

SB307 INTRODUCED



1 SB307
2 LXIIAYY-1
3 By Senators Coleman, Figures, Coleman-Madison
4 RFD: Judiciary
5 First Read: 09-Apr-24



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SYNOPSIS:

Under existing Alabama law, there is no explicit recognition of the right to distribute and use contraceptives.

This bill would recognize that individuals have the right to engage in contraception and that health care providers have the right to both dispense contraceptive devices and provide information about their use.

This bill would further provide for enforcement of these rights by permitting the Attorney General, health care providers, and individuals to bring a civil suit to enjoin the enforcement of any law, rule, or policy that prohibits or interferes with the distribution and use of contraceptives. This bill would also provide for defenses to those claims.

A BILL
TO BE ENTITLED
AN ACT

Relating to contraception; to provide that individuals have the right to use contraception and that health care providers have the right to dispense contraceptive devices



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29 that have been approved by the federal Food and Drug
30 Administration; to prohibit the state and political
31 subdivisions from enforcing any law that would interfere with
32 the distribution and use of contraceptives; and to further
33 provide for a civil cause of action by the Attorney General,
34 health care providers, and consumers to enforce this act.

35 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

36 Section 1. For the purposes of this act, the following
37 terms have the following meanings:

38 (1) CONTRACEPTION. Any action taken to prevent
39 pregnancy, including the use of contraceptives or
40 sterilization procedures.

41 (2) CONTRACEPTIVE. Any drug, device, biological
42 product, or method that is intended for use in the prevention
43 of pregnancy, whether specifically intended to prevent
44 pregnancy or for other health needs, that is legally marketed
45 under the federal Food, Drug, and Cosmetic Act, including oral
46 contraceptives, long-acting reversible contraceptives such as
47 intrauterine devices and hormonal contraceptive implants,
48 emergency contraceptives, internal and external condoms,
49 injectables, vaginal barrier methods, transdermal patches, and
50 vaginal rings.

51 (3) HEALTH CARE PROVIDER. A person engaged in providing
52 health care which dispenses legally marketed contraceptives to
53 individuals. The term includes:

54 a. A physician, physician assistant, certified nurse
55 practitioner, or a pharmacist licensed pursuant to Title 34,
56 Code of Alabama 1975.



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57 b. A hospital, clinic, emergency center, reproductive
58 health service, or other health care institution or service
59 licensed pursuant to Title 22, Code of Alabama 1975, or a
60 pharmacy.

61 Section 2. (a) An individual who resides in the State
62 of Alabama shall have the right to obtain contraceptives and
63 to engage in contraception. A health care provider shall have
64 the right to dispense contraceptives and provide information
65 about contraception.

66 (b) The rights provided for in subsection (a) may not
67 be infringed upon by any law, rule, or policy that expressly
68 limits, delays, or impedes access to contraceptives or
69 information about contraception.

70 Section 3. (a) The state, any department, agency, or
71 instrumentality of the same, or any political subdivision of
72 the state, may not implement, administer, or enforce any law,
73 rule, or policy that has the effect of any of the following:

74 (1) Prohibiting or restricting the sale, provision, or
75 use of any contraceptive that has been approved by the U.S.
76 Food and Drug Administration for contraception.

77 (2) Prohibiting or restricting any health care provider
78 from aiding an individual in obtaining or using any
79 contraceptive approved by the U.S. Food and Drug
80 Administration.

81 (3) Exempting any contraceptive approved by the U.S.
82 Food and Drug Administration from any other generally
83 applicable law in a way that would make it more difficult to
84 sell, dispense, obtain, or use the contraceptive.



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85 (b) Any individual or entity that is subject to a law,
86 rule, or policy that violates this act may assert this section
87 as a defense in any action to enforce the law, rule, or policy
88 against the individual or entity.

89 Section 4. (a) The Attorney General may commence a
90 civil action in the circuit court for injunctive relief
91 against any person that implements, administers, or enforces
92 any law, rule, or policy that violates, or that has the effect
93 of violating, this act.

94 (b) (1) Any health care provider or individual adversely
95 affected by a violation of this act may commence a civil
96 action in circuit court for injunctive relief against any
97 person that implements, administers, or enforces any law,
98 rule, or policy that violates, or that has the effect of
99 violating, this act.

100 (2) A health care provider may commence a civil action
101 on the health care provider's behalf, or on behalf of the
102 health care provider's patients or customers who are or who
103 may be adversely affected by a violation of this act.

104 (c) (1) In any action commenced under this section, a
105 party alleged to implement, administer, or enforce a law,
106 rule, or policy in violation of this act may assert one of the
107 following defenses:

108 a. The law, rule, or policy significantly advances the
109 safety of contraceptives, contraception, or the quality of
110 information about contraceptives, or the health of users, in a
111 way that cannot be advanced by an alternative measure or
112 action that is less restrictive.



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113 b. The law, rule, or policy that is being applied to a
114 contraceptive or contraception is also being applied to other
115 medically similar drugs, devices, biological products, or
116 methods.

117 (2) A defense asserted under subdivision (1) must be
118 established by clear and convincing evidence in order to bar a
119 a claim brought under this section.

120 Section 5. This act shall become effective on October
121 1, 2024.