

AN ACT to amend the Tennessee Code Annotated, Title 68 [].

SECTION 1. SHORT TITLE

This Act may be cited as the “Tennessee Contraceptive Freedom Act.”

SECTION 2. FINDINGS

- (1) The legislature declares that freedom to access, use, or refuse a contraceptive method of choice is a fundamental right, central to a person’s liberty, privacy, health, well-being, dignity, liberty, equality, and ability to participate in the social and economic life of the state.
- (2) The legislature finds that contraception is safe and essential health care, and access to contraceptive products and services is necessary for the prevention of unintended pregnancy and sexually transmitted diseases, as well as for people's ability to participate equally in economic and social life, and make decisions about their families and their lives.
- (3) The legislature finds that 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.
- (4) The legislature finds that broad 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.
- (5) The legislature determines that readily and practically available contraceptive procedures, supplies, and information regardless of sex, race, age, gender, income, number of children, marital status, citizenship or motive is in the best interest of the people of Tennessee.

SECTION 3. DEFINITIONS

As used in this chapter:

- (1) “Contraception” means an action taken to prevent pregnancy, including the use of contraceptives, emergency contraceptives, fertility-awareness based methods, and sterilization procedures; Contraception is distinct from abortion.
- (2) “Contraceptive” means a device, medication, biological product, or procedure that is intended for use in the prevention of pregnancy, whether specifically intended to prevent pregnancy or for other health needs, legally marketed under the Federal Food, Drug, and Cosmetic Act.
- (3) “Family Planning” includes all forms of contraception.
- (4) “Health Care Provider” means:

- (a) A healthcare practitioner, person, or facility licensed, authorized, certified, registered, or regulated under title 33, title 63, title 68, federal law or order, or an executive order of the governor;
 - (b) Employees, agents, or contractors of practitioners, persons, or facilities described in subdivision (3)(A); and
 - (c) The department of health and any agency, board, council, or committee attached to the department of health.
- (5) “Health Carrier” means an entity subject to the insurance laws of this state, or subject to the jurisdiction of the commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse the costs of healthcare services, including an insurance company, a health maintenance organization, a health service corporation, a nonprofit hospital, or another entity providing a plan of health insurance, health benefits, or health services.
- (6) “Political Subdivision” means a local governmental entity, including a city, town, municipality, metropolitan government, county, utility district, school district, public building authority, housing authority, emergency communications district, county board of health, and development district created and existing pursuant to the laws of this state, or an instrumentality of government created by one (1) or more local governmental entities.
- (7) “Public Health Agency” means any public provider of local health services under title 68 chapter 2, including County Health Departments and District Health Departments.

SECTION 4. PERMITTED SERVICES

- (1) A person has a statutory right under this Act to obtain contraceptives and to engage in family planning and contraception, and a health care provider has a corresponding obligation:
- (a) To provide contraceptives, contraception, and information related to contraception and family planning to consenting patients; or
 - (b) To refer consenting patients to a health care provider that can provide contraceptives, contraception, and information related to contraception and family planning.
- (2) The statutory rights specified in par. (1) may not be limited or otherwise infringed through any limitation or requirement that does the following:
- (a) 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.
 - (b) Impedes access to contraceptives, contraception, or contraception-related information.
- (3) 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:
- (a) The limitation or requirement significantly advances the safety of contraceptives, contraception, and contraception-related information.

- (b) 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.

SECTION 5. ACCESS

- (1) On or after July 1, 2024, health carriers and public health agencies shall ensure affordable access to a wide range of contraceptive methods for all consenting persons.
- (2) Access must include:
 - (a) A health carrier that issues or renews a health insurance policy, plan, or contract of accident or health insurance providing benefits for medical or hospital expenses, shall provide full coverage for the expenses of the contraceptive method of choice for a person covered by the health carrier.
 - (b) A public health agency that serves the people of a municipality shall provide total coverage for the expenses of the contraceptive method of choice for any uninsured person residing in Tennessee.
- (3) Access to contraceptives shall not be limited by a person's sex, race, age, gender, income, ability to pay, number of children, marital status, citizenship or motive.

SECTION 6. APPLICABILITY

- (1) 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:
 - (a) 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.
 - (b) Prohibits or restricts any person from aiding another person in obtaining any contraceptives approved by the Federal Food and Drug Administration or other contraceptive methods.
 - (c) 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.
- (2)
- (3) 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.

SECTION 7. CONSTRUCTION

- (1) This section shall be liberally construed to effectuate its purposes.
- (2) Nothing in this section may be construed to do any of the following:
 - (a) Authorize any government or political subdivision to interfere with a health care provider's ability to provide contraceptives or contraception-related information or a person's freedom to obtain contraceptives or to engage in contraception.
 - (b) Authorize any health care provider or [women's resource center/pregnancy care center] to interfere with a person's freedom to obtain contraceptives, to engage in contraception, or to obtain [medically supported] information related to contraception and family planning to consenting patients.

- (c) Permit or sanction the conduct of any sterilization procedure or contraception use without the patient's voluntary and informed consent.
- (3) No action under this section shall be construed to violate Tennessee Code Title 39, Chapter 15, Part 2.

SECTION 8. This act takes effect upon becoming a law, the public welfare requiring it.