



State of Wisconsin
2025 - 2026 LEGISLATURE

LRBb0700/1
SWB&JPC:emw

**SENATE AMENDMENT 17,
TO SENATE SUBSTITUTE AMENDMENT 2,
TO SENATE BILL 45**

July 2, 2025 - Offered by Senators HESSELBEIN, ROYS, HABUSH SINYKIN, KEYESKI, DASSLER-ALFHEIM, WALL, RATCLIFF, SMITH, SPREITZER, PFAFF, DRAKE, L. JOHNSON and LARSON.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** At the appropriate places, insert all of the following:

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

4 **253.078 Right to contraception.** (1) SHORT TITLE. This section shall be
5 known as the “Right to Contraception Act.”

6 **(2) DEFINITIONS.** In this section:

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

10 (b) “Contraceptive” means any drug, device, or biological product intended for
11 use in the prevention of pregnancy, whether specifically intended to prevent

1 pregnancy or for other health needs, that is legally marketed under the federal
2 Food, Drug, and Cosmetic Act, such as oral contraceptives, long-acting reversible
3 contraceptives, emergency contraceptives, internal and external condoms,
4 injectables, vaginal barrier methods, transdermal patches, and vaginal rings, or
5 other contraceptives.

6 (c) “Health care provider” has the meaning given in s. 146.81 (1).

7 (d) “Political subdivision” means a city, village, town, or county.

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

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

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

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

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

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

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

6 **(4) APPLICABILITY.** (a) Neither the state nor any political subdivision of the
7 state may administer, implement, or enforce any law, rule, regulation, standard, or
8 other provision having the force and effect of law in a manner that does any of the
9 following:

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

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

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

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

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

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

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

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

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

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

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

22 (c) A health care provider may commence an action for relief on its own behalf,

1 on behalf of the provider's staff, and on behalf of the provider's patients who are or
2 may be adversely affected by an alleged violation of this section.

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

7 (e) Notwithstanding the limitation under s. 814.04, in any action under this
8 section, the court shall award to any prevailing plaintiff costs and reasonable
9 attorney fees. Unless a court determines an action is frivolous, the court may not
10 hold a plaintiff liable to a defendant for costs and attorney fees in an action under
11 this section.

12 **SECTION 9119. Nonstatutory provisions; Health Services.**

13 (1) LEGISLATIVE FINDINGS; RIGHT TO CONTRACEPTION. The legislature finds all
14 of the following:

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

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

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

22 (d) In *Eisenstadt v. Baird*, 405 U.S. 438 (1972), the U.S. Supreme Court

1 confirmed the constitutional right of all people to legally access contraceptives
2 regardless of marital status.

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

5 (f) The right to contraceptives is protected by the Wisconsin Constitution. See
6 article I, section 1, of the Wisconsin Constitution; *Haase v. Sawicki*, 20 Wis. 2d 308,
7 310 n.2 (1963) (finding that article I, section 1, of the Wisconsin Constitution is
8 substantially the equivalent of the Due Process Clause and the Equal Protection
9 Clause of the Fourteenth Amendment); *Griswold v. Connecticut*, 381 U.S. 479, 484-
10 86 (1965) (finding that a prohibition on the use of contraceptives violates the right
11 to privacy created by several fundamental constitutional guarantees under the U.S.
12 Constitution); and *Lawrence v. Texas*, 539 U.S. 558, 573-74 (2003) (finding that the
13 Due Process Clause of the Fourteenth Amendment protects personal decisions
14 relating to marriage, procreation, contraception, family relationships, child rearing,
15 and education).

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

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

23 (i) Contraception is safe, essential health care, and access to contraceptive

1 products and services is central to people's ability to participate equally in
2 economic and social life. Contraception allows people to make decisions about their
3 families and their lives.

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

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

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

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

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

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

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

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

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

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

21 (t) In order to further public health and to combat efforts to restrict access to
22 reproductive health care, action is necessary to protect access to contraceptives,
23 contraception, and contraception-related information for everyone, regardless of

1 actual or perceived race, ethnicity, sex, including gender identity and sexual
2 orientation, income, disability, national origin, immigration status, or geography.”.

3 (END)