State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-4917/1
SWB&JPC:klm

2025 SENATE BILL 589

October 24, 2025 - Introduced by Senators HESSELBEIN, ROYS, DASSLER-ALFHEIM, HABUSH SINYKIN, L. JOHNSON, KEYESKI, LARSON, PFAFF, RATCLIFF, SPREITZER and WALL, cosponsored by Representatives SUBECK, ANDRACA, ARNEY, BARE, CLANCY, DESMIDT, EMERSON, FITZGERALD, GOODWIN, HYSELL, JOERS, JOHNSON, MADISON, MCCARVILLE, MOORE OMOKUNDE, NEUBAUER, ORTIZ-VELEZ, PALMERI, PRADO, SINICKI and STROUD. Referred to Committee on Licensing, Regulatory Reform, State and Federal Affairs.

AN ACT ***to create*** 253.078 of the statutes; **relating to:** statutory right to contraception.

Analysis by the Legislative Reference Bureau

This bill establishes that a person has a statutory right to obtain contraceptives and to engage in contraception and, further, that a health care provider has a corresponding right to provide contraceptives, contraception, and contraception-related information. Under the bill, these rights may not be limited or otherwise infringed through any limitation or requirement that 1) expressly, effectively, implicitly, or as implemented singles out the provision of contraceptives, contraception, or contraception-related information; health care providers who provide contraceptives, contraception, or contraception-related information; or facilities in which contraceptives, contraception, or contraception-related information is provided; and 2) impedes access to contraceptives, contraception, or contraception-related information. The bill provides that a party may defend against a claim that a limitation or requirement violates the rights established under the bill by establishing, by clear and convincing evidence, both that the limitation or requirement significantly advances the safety of contraceptives, contraception, and contraception-related information and that the safety of contraceptives, contraception, and contraception-related information or the health of patients cannot be advanced by a less restrictive alternative measure or action.

The bill specifically provides that neither the state nor any political

subdivision of the state may administer, implement, or enforce any law, rule, regulation, standard, or other provision having the force and effect of law in a manner that 1) prohibits or restricts the sale, provision, or use of any contraceptives that have been approved by the federal Food and Drug Administration (FDA) for contraceptive purposes; 2) prohibits or restricts any person from aiding another person in obtaining any contraceptives approved by the FDA or contraceptive methods; or 3) exempts any contraceptives approved by the FDA from any other generally applicable law in a way that would make it more difficult to sell, provide, obtain, or use those contraceptives or contraceptive methods. The bill allows the attorney general on behalf of the state or any individual or entity, including any health care provider or patient, to bring a cause of action for a violation of the provisions of the bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 253.078 of the statutes is created to read:

253.078 Right to contraception. (1) SHORT TITLE. This section shall be known as the "Right to Contraception Act."

(2) DEFINITIONS. In this section:

(a) "Contraception" means an action taken to prevent pregnancy, including the use of contraceptives or fertility-awareness-based methods and sterilization procedures.

(b) "Contraceptive" means any drug, device, or biological product intended for use in the prevention of pregnancy, whether specifically intended to prevent pregnancy or for other health needs, that is legally marketed under the federal Food, Drug, and Cosmetic Act, such as oral contraceptives, long-acting reversible contraceptives, emergency contraceptives, internal and external condoms, injectables, vaginal barrier methods, transdermal patches, and vaginal rings, or other contraceptives.

(c) "Health care provider" has the meaning given in s. 146.81 (1).

(d) "Political subdivision" means a city, village, town, or county.

(3) PERMITTED SERVICES. (a) A person has a statutory right under this section to obtain contraceptives and to engage in contraception, and a health care provider has a corresponding right to provide contraceptives, contraception, and contraception-related information.

(b) The statutory rights specified in par. (a) may not be limited or otherwise infringed through any limitation or requirement that does all of the following:

1. Expressly, effectively, implicitly, or as implemented singles out the provision of contraceptives, contraception, or contraception-related information; health care providers who provide contraceptives, contraception, or contraception-related information; or facilities in which contraceptives, contraception, or contraception-related information is provided.

2. Impedes access to contraceptives, contraception, or contraception-related information.

(c) To defend against a claim that a limitation or requirement violates a health care provider's or patient's statutory rights under par. (b), a party must establish, by clear and convincing evidence, all of the following:

1. The limitation or requirement significantly advances the safety of contraceptives, contraception, and contraception-related information.

2. The safety of contraceptives, contraception, and contraception-related information or the health of patients cannot be advanced by a less restrictive alternative measure or action.

(4) APPLICABILITY. (a) Neither the state nor any political subdivision of the

state may administer, implement, or enforce any law, rule, regulation, standard, or other provision having the force and effect of law in a manner that does any of the following:

1. Prohibits or restricts the sale, provision, or use of any contraceptives that have been approved by the federal food and drug administration for contraceptive purposes.

2. Prohibits or restricts any person from aiding another person in obtaining any contraceptives approved by the federal food and drug administration or contraceptive methods.

3. Exempts any contraceptives approved by the federal food and drug administration from any other generally applicable law in a way that would make it more difficult to sell, provide, obtain, or use those contraceptives or contraceptive methods.

(b) This section does not supersede or otherwise affect any provision relating to coverage under group health plans or group or individual health insurance coverage and may not be construed as requiring the provision of specific benefits under these plans or coverage.

(c) An individual or entity who is subject to a limitation or requirement that violates this section may raise this section as a defense to any cause of action against the individual or entity.

(5) CONSTRUCTION. (a) This section shall be liberally construed to effectuate its purposes.

(b) Nothing in this section may be construed to do any of the following:

1. Authorize any government to interfere with a health care provider's ability to provide contraceptives or contraception-related information or a person's ability to obtain contraceptives or to engage in contraception.

2. Permit or sanction the conduct of any sterilization procedure without the patient's voluntary and informed consent.

(6) ENFORCEMENT. (a) The attorney general may commence a civil action on behalf of the state against any person that violates or enforces a limitation or requirement that violates this section. Notwithstanding s. 165.08 (1), in any civil action brought under this paragraph, the attorney general may compromise and settle the action as the attorney general determines to be in the best interest of the state.

(b) Any individual or entity, including any health care provider or patient, adversely affected by an alleged violation of this section may commence a civil action against any person that violates or implements or enforces a limitation or requirement that violates this section.

(c) A health care provider may commence an action for relief on its own behalf, on behalf of the provider's staff, and on behalf of the provider's patients who are or may be adversely affected by an alleged violation of this section.

(d) If a court finds that there has been a violation of this section, the court shall hold unlawful and set aside the limitation or requirement. In any action under this section, the court may award appropriate equitable relief, including temporary, preliminary, or permanent injunctive relief.

(e) Notwithstanding the limitation under s. 814.04, in any action under this

section, the court shall award to any prevailing plaintiff costs and reasonable attorney fees. Unless a court determines an action is frivolous, the court may not hold a plaintiff liable to a defendant for costs and attorney fees in an action under this section.

SECTION 2. Nonstatutory provisions.

(1) LEGISLATIVE FINDINGS. The legislature finds all of the following:

(a) The right to contraception is a fundamental right, central to a person's privacy, health, well-being, dignity, liberty, equality, and ability to participate in the social and economic life of the state.

(b) The U.S. Supreme Court has repeatedly recognized the constitutional right to contraception.

(c) In Griswold v. Connecticut, 381 U.S. 479 (1965), the U.S. Supreme Court first recognized the constitutional right for married people to use contraceptives.

(d) In Eisenstadt v. Baird, 405 U.S. 438 (1972), the U.S. Supreme Court confirmed the constitutional right of all people to legally access contraceptives regardless of marital status.

(e) In Carey v. Population Services International, 431 U.S. 678 (1977), the U.S. Supreme Court affirmed the constitutional right to contraceptives for minors.

(f) The right to contraceptives is protected by the Wisconsin Constitution. See article I, section 1, of the Wisconsin Constitution; Haase v. Sawicki, 20 Wis. 2d 308, 310 n.2 (1963) (finding that article I, section 1, of the Wisconsin Constitution is substantially the equivalent of the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment); Griswold v. Connecticut, 381 U.S. 479, 484-86 (1965) (finding that a prohibition on the use of contraceptives violates the right

to privacy created by several fundamental constitutional guarantees under the U.S. Constitution); and Lawrence v. Texas, 539 U.S. 558, 573-74 (2003) (finding that the Due Process Clause of the Fourteenth Amendment protects personal decisions relating to marriage, procreation, contraception, family relationships, child rearing, and education).

(g) The right to contraception has been repeatedly recognized internationally as a human right. The United Nations Population Fund has published several reports outlining family planning as a basic human right that advances women's health, economic empowerment, and equality.

(h) Access to contraceptives is internationally recognized by the World Health Organization as advancing other human rights such as the right to life, liberty, expression, health, work, and education.

(i) Contraception is safe, essential health care, and access to contraceptive products and services is central to people's ability to participate equally in economic and social life. Contraception allows people to make decisions about their families and their lives.

(j) Contraception is key to sexual and reproductive health. Contraception is critical to preventing unintended pregnancy, and many contraceptives are highly effective in preventing and treating a wide array of often severe medical conditions and decrease the risk of certain cancers.

(k) Family planning improves health outcomes for women, their families, and their communities and reduces rates of maternal and infant mortality and morbidity.

(L) The United States has a long history of reproductive coercion, including the childbearing forced upon enslaved women, as well as the forced sterilization of Black women, Puerto Rican women, indigenous women, immigrant women, and disabled women, and reproductive coercion continues to occur.

(m) The right to make personal decisions about contraceptive use is important for all people, and is especially critical for historically marginalized groups, including Black, indigenous, and other people of color; immigrants; lesbian, gay, bisexual, transgender, and queer people; people with disabilities; people with low incomes; and people living in rural and underserved areas. Many people who are part of these marginalized groups already face barriers, exacerbated by social, political, economic, and environmental inequities, to comprehensive health care, including reproductive health care, that reduce their ability to make decisions about their health, families, and lives.

(n) Policies governing pharmaceutical and insurance policies affect the accessibility of contraceptives and the settings in which contraception services are delivered.

(o) Despite the clearly established constitutional right to contraception, access to contraceptives, including emergency contraceptives and long-acting reversible contraceptives, has been obstructed in various ways.

(p) As of June 2023, at least 4 states tried to ban access to some or all contraceptives by restricting access to public funding for these products and services.

(q) Providers' refusals to offer contraceptives and contraception-related information on the basis of their own personal beliefs impede patients from obtaining their preferred method.

(r) States have attempted to define abortion expansively so as to include contraceptives in state bans on abortion and have also restricted access to emergency contraception.

(s) In June 2022, Justice Thomas, in his concurring opinion in Dobbs v. Jackson Women's Health Organization, 142 S. Ct. 2228 (2022), stated that the U.S. Supreme Court "should reconsider all of this Court's substantive due process precedents, including Griswold, Lawrence, and Obergefell" and that the court has "a duty to correct the error established in those precedents" by overruling them.

(t) In order to further public health and to combat efforts to restrict access to reproductive health care, action is necessary to protect access to contraceptives, contraception, and contraception-related information for everyone, regardless of actual or perceived race, ethnicity, sex, including gender identity and sexual orientation, income, disability, national origin, immigration status, or geography.

(END)