

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

**REVISED**

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

LLS NO. 21-0231.01 Shelby Ross x4510

**SENATE BILL 21-009**

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**SENATE SPONSORSHIP**

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**Senate Committees**

Health & Human Services  
Appropriations

**House Committees**

Health & Insurance  
Appropriations

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**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.**

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**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>.)*

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

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.*

HOUSE  
2nd Reading Unamended  
June 1, 2021

SENATE  
3rd Reading Unamended  
May 12, 2021

SENATE  
Amended 2nd Reading  
May 11, 2021

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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.