

119TH CONGRESS
2D SESSION

S. _____

To require group health plans and group or individual health insurance coverage to provide coverage for over-the-counter contraceptives.

IN THE SENATE OF THE UNITED STATES

Mrs. MURRAY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To require group health plans and group or individual health insurance coverage to provide coverage for over-the-counter contraceptives.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Affordability is Access
5 Act of 2026”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to ensure timely access
8 to affordable birth control by requiring coverage without
9 cost-sharing for contraceptives that are approved, granted,
10 or cleared by, or otherwise legally marketed under regula-

1 tion by, the Food and Drug Administration for use with-
2 out a prescription.

3 **SEC. 3. FINDINGS.**

4 The Senate finds the following:

5 (1) Birth control is critical health care that al-
6 most all women, as well as many trans men and
7 nonbinary people, will use at some point in their life-
8 times.

9 (2) Access to the full range of reproductive
10 health care, including birth control coverage as guar-
11 anteed under Federal law, provides individuals with
12 the opportunity to lead healthy lives and get the care
13 they need to reach their goals.

14 (3) Contraceptive access is associated with
15 health benefits for women, newborns, families, and
16 communities and can lower the risk of harm to ma-
17 ternal and infant health.

18 (4) An estimated 73,000,000 women of repro-
19 ductive age (ages 15 through 49) live in the United
20 States. Among the 46,000,000 of such women who
21 are sexually active and not seeking children, 89 per-
22 cent use a form of birth control.

23 (5) The birth control benefit enacted under the
24 Patient Protection and Affordable Care Act (Public
25 Law 111–148) has been a crucial step forward in

1 advancing access to birth control and has helped en-
2 sure 58,000,000 women have the power to decide for
3 themselves if and when to become pregnant.

4 (6) Despite legal requirements for birth control
5 coverage and access to services, gaps remain for mil-
6 lions of individuals. Nearly 1 in 5 women are not
7 using their preferred method of contraception, and
8 of those women, a quarter say it is because of cost.
9 As a result, many women have gone without the
10 birth control they want to use, also creating incon-
11 sistent use. Access to birth control is particularly
12 difficult for the 19,000,000 women of reproductive
13 age with lower incomes who live in contraceptive
14 deserts and lack reasonable access to a health center
15 that offers the full range of contraceptive methods.

16 (7) Due to systemic discrimination, people paid
17 low wages, people of color, LGBTQ+ individuals,
18 immigrants, and people with disabilities are more
19 likely to face barriers to, and lack access to, health
20 coverage and health care providers.

21 (8) There are numerous social and economic
22 factors that make it harder to access birth control,
23 including rising income and wealth inequality, gaps
24 in insurance coverage, and barriers to accessing
25 health providers.

1 (9) Leading health experts support over-the-
2 counter birth control pills.

3 **SEC. 4. SENSE OF THE SENATE.**

4 It is the sense of the Senate that—

5 (1) in order to increase access to oral birth con-
6 trol, such birth control must be both easier to obtain
7 and affordable and, to make such birth control ei-
8 ther easier to obtain or more affordable, but not
9 both, is to leave unacceptable barriers in place;

10 (2) women are often denied coverage for the
11 newer contraceptive products on the market, even
12 though contraceptives are required by law to be cov-
13 ered at 100 percent, which both limits patients' op-
14 tions and discourages the development of new con-
15 traceptive products;

16 (3) it is imperative that the entities that re-
17 search and develop oral birth control and whose
18 medical and scientific experts have developed clinical
19 and other evidence that oral birth control for rou-
20 tine, daily use is safe and effective when sold with-
21 out a prescription, apply to the Food and Drug Ad-
22 ministration for review and approval for sale of such
23 birth control without a prescription;

24 (4) upon the receipt of such an application, the
25 Food and Drug Administration should determine

1 whether the oral birth control meets the rigorous
2 safety, efficacy, and quality standards for over-the-
3 counter use under the Federal Food, Drug, and Cos-
4 metic Act (21 U.S.C. 301 et seq.), and if the prod-
5 uct meets those standards, the Food and Drug Ad-
6 ministration should approve the application without
7 delay; and

8 (5) if and when the Food and Drug Adminis-
9 tration approves an oral birth control that is avail-
10 able over-the-counter, such birth control should be
11 covered by health insurance, without a prescription
12 and without cost-sharing.

13 **SEC. 5. CLARIFYING COVERAGE REQUIREMENTS.**

14 The Secretaries of Health and Human Services,
15 Labor, and the Treasury shall clarify that coverage of con-
16 traceptives pursuant to section 2713(a)(4) of the Public
17 Health Service Act (42 U.S.C. 300gg-13(a)(4)) includes
18 coverage of—

19 (1) all over-the-counter contraceptives approved,
20 granted, or cleared by the Food and Drug Adminis-
21 tration, even if the enrollee does not have a prescrip-
22 tion for the contraceptive; and

23 (2) all prescription contraceptives approved,
24 granted, or cleared by the Food and Drug Adminis-
25 tration, except that, in the case of any prescription

1 drug contraceptive for which there is at least one
2 drug or drug-led combination product that is a
3 therapeutic equivalent (as defined in section
4 314.3(b) of title 21, Code of Federal Regulations (or
5 any successor regulations)), such coverage shall be
6 required with respect to only one such contraceptive
7 among such therapeutically equivalent drugs or
8 drug-led combination products.

9 **SEC. 6. RULES OF CONSTRUCTION.**

10 (a) NON-INTERFERENCE WITH FDA REGULA-
11 TION.—Nothing in this Act shall be construed to modify
12 or interfere with Food and Drug Administration processes
13 to review or approve, or otherwise determine the safety
14 and efficacy of, and make available, non-prescription
15 drugs or devices, modify or interfere with the scientific
16 and medical considerations of the Food and Drug Admin-
17 istration, or alter any other authority of the Food and
18 Drug Administration.

19 (b) NON-PREEMPTION.—Nothing in this Act pre-
20 empts any provision of Federal or State law to the extent
21 that such Federal or State law provides protections for
22 consumers that are greater than the protections provided
23 for in this Act.

1 **SEC. 7. DUTIES OF RETAILERS TO ENSURE ACCESS TO CON-**
2 **TRACEPTION FOR USE WITHOUT A PRESCRIP-**
3 **TION.**

4 (a) IN GENERAL.—Any retailer that stocks contra-
5 ception that is approved, granted, or cleared by, or other-
6 wise legally marketed under regulation by, the Food and
7 Drug Administration for use without a prescription may
8 not interfere with an individual's access to or purchase
9 of such contraception or access to medically accurate, com-
10 prehensive information about such contraception.

11 (b) LIMITATION.—Nothing in this section shall pro-
12 hibit a retailer that stocks over-the-counter contraceptive
13 products from refusing to provide an individual with such
14 contraceptive product that is approved, granted, or cleared
15 by, or otherwise legally marketed under regulation by, the
16 Food and Drug Administration if the individual is unable
17 to pay for the contraceptive product, directly, through in-
18 surance coverage, or through other payment mechanism.