AND REMOVAL; AND

27 (V) ANY OTHER CONTRACEPTIVE METHODS AND COUNSELING

1 SERVICES IDENTIFIED BY THE HEALTH RESOURCES AND SERVICES
2 ADMINISTRATION IN THE UNITED STATES DEPARTMENT OF HEALTH AND
3 HUMAN SERVICES OR THE WOMEN'S PREVENTIVE SERVICES GUIDELINES
4 AS OF DECEMBER 17, 2019.

5 (b) "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WITH
6 REPRODUCTIVE CAPACITY, REGARDLESS OF GENDER, CITIZENSHIP, OR
7 IMMIGRATION STATUS, WHO WOULD BE ELIGIBLE TO ENROLL IN THE
8 MEDICAL ASSISTANCE PROGRAM; EXCEPT THAT THE INDIVIDUAL IS NOT A
9 CITIZEN OF THE UNITED STATES AND IS NOT CONSIDERED AN ELIGIBLE
10 NONCITIZEN PURSUANT TO 8 U.S.C. SECS. 1611 AND 1612 AND SECTION
11 25.5-5-101 (2)(b).

12 (c) "FDA" MEANS THE FEDERAL FOOD AND DRUG
13 ADMINISTRATION.

14 (d) "PARTICIPANT" MEANS AN ELIGIBLE INDIVIDUAL ENROLLED IN
15 THE REPRODUCTIVE HEALTH CARE PROGRAM.

16 (e) "PHARMACIST" MEANS A LICENSED PHARMACIST WHO HAS
17 ENTERED INTO A COLLABORATIVE PHARMACY PRACTICE AGREEMENT
18 PURSUANT TO SECTION 12-280-602 TO PRESCRIBE AND DISPENSE
19 HORMONAL CONTRACEPTIVE PATCHES AND ORAL HORMONAL
20 CONTRACEPTIVES.

21 (f) "PROVIDER" HAS THE SAME MEANING AS SET FORTH IN SECTION
22 25.5-4-103 (19)(a).

23 (2) ON AND AFTER JANUARY 1, 2022, THE STATE DEPARTMENT
24 SHALL ADMINISTER A REPRODUCTIVE HEALTH CARE PROGRAM, REFERRED
25 TO IN THIS SECTION AS THE "PROGRAM", THAT PROVIDES CONTRACEPTIVE
26 METHODS AND COUNSELING SERVICES TO PARTICIPANTS.

27 (3) UPON THE PARTICIPANT'S INITIAL AND FOLLOW-UP VISITS

1 TO THE PARTICIPANT'S PROVIDER, AND UNLESS THE PARTICIPANT
2 REQUESTS A SHORTER PERIOD OF TIME, THE PROGRAM SHALL COMPLY
3 WITH THE FEDERAL CENTERS FOR DISEASE CONTROL AND PREVENTION'S
4 SELECTED PRACTICE RECOMMENDATIONS FOR CONTRACEPTIVE USE BY
5 ENSURING THE PARTICIPANT IS OFFERED AT LEAST A ONE-YEAR SUPPLY OF
6 EITHER:

7 (a) THE REQUESTED CONTRACEPTIVE DRUG, DEVICE, OR PRODUCT
8 OR ONE OR MORE THERAPEUTIC EQUIVALENTS OF THE REQUESTED DRUG,
9 DEVICE, OR PRODUCT, IF THE THERAPEUTIC EQUIVALENT IS AVAILABLE
10 AND APPROVED BY THE FDA; OR

11 (b) AN ALTERNATIVE CONTRACEPTIVE DRUG, DEVICE, OR
12 PRODUCT, IF A CONTRACEPTIVE DRUG, DEVICE, OR PRODUCT IS DEEMED
13 MEDICALLY INADVISABLE BY THE PARTICIPANT'S PROVIDER.

14 (4) A PARTICIPANT'S CHOICE OF A CONTRACEPTIVE DRUG, DEVICE,
15 OR PRODUCT MUST NOT BE INFRINGED UPON AND MUST NOT REQUIRE PRIOR
16 AUTHORIZATION, STEP THERAPY, OR OTHER UTILIZATION CONTROL
17 TECHNIQUES FOR MEDICALLY APPROPRIATE CONTRACEPTIVE DRUGS,
18 DEVICES, OR PRODUCTS APPROVED BY THE FDA.

19 (5) THE STATE BOARD SHALL ADOPT RULES AS NECESSARY TO
20 IMPLEMENT THIS SECTION, INCLUDING RULES SPECIFYING THE MANNER IN
21 WHICH ELIGIBLE INDIVIDUALS WILL BE NOTIFIED ABOUT THE PROGRAM
22 AND THE MANNER IN WHICH ELIGIBLE INDIVIDUALS MAY ENROLL IN THE
23 PROGRAM.

24 (6) THE STATE DEPARTMENT SHALL PROVIDE CONTRACEPTIVE
25 METHODS AND COUNSELING SERVICES TO PARTICIPANTS WITHOUT
26 IMPOSING ANY COST-SHARING REQUIREMENTS.

27 (7) BEGINNING IN STATE FISCAL YEAR 2023-24, THE STATE

1 DEPARTMENT SHALL ANALYZE AND REPORT THE COST-EFFECTIVENESS OF
2 THE PROGRAM TO THE PUBLIC THROUGH THE ANNUAL HEARING, PURSUANT
3 TO THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND
4 TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF
5 TITLE 2. AT A MINIMUM, THE REPORT MUST INCLUDE:

6 (a) THE TOTAL NUMBER OF ELIGIBLE INDIVIDUALS;

7 (b) THE TOTAL NUMBER OF PARTICIPANTS ENROLLED IN THE
8 PROGRAM, DISAGGREGATED BY RACE, ETHNICITY, GENDER IDENTITY, AND
9 INCOME LEVEL;

10 (c) THE COST OF PROVIDING CONTRACEPTIVE METHODS AND
11 COUNSELING SERVICES TO PARTICIPANTS;

12 (d) THE PARTICIPANTS' PREFERRED METHOD OF CONTRACEPTIVE
13 METHODS; AND

14 (e) THE COST SAVINGS REALIZED DUE TO AVOIDED UNINTENDED
15 PREGNANCIES, INCLUDING AVOIDED HOSPITAL COSTS.

16 **SECTION 3.** In Colorado Revised Statutes, 25.5-5-102, **amend**
17 (1)(h) as follows:

18 **25.5-5-102. Basic services for the categorically needy -**
19 **mandated services.** (1) Subject to the provisions of subsection (2) of this
20 section and section 25.5-4-104, the program for the categorically needy
21 shall include the following services as mandated and defined by federal
22 law:

23 (h) Family planning, INCLUDING A ONE-YEAR SUPPLY OF ANY
24 FEDERAL FOOD AND DRUG ADMINISTRATION-APPROVED CONTRACEPTIVE
25 DRUG, DEVICE, OR PRODUCT, UNLESS THE RECIPIENT REQUESTS A SUPPLY
26 COVERING A SHORTER PERIOD OF TIME;

27 **SECTION 4.** In Colorado Revised Statutes, 25.5-1-201, **add**

1 (1)(f.5) as follows:

2 **25.5-1-201. Programs to be administered by the department**
3 **of health care policy and financing.** (1) The department of health care
4 policy and financing shall administer the following programs and perform
5 the following functions:

6 (f.5) THE REPRODUCTIVE HEALTH CARE PROGRAM THAT PROVIDES
7 CONTRACEPTIVE METHODS AND COUNSELING SERVICES, AS SPECIFIED IN
8 SECTION 25.5-2-103;

9 **SECTION 5. Appropriation.** (1) For the 2021-22 state fiscal
10 year, \$4,125,347 is appropriated to the department of health care policy
11 and financing. This appropriation is from the general fund. To implement
12 this act, the department may use this appropriation as follows:

13 (a) \$232,463 for use by the executive director's office for personal
14 services, which amount is based on an assumption that the office will
15 require an additional 3.4 FTE;

16 (b) \$36,400 for use by the executive director's office for operating
17 expenses;

18 (c) \$1,061,596 for Medicaid management information system
19 maintenance and projects;

20 (d) \$273,792 for Colorado benefits management systems,
21 operating and contract expenses;

22 (e) \$699,001 for county administration;

23 (f) \$1,822,095 for use by other medical services for reproductive
24 health care for individuals not eligible for Medicaid.

25 (2) For the 2021-22 state fiscal year, \$273,792 is appropriated to
26 the office of the governor for use by the office of information technology.
27 This appropriation is from reappropriated funds received from the

1 department of health care policy and financing under subsection (1)(d) of
2 this section. To implement this act, the office may use this appropriation
3 to provide information technology services for the department of health
4 care policy and financing.

5 **SECTION 6. Act subject to petition - effective date.** This act
6 takes effect at 12:01 a.m. on the day following the expiration of the
7 ninety-day period after final adjournment of the general assembly; except
8 that, if a referendum petition is filed pursuant to section 1 (3) of article V
9 of the state constitution against this act or an item, section, or part of this
10 act within such period, then the act, item, section, or part will not take
11 effect unless approved by the people at the general election to be held in
12 November 2022 and, in such case, will take effect on the date of the
13 official declaration of the vote thereon by the governor.