

By: Senator(s) Simmons (12th), Hickman

To: Judiciary, Division A

SENATE BILL NO. 2766

1 AN ACT TO PROVIDE A RIGHT TO OBTAIN AND TO ENGAGE IN  
 2 CONTRACEPTION; TO PROVIDE A HEALTH-CARE PROVIDER THE RIGHT TO  
 3 PROVIDE CONTRACEPTIVES, CONTRACEPTION, AND CONTRACEPTION-RELATED  
 4 INFORMATION; TO PROHIBIT THE STATE, ITS POLITICAL SUBDIVISIONS AND  
 5 LOCAL GOVERNMENTAL AUTHORITIES FROM INFRINGING THE RIGHT TO  
 6 CONTRACEPTION; TO PROVIDE FOR ENFORCEMENT OF THIS ACT BY THE  
 7 ATTORNEY GENERAL; TO AUTHORIZE A PRIVATE CAUSE OF ACTION; AND FOR  
 8 RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 **SECTION 1.** For the purposes of this act, the following terms  
 11 have the meaning herein ascribed unless the context clearly  
 12 requires otherwise:

13 (a) "Contraception" means an action taken to prevent  
 14 pregnancy, including the use of contraceptives or  
 15 fertility-awareness-based methods and sterilization procedures.

16 (b) "Contraceptive" means any drug, device, or  
 17 biological product intended for use in the prevention of  
 18 pregnancy, whether specifically intended to prevent pregnancy or  
 19 for other health needs, that is legally marketed under the Federal  
 20 Food, Drug, and Cosmetic Act, 21 U.S.C.A. §301 et seq., including  
 21 oral contraceptives, long-acting reversible contraceptives such as



22 intrauterine devices and hormonal contraceptive implants,  
23 emergency contraceptives, internal and external condoms,  
24 injectables, vaginal barrier methods, transdermal patches, and  
25 vaginal rings.

26 (c) "Health-care provider" means that term as defined  
27 in Section 41-41-203(j).

28 (d) "Local governmental authority" means a county board  
29 of supervisor or a governing authority of a municipality.

30 (e) "Political subdivision" means that term as defined  
31 in Section 11-46-1(i).

32 (f) "State" means that term as defined in Section  
33 11-46-1(j).

34 **SECTION 2.** (1) A person shall have the right to obtain  
35 contraceptives and to engage in contraception. A health-care  
36 provider shall have the corresponding right to provide  
37 contraceptives, contraception, and contraception-related  
38 information.

39 (2) The rights specified in subsection (1) of this section  
40 shall not be limited or otherwise infringed upon by any limitation  
41 or requirement that both:

42 (a) Expressly, effectively, implicitly, or as  
43 implemented solely addresses the provision of contraceptives,  
44 contraception, or contraception-related information or health care  
45 providers that provide contraceptives, contraception, or  
46 contraception-related information; and



47 (b) Impedes access to contraceptives, contraception, or  
48 contraception-related information.

49 (3) To defend against a claim that a limitation or  
50 requirement violates a health care provider's or patient's  
51 statutory rights under subsection (1) of this section, a party  
52 must establish, by clear and convincing evidence, that:

53 (a) The limitation or requirement significantly  
54 advances the safety of contraceptives, contraception, and  
55 contraception-related information; and

56 (b) The safety of contraceptives, contraception, and  
57 contraception-related information or the health of patients cannot  
58 be advanced by a less restrictive alternative measure or action.

59 **SECTION 3.** (1) Neither the state, its political  
60 subdivisions nor any local governmental authority may administer,  
61 implement, or enforce any law, rule, regulation, standard, or  
62 other provision having the force and effect of law in a manner  
63 that:

64 (a) Prohibits or restricts the sale, provision, or use  
65 of any contraceptives that have been approved by the U.S. Food and  
66 Drug Administration for contraceptive purposes.

67 (b) Prohibits or restricts any person from aiding  
68 another person in obtaining any contraceptives approved by the  
69 U.S. Food and Drug Administration or utilizing any contraceptive  
70 methods.



71 (c) Exempts any contraceptives approved by the U.S.  
72 Food and Drug Administration from any other generally applicable  
73 law in a way that would make it more difficult to sell, provide,  
74 obtain, or use those contraceptives or contraceptive methods.

75 (2) This chapter does not supersede or otherwise affect any  
76 provision relating to coverage under group health plans or group  
77 or individual health insurance coverage and may not be construed  
78 as requiring the provision of specific benefits under these plans  
79 or coverage.

80 (3) An individual or entity that is subject to a limitation  
81 or requirement that violates this chapter may raise this section  
82 as a defense to any cause of action against the individual or  
83 entity.

84 (4) This chapter shall apply notwithstanding any other  
85 provision of law.

86 **SECTION 4.** (1) The attorney general may commence a civil  
87 action on behalf of the state against any person that violates or  
88 enforces a limitation or requirement that violates the provisions  
89 of this chapter.

90 (2) Any individual or entity, including any health care  
91 provider or patient, adversely affected by an alleged violation of  
92 this chapter may commence a civil action against any person that  
93 violates or implements or enforces a limitation or requirement  
94 that violates this chapter.



95 (3) A health-care provider may commence an action for relief  
96 on the provider's own behalf, on behalf of the provider's staff,  
97 and on behalf of the provider's patients who are or may be  
98 adversely affected by an alleged violation of this chapter.

99 (4) If a court finds that there has been a violation of this  
100 chapter, the court shall hold unlawful and set aside the  
101 limitation or requirement. In any action under this act, the  
102 court may award appropriate equitable relief, including temporary,  
103 preliminary or permanent injunctive relief.

104 **SECTION 5.** This act shall take effect and be in force from  
105 and after July 1, 2024.

