

# WEST VIRGINIA LEGISLATURE

## 2023 REGULAR SESSION

Introduced

### Senate Bill 524

FISCAL  
NOTE

By Senators Tarr and Deeds

[Introduced January 31, 2023; referred  
to the Committee on Health and Human Resources;  
and then to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §5-16-7h; to amend and reenact §11-21-10a of said code; to amend said code  
 3 by adding thereto a new section, designated §16-5K-7; to amend and reenact §16-58-3,  
 4 §16-58-4, and §16-58-6 of said code; to amend said code by adding thereto a new section,  
 5 designated §16-58-7; to amend said code by adding thereto a new section, designated  
 6 §33-15-4x; to amend said code by adding thereto a new section, designated §33-16-3ww;  
 7 to amend said code by adding thereto a new section, designated §33-24-7x; to amend said  
 8 code by adding thereto a new section, designated §33-25-8u; and to amend said code by  
 9 adding thereto a new section, designated §33-25A-8x, all relating to family planning  
 10 services; requiring insurance coverage for specified sterilization procedures; providing a  
 11 one-time tax credit for adoption expenses; providing for early intervention services for  
 12 newly adopted newborn children; eliminating barriers to contraceptives; requiring the state  
 13 health officer to prescribe self-administered hormonal contraceptive on statewide basis;  
 14 providing civil immunity to the state health officer; requiring local boards of health provide  
 15 hormonal and nonhormonal contraceptives free of charge; establishing a special revenue  
 16 account; setting out purpose of the account; providing for rulemaking; and making  
 17 technical corrections.

*Be it enacted by the Legislature of West Virginia:*

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE  
 GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;  
 BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,  
 COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

**§5-16-7h. Required coverage for certain medical sterilization procedures.**

1 (a) The agency shall provide coverage for the cost of health care services pursuant to this  
2 article for the cost of the following health care services:

3 (1) A tubal ligation for female sterilization. For purposes of this section the term "tubal  
4 ligation" shall mean a medical procedure that severs and ties the fallopian tubes to prevent  
5 pregnancy by blocking the passage of eggs from the ovaries to the uterus; and

6 (2) A vasectomy for male sterilization. For purposes of this section the term "vasectomy"  
7 shall mean a medical procedure that prevents the supply of sperm from entering the urethra by  
8 cutting and/or sealing the vasa deferens tubes that carry semen.

9 (b) The coverage for these health care services shall not require multiple office visits,  
10 waiting periods, or prior authorization prior to the delivery of health care services as set forth in this  
11 section.

12 (c) This section applies to all coverage issued by this agency delivered, issued for delivery,  
13 reissued, or extended in the state on and after January 1, 2024, or at any time thereafter when any  
14 term of the policy, contract, or plan is changed, or any premium adjustment is made.

**CHAPTER 11. TAXATION.**

**ARTICLE 21. PERSONAL INCOME TAX.**

**§11-21-10a. ~~Credit for nonfamily adoption~~ Adoption tax credit.**

1 ~~A one time credit against the tax imposed by the provisions of this article shall be allowed~~  
2 ~~as follows:~~

3 ~~*Nonfamily adoptions.* -- For nonfamily adoptions, the credit is equal to \$4,000 which may~~  
4 ~~be taken in the year of the adoption of each nonfamily child, whose age at adoption is under~~  
5 ~~eighteen years. This credit may, at the option of the taxpayer, be taken over a period of three~~  
6 ~~years.~~

7 For the purpose of this section and credit "nonfamily adoptions" means adoptions of a child  
8 or children by a taxpayer or taxpayers who are not the father, mother, or stepparent of the child.

9           (a) A one-time tax credit against the tax imposed by the provisions of this article is allowed  
10 for a taxpayer for the qualified expenses paid by taxpayer in the process of an adoption. The tax  
11 credit shall not exceed \$8000 per adoption proceeding.

12           (b) (1) The tax credit provided for in subsection (a) of this section shall be allowed for any  
13 expense paid or incurred before the taxable year in which the adoption was final for the taxable  
14 year following the taxable year during which the expense was paid or incurred, or

15           (2) In the case of an expense paid or incurred during or after the taxable year in which the  
16 adoption shall become final for the taxable year in which such expense is paid or incurred.

17           (3) Under no circumstances shall the total tax credit provided for in this section exceed the  
18 amount of \$8000.

19           (c) (1) For purposes of this section the tax credit allowed may be taken by only one  
20 taxpayer if there is more than one taxpayer in the household.

21           (2) Married individuals filing a joint return shall be treated as one taxpayer.

22           (3) In the case of individuals not described in subdivision (2) of this subsection who are  
23 members of the same household, only the taxpayer with the highest adjusted gross income for the  
24 taxable year may take the credit.

25           (d) (1) For the purposes of this section the term "qualified adoption expenses" means  
26 reasonable and necessary adoption fees, court costs, attorney fees, and other expenses:

27           (A) Which are directly related to, and the principal purpose of which is for, the legal  
28 adoption of an eligible child by the taxpayer;

29           (B) Which are not incurred in violation of state or federal law or in carrying out any  
30 surrogate parenting arrangement;

31           (C) Which are not expenses in connection with the adoption by an individual of a child who  
32 is the child of such individual's spouse;

33           (D) Which are not reimbursed under an employer program or otherwise; and

34           (E) Which are not allowed as a credit pursuant to any other provision of this article.

35 (2) For the purposes of this section an "eligible child" shall mean a child who has not  
36 attained the age of 18 years.

37 (e) The provisions of this section shall not apply in the case of an adoption of a child who is  
38 not a citizen or resident of the United States.

39 (f) The Tax Commissioner may propose rules for legislative approval in accordance with  
40 the provisions of §29A-3-1 et seq. of this code. The Tax Commissioner may also promulgate or  
41 adopt procedural or interpretive rules, as appropriate to assist in administering this section.

**CHAPTER 16. PUBLIC HEALTH.**

**ARTICLE 5K. EARLY INTERVENTION SERVICES FOR CHILDREN WITH  
DEVELOPMENTAL DELAYS.**

**§16-5K-7. Early intervention services for adopted newborns.**

1 (a) Effective January 1, 2024, any child or children adopted as a newborn on and after that  
2 date whose adoptive parent or parents are residents of West Virginia shall be eligible for any early  
3 intervention services provided for families with a newborn child or children which may be offered  
4 by the Department of Health and Human Resources. These services shall include, but are not  
5 limited to, Right From the Start, Drug Free Moms and Babies, and Birth to Three.

6 (b) If an early intervention program has federal mandated eligibility requirements as a  
7 condition of the receipt of federal funds, an adoptive parent or parents and their newly adopted  
8 child or children may be required to meet those federally mandated eligibility requirements for  
9 participation in the program.

10 (c) The Department of Health and Human Resources shall recruit additional sites to  
11 expand the Drug Free Moms and Babies program and report back to the Legislature if additional  
12 funding becomes necessary to operate these sites.

13 (d) The Bureau for Medical Services shall seek approval of and implement a Medicaid  
14 state plan amendment to meet the requirements of this section if the program is offered through or

15 funded by the state Medicaid program and a state Medicaid plan amendment would be necessary  
16 to effectuate the purposes of this section.

17 (e) Use of early intervention services are optional to an adoptive parent or parents and  
18 nothing in this section should be construed to require an adoptive parent or parents to use any  
19 early intervention service as provided in this section.

**ARTICLE 58. FAMILY PLANNING ACCESS ACT.**

**§16-58-3. Authorization to dispense self-administered hormonal contraceptives.**

1 (a) A pharmacist licensed under §30-5-1 *et seq.* of this code may dispense a self-  
2 administered hormonal contraceptive: (1) pursuant to a standing prescription drug order made in  
3 accordance with ~~§16-57-4~~ §16-58-3 of this code without any other prescription drug order from a  
4 person licensed to prescribe a self-administered hormonal contraceptive; and (2) in accordance  
5 with the dispensing guidelines in ~~§16-57-6~~ §16-58-6 of this code; ~~and (3) to a patient who is 18~~  
6 ~~years old or older.~~

7 (b) All state and federal laws governing insurance coverage of contraceptive drugs,  
8 devices, products, and services shall apply to self-administered contraceptives dispensed by a  
9 pharmacist under a standing order pursuant to this section.

**§16-58-4. Standing prescription drug orders for a self-administered hormonal  
contraceptive.**

1 (a) The state health officer ~~may~~ shall prescribe on a statewide basis a self-administered  
2 hormonal contraceptive by one or more standing orders in accordance with a protocol consistent  
3 with the United States Medical Eligibility Criteria for Contraceptive Use (MEC) Centers for Disease  
4 Control and Prevention, that requires:

- 5 (1) Use of the self-screening risk assessment questionnaire described below;
- 6 (2) Written and oral education;
- 7 (3) The timeline for renewing and updating the standing order;
- 8 (4) Who is eligible to utilize the standing order;

9 (5) The pharmacist to make and retain a record of each person to whom the self-  
10 administered hormonal contraceptive is dispensed, including:

11 (A) The name of the person;

12 (B) The drug dispensed; and

13 (C) Other relevant information.

14 (b) The state health officer acting in good faith in any act permitted or required by this  
15 article is immune from liability for any civil action arising out of any act or omission resulting from  
16 his or her actions related to the prescribing of self-administered hormonal contraceptives unless  
17 the act or omission was the result of the registered professional nurse's gross negligence or willful  
18 misconduct.

**§16-58-6. Guidelines for dispensing a self-administered hormonal contraceptive.**

1 (a) A pharmacist who dispenses a self-administered hormonal contraceptive under this  
2 article:

3 (1) Shall obtain a completed self-screening risk assessment questionnaire that has been  
4 approved by the state health officer in collaboration with the Board of Pharmacy, the Board of  
5 Osteopathic Medicine, and the Board of Medicine from the patient before dispensing the self-  
6 administered hormonal contraceptive;

7 (2) Shall notify the patient's primary care provider, if provided;

8 (3) If when dispensing within the guidelines it is unsafe to dispense a self-administered  
9 hormonal contraceptive to a patient then the pharmacist:

10 (A) May not dispense a self-administered hormonal contraceptive to the patient; and

11 (B) Shall refer the patient to a health care practitioner or local health department;

12 (4) May not continue to dispense a self-administered hormonal contraceptive to the patient  
13 for more than 12 months after the date of the initial prescription without evidence that the patient  
14 has consulted with a health care practitioner during the preceding 12 months; and

15 (5) Shall provide the patient with:

- 16 (A) Written and verbal information regarding:
  - 17 (i) The importance of seeing the patient’s health care practitioner to obtain recommended
  - 18 tests and screening; and
  - 19 (ii) The effectiveness and availability of long-acting reversible contraceptives and other
  - 20 effective contraceptives as an alternative to self-administered hormonal contraceptives; and
- 21 (B) A copy of the record of the encounter with the patient that includes:
  - 22 (i) The patient’s completed self-assessment tool; and
  - 23 (ii) A description of the contraceptives dispensed, or the basis for not dispensing a
  - 24 contraceptive.
- 25 (b) If a pharmacist dispenses a self-administered hormonal contraceptive to a patient, the
- 26 pharmacist shall, at a minimum, provide the patient counseling regarding:
  - 27 (1) The appropriate administration and storage of the self-administered hormonal
  - 28 contraceptive;
  - 29 (2) Potential side effects and risks of the self-administered hormonal contraceptive;
  - 30 (3) The need for backup contraception;
  - 31 (4) When to seek emergency medical attention;
  - 32 (5) The risk of contracting a sexually transmitted infection or disease, and ways to reduce
  - 33 the risk of contraction; and
  - 34 (6) Any additional counseling outlined in the protocol as prescribed in ~~§16-57-4~~ §16-58-4 of
  - 35 this code.
- 36 (c) The Board of Pharmacy regulates a pharmacist who dispenses a self-administered
- 37 hormonal contraceptive under this article.

**§16-58-7. Dispensing and payment for hormonal and nonhormonal contraceptives.**

- 1 (a) All local health departments as set forth in §16-2-1 et seq. of this code shall prescribe
- 2 and dispense, as appropriate and medically indicated, both hormonal and nonhormonal
- 3 contraceptives free of charge. Each local health department shall be reimbursed for the cost of



4 providing free contraceptives by the Bureau for Public Health.

5 (b) There is created in the State Treasury a special revenue account to be known as  
6 "Family Planning and Contraceptive Fund" to be administered by the Commissioner of the Bureau  
7 for Public Health. Expenditures from the account shall be for the purposes set forth in this section  
8 and are not authorized from collections but are to be made only in accordance with appropriation  
9 by the Legislature and in accordance with the provisions of §12-3-1 et seq. of this code and upon  
10 fulfillment of the provisions of §11B-2-1 et seq. of this code. The purpose of the fund is to provide  
11 reimbursement to local boards of health for the cost of free contraceptive services for both  
12 hormonal and nonhormonal contraceptives.

13 (c) The Bureau for Public Health shall propose rules for legislative approval in accordance  
14 with §29A-3-1 et seq. of this code. The rules shall provide for a means of verification of the cost to  
15 each local board of health, the process for reimbursement to each local board of health and  
16 reporting to the Joint Committee on Government and Finance and the Legislative Oversight  
17 Commission on Health and Human Resources Accountability on the annual cost of the program.

**CHAPTER 33. INSURANCE.**

**ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**

**§33-15-4x. Required coverage for certain medical sterilization procedures.**

1 (a) An insurance policy or plan issued by an insurer pursuant to this article that provides  
2 reimbursement or indemnity for pregnancy or contraceptives health care services shall provide  
3 coverage for the cost of the following health care services:

4 (1) A tubal ligation for female sterilization. For purposes of this section the term "tubal  
5 ligation" shall mean a medical procedure that severs and ties the fallopian tubes to prevent  
6 pregnancy by blocking the passage of eggs from the ovaries to the uterus; and

7 (2) A vasectomy for male sterilization. For purposes of this section the term "vasectomy"  
8 shall mean a medical procedure that prevents the supply of sperm from entering the urethra by

9 cutting and/or sealing the vasa deferens tubes that carry semen.

10 (b) The coverage for these health care services shall not require multiple office visits,  
11 waiting periods, or prior authorization prior to the delivery of health care services as set forth in this  
12 section.

13 (c) The requirements of this section shall apply to all insurance policies issued by an  
14 insurer pursuant to this article delivered, issued for delivery, reissued, or extended in the state on  
15 and after January 1, 2024, or at any time thereafter when any term of the policy, contract, or plan is  
16 changed, or any premium adjustment is made.

**ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**

**§33-16-3ww. Required coverage for certain medical sterilization procedures.**

1 (a) An insurance policy or plan issued by an insurer pursuant to this article that provides  
2 reimbursement or indemnity for pregnancy or contraceptives health care services shall provide  
3 coverage for the cost of the following health care services:

4 (1) A tubal ligation for female sterilization. For purposes of this section the term "tubal  
5 ligation" shall mean a medical procedure that severs and ties the fallopian tubes to prevent  
6 pregnancy by blocking the passage of eggs from the ovaries to the uterus; and

7 (2) A vasectomy for male sterilization. For purposes of this section the term "vasectomy"  
8 shall mean a medical procedure that prevents the supply of sperm from entering the urethra by  
9 cutting and/or sealing the vasa deferens tubes that carry semen.

10 (b) The coverage for these health care services shall not require multiple office visits,  
11 waiting periods, or prior authorization prior to the delivery of health care services as set forth in this  
12 section.

13 (c) The requirements of this section shall apply to all insurance policies issued by an  
14 insurer pursuant to this article delivered, issued for delivery, reissued, or extended in the state on  
15 and after January 1, 2024, or at any time thereafter when any term of the policy, contract, or plan is  
16 changed, or any premium adjustment is made.

**ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS AND HEALTH SERVICE CORPORATIONS.**

**§33-24-7x. Required coverage for certain medical sterilization procedures.**

1           (a) A contract, plan, or agreement issued by an insurer pursuant to this article that provides  
2 reimbursement or indemnity for pregnancy or contraceptives health care services shall provide  
3 coverage for the cost of the following health care services:

4           (1) A tubal ligation for female sterilization. For purposes of this section the term "tubal  
5 ligation" shall mean a medical procedure that severs and ties the fallopian tubes to prevent  
6 pregnancy by blocking the passage of eggs from the ovaries to the uterus; and

7           (2) A vasectomy for male sterilization. For purposes of this section the term "vasectomy"  
8 shall mean a medical procedure that prevents the supply of sperm from entering the urethra by  
9 cutting and/or sealing the vasa deferens tubes that carry semen.

10           (b) The coverage for these health care services shall not require multiple office visits,  
11 waiting periods, or prior authorization prior to the delivery of health care services as set forth in this  
12 section.

13           (c) The requirements of this section shall apply to all insurance policies issued by an  
14 insurer pursuant to this article delivered, issued for delivery, reissued, or extended in the state on  
15 and after January 1, 2024, or at any time thereafter when any term of the policy, contract, or plan is  
16 changed, or any premium adjustment is made.

**ARTICLE 25. HEALTH CARE CORPORATIONS.**

**§33-25-8u. Required coverage for certain medical sterilization procedures.**

1           (a) A contract, plan, or agreement issued by an insurer pursuant to this article that provides  
2 reimbursement or indemnity for pregnancy or contraceptives health care services shall provide  
3 coverage for the cost of the following health care services:

4           (1) A tubal ligation for female sterilization. For purposes of this section the term "tubal  
 5 ligation" shall mean a medical procedure that severs and ties the fallopian tubes to prevent  
 6 pregnancy by blocking the passage of eggs from the ovaries to the uterus; and

7           (2) A vasectomy for male sterilization. For purposes of this section the term "vasectomy"  
 8 shall mean a medical procedure that prevents the supply of sperm from entering the urethra by  
 9 cutting and/or sealing the vasa deferens tubes that carry semen.

10           (b) The coverage for these health care services shall not require multiple office visits,  
 11 waiting periods, or prior authorization prior to the delivery of health care services as set forth in this  
 12 section.

13           (c) The requirements of this section shall apply to all insurance policies issued by an  
 14 insurer pursuant to this article delivered, issued for delivery, reissued, or extended in the state on  
 15 and after January 1, 2024, or at any time thereafter when any term of the policy, contract, or plan is  
 16 changed, or any premium adjustment is made.

**ARTICLE    25A.    HEALTH    MAINTENANCE    ORGANIZATION    ACT.**

**§33-25A-8x. Required coverage for certain medical sterilization procedures.**

1           (a) A contract, plan, or agreement issued by an insurer pursuant to this article that provides  
 2 reimbursement or indemnity for pregnancy or contraceptives health care services shall provide  
 3 coverage for the cost of the following health care services:

4           (1) A tubal ligation for female sterilization. For purposes of this section the term "tubal  
 5 ligation" shall mean a medical procedure that severs and ties the fallopian tubes to prevent  
 6 pregnancy by blocking the passage of eggs from the ovaries to the uterus; and

7           (2) A vasectomy for male sterilization. For purposes of this section the term "vasectomy"  
 8 shall mean a medical procedure that prevents the supply of sperm from entering the urethra by  
 9 cutting and/or sealing the vasa deferens tubes that carry semen.

10           (b) The coverage for these health care services shall not require multiple office visits,  
 11 waiting periods, or prior authorization prior to the delivery of health care services as set forth in this

12 section.

13 (c) The requirements of this section shall apply to all insurance policies issued by an  
14 insurer pursuant to this article delivered, issued for delivery, reissued, or extended in the state on  
15 and after January 1, 2024, or at any time thereafter when any term of the policy, contract, or plan is  
16 changed, or any premium adjustment is made.

NOTE: The purpose of this bill is to improve family planning services. The bill requires insurance coverage for specified sterilization procedures. The bill provides for a one-time tax credit for adoption expenses. The bill provides for early intervention services for newly adopted newborn children. The bill eliminates barriers to contraceptives. The bill requires the state health officer to prescribe self-administered hormonal contraceptive on statewide basis. The bill provides civil immunity to the state health officer. The bill requires local boards of health provide hormonal and nonhormonal contraceptives free of charge. The bill establishes a special revenue account. The bill sets out the purpose of the account. The bill provides for rulemaking. Finally, the bill makes technical corrections.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.