

Introduced by

Representatives Hanson, Christy, Brandenburg, Grindberg

Senators Lee, Erbele, Hogan, Roers

1 A BILL for an Act to create and enact a new chapter to title 14 of the North Dakota Century
2 Code, relating to contraceptive health care rights; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new chapter to title 14 of the North Dakota Century Code is created and
5 enacted as follows:

6 **Definitions.**

7 As used in this chapter:

8 1. "Contraceptive" means any drug, device, biological product, or method intended for
9 the prevention of pregnancy or other health needs, including the treatment and
10 prevention of uterine and ovarian cancers, endometriosis, polycystic ovarian
11 syndrome, ovarian cysts, menorrhagia, migraines, premenstrual syndrome,
12 premenstrual dysphoric disorder, and acne, which is legally marketed under the
13 federal Food, Drug, and Cosmetic Act and distributed over the counter or through a
14 prescription.

15 a. The term includes:

16 (1) An oral contraceptive;

17 (2) A long-acting reversible contraceptive, including an intrauterine device and a
18 hormonal contraceptive implant;

19 (3) An emergency contraceptive;

20 (4) An internal and external condom;

21 (5) An injectable contraceptive;

22 (6) A male or female barrier method;

23 (7) A transdermal patch;

24 (8) A spermicidal product; and

1 (9) A vaginal ring.

2 b. The term does not include abortion causing drugs, including:

3 (1) Mifepristone; or

4 (2) Misoprostol.

5 2. "Health care provider" means any person licensed to provide health care services in
6 this state.

7 3. "Health carrier" means any entity providing a plan of health insurance or health
8 benefits subject to state insurance regulation.

9 4. "Manufacturer" means the maker of a drug or device approved, cleared, or authorized
10 by the United States food and drug administration or otherwise legally marketed.

11 5. "Widely accepted and evidence-based medical standards of care" means any medical
12 service, procedure, or practice consistent with the guidelines of the American college
13 of obstetricians and gynecologists.

14 **Rights.**

15 1. The state or any political subdivision of the state may not implement, administer, or
16 enforce any law, rule, or policy that has the effect of prohibiting, limiting, delaying, or
17 impeding access to a contraceptive or information about contraception, or otherwise
18 violating the rights provided for in this section.

19 2. In accordance with widely accepted and evidence-based standards of care:

20 a. An individual has the right to:

21 (1) Receive a contraceptive from a health care provider;

22 (2) Purchase a contraceptive over the counter; and

23 (3) Engage in contraception.

24 b. A health care provider has the right to:

25 (1) Provide or assist with the provision of contraception; or

26 (2) Decline to provide a contraceptive if the health care provider finds the action
27 morally or religiously objectionable, as consistent with federal law and rules.

28 c. A health carrier has the right to cover contraceptive health care.

29 d. A manufacturer has the right to manufacture, import, sell, or distribute any drug or
30 device intended for contraceptive use.

31 **Penalties - Exception.**

- 1 1. If a state agency or political subdivision or any individual, employee, official,
2 contractor, or organization on behalf of a state agency or political subdivision, enacts
3 or enforces a policy that restricts any right provided under this chapter, a civil action
4 may be commenced against that state agency, political subdivision, or agent of the
5 state agency or political subdivision by:
 - 6 a. The attorney general; or
 - 7 b. Any person adversely affected by the policy, including a health care provider.
- 8 2. If the court finds a violation of this chapter, the court shall hold the policy unlawful and
9 set aside the requirement or limitation. The court may award appropriate equitable
10 relief, including injunctive relief. The court shall award court costs and reasonable
11 attorney's fees to a prevailing plaintiff. A plaintiff may not be held liable to a defendant
12 for any costs resulting from nonfrivolous litigation under this chapter.
- 13 3. The enforcement of state health and safety law regarding a medical facility or health
14 care provider is not a violation of this chapter if:
 - 15 a. The regulation is in accordance with widely accepted and evidence-based
16 standards of care for providing contraceptive health care; and
 - 17 b. The health or safety objective cannot be accomplished by a less restrictive
18 means consistent with this chapter.