The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 1154

INTRODUCER: Senator Bean

SUBJECT: Hormonal Long-acting Reversible Contraception Program

DATE: March 2, 2021 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Brown	HP	**Pre-meeting**
2.			AHS	
3.			AP	

I. Summary:

SB 1154 creates the Hormonal Long-acting Reversible Contraception (HLARC) Program within the Department of Health (DOH). The bill directs the DOH to contract with eligible family planning providers to implement the program statewide, and it provides requirements that must be followed during implementation.

The bill directs the Legislature to make annual appropriations from the General Revenue Fund to the DOH for operation of the program, and it provides that funds appropriated under the bill may not supplant or reduce any other appropriation of state funds to family planning providers or to the DOH for family planning services. The bill also directs the DOH to seek grants from federal agencies and other sources to supplement state funds for the program.

The bill requires that by January 1, 2022, and annually thereafter, the DOH must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the effectiveness of the program and directs the DOH to publish the report on its website.

The bill provides that the Legislature finds enactment of the bill to be necessary to protect the public health, safety, and welfare.

The bill may have a fiscal impact. *See* Section V of this analysis.

The bill provides an effective date of July 1, 2021.

II. Present Situation:

Unintended Pregnancy Rates

After a long period of little to no change in the unintended pregnancy rate, a study published in *The New England Journal of Medicine* in 2016 showed that the rate changed significantly in the United States in the time period between 2008 and 2011.[1] In 2008, the rate of unintended pregnancy was 54 per 1,000 women and girls aged 15 to 44. By 2011, this rate had declined by 18 percent to 45 unintended pregnancies for 1,000 women and girls aged 15 to 44.[2] The study's authors noted that this was the first substantial decline in the unintended pregnancy rate since at least 1981, and declines were recorded in all racial and ethnic groups.[3] The authors attributed the likely cause for the decline predominantly to the change in the type and frequency of contraception used over time, noting that use of long-acting methods, such as intrauterine devices (IUD), had grown in popularity during that span from 4 percent to 12 percent across almost all demographic groups.[4]

In the United States for 2011, approximately 45 percent of all pregnancies were unintended.[5] Adolescents especially use contraceptive methods with relatively higher failure rates, such as condoms, withdrawal, or oral contraceptive pills.[6]

In 2010, nearly 9 million women received family planning services from publicly supported providers nationwide.[7] A study by the *Guttmacher Institute* determined that such services resulted in net savings to the public of $10.5 billion in 2010.[8] Averted costs included unintended pregnancies prevented, sexually transmitted diseases treated early or averted, HIV testing costs and preventive care, and cervical cancer testing and prevention screenings. For every public dollar spent, it was estimated that $7.09 was saved.[9]

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[1] Lawrence B. Finer, Ph.D., and Mia R. Zolna, M.P.H., *Declines in Unintended Pregnancy in the United States, 2008-2011,* NEW ENG. J. MED. 2016; 374; 843-852, *available at* https://www.nejm.org/doi/full/10.1056/NEJMsa1506575 (last visited March 1, 2021).
[2] *Id.,* at 843.
[3] *Id.,* at 847.
[4] *Id.,* at 851.
[5] *Id.,* at 843.
[6] American College of Obstetricians and Gynecologists, *Committee Opinion: Adolescents and Long-Acting Reversible Contraception: Implants and Intrauterine Devices*, (October 2012), *available at* https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2018/05/adolescents-and-long-acting-reversible-contraception-implants-and-intrauterine-devices (last visited March 1, 2021).
[7] Jennifer J. Frost, et al, *Return on Investment: A Fuller Assessment of the Benefits and Cost Savings of the U.S. Publicly Funded Family Planning Program, Original Investigation,* The Millbank Quarterly, Vol. 92, No. 4, 2014 (pp. 667-720), *available at* https://onlinelibrary.wiley.com/doi/epdf/10.1111/1468-0009.12080 (last visited March 1, 2021).
[8] *Id.,* at 669.
[9] *Id.,* at 696.

Health Risks Associated with Unintended Pregnancies

Unintended pregnancies may pose certain health risks. Prenatal care may be neglected or forgone entirely because unintended pregnancies are often a surprise. Births resulting from unintended pregnancies correlate to adverse health outcomes for mother and baby, including:[10]

- Low birthweight.
- Shorter duration of breastfeeding.
- Increased risk of postpartum depression and parenting stress.
- Negative physical and mental impacts for children, such as poor development and potential behavioral health issues.

Teen Pregnancies and Births in Florida

Florida's birth rate for teens aged 15-19 years has declined markedly since 2011, dropping from 28.7 births per 1,000 females to 16.2 per 1,000 in 2019. Approximately 4.3 percent (9,541) of 2019's live births (220,010) in Florida were to teenagers 15-19 years of age. This represents a 2.9-percent decline from the 9,828 births to teen mothers ages 15-19 in 2018 and is 31.6 percent lower than the number of births in this age group (13,956) in 2013.[11]

Types of Long Acting Reversible Birth Control Methods

Long-acting reversible contraception (LARC) methods are the most effective forms of reversible birth control available, with fewer than one in 100 women using a LARC method becoming pregnant, the same range as for sterilization.[12] LARC methods include an IUD or a birth control implant. Both methods last for several years, are reversible, and can be removed at any time.

IUD

An IUD is a small, T-shaped, plastic device that is inserted and left inside the uterus. There are two types of IUDs:

- The hormonal IUD releases progestin[13] and is approved for up to five years.
- The copper IUD does not contain hormones and is approved for up to 10 years.[14]

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[10] America's Health Rankings, *Health of Women and Children: Unintended Pregnancy, available at* https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/unintended_pregnancy/state/U.S. (last visited Feb. 26, 2021).

[11] Department of Health, *Senate Bill 1154 Fiscal Analysis* (Mar. 1, 2021) (on file with the Senate Committee on Health Care).

[12] American College of Obstetricians and Gynecologists, *ACOG Practice Bulletin: Clinical Management Guidelines for Obstetrician-Gynecologists: Long Acting Reversible Contraception: Implants and Intrauterine Devices (Number 186, November 2017, Replaces Practice Bulletin Number 121, July 2011)*, *available at* https://www.acog.org/Clinical-Guidance-and-Publications/Practice-Bulletins/Committee-on-Practice-Bulletins-Gynecology/Long-Acting-Reversible-Contraception-Implants-and-Intrauterine-Devices (last visited March 1, 2021).

[13] Progestins are synthetic forms of the body's naturally-occurring hormone progesterone. Progestins were designed to interact with progesterone receptors in the body in order to cause progesterone-like effects. Progestins are present in all forms of hormonal birth control, either alone in progestin-only methods (like implants and hormonal IUDs) or with estrogen in combined hormonal birth control (like most birth control pills). *See:* https://helloclue.com/articles/sex/progestins-101 (last visited Feb. 26, 2021).

[14] American College of Obstetricians and Gynecologists, *supra, note 12.*

Implant

The birth control implant is a single flexible rod about the size of a matchstick that is inserted in the upper arm under the skin and releases progestin. The implant is typically designed to last three years.

Both the IUD and the implant may be placed or removed by a health care provider. There are few side effects to either method, and almost all women are eligible for an IUD or implant.[15]

While being cost-effective over the long-term, the high up-front costs of the LARC methods may be a barrier to widespread use, as the wholesale cost of an IUD or implant can be as high as $1600, plus the cost of insertion.[16]

In February 2015, the federal Food and Drug Administration approved a new IUD, Liletta, which was developed by a non-profit organization and was originally made available by that organization to public clinics for as low as $50, a savings to the clinics of more than $700.[17] A Liletta patient savings card is available for qualified patients who may not qualify for services in the clinics or county health departments allowing the patient to pay $100 for a Liletta IUD.[18]

Most insurance plans under the federal Patient Protection and Affordable Care Act and Medicaid cover contraception and the associated services with no out-of-pocket costs; however, individuals without insurance coverage may face other financial hurdles such as high out of pocket costs or transportation issues.

The American College of Obstetricians and Gynecologists also recognized these as barriers to the widespread use of LARC methods, by adolescents in particular, in its updated *Committee on Adolescent Health Care Long-Acting Reversible Contraception Working Group* opinion document in May 2018. Also cited in that document are concerns with a provider's own lack of familiarity with or misconceptions about the methods, access issues, and a provider's concerns about the safety of LARC methods in adolescents (ages 9-11).[19]

Women aged 25-34 and women who have already had at least one child use a LARC method at the highest rates.[20] Adolescents are at high risk of unintended pregnancy and may benefit from

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[15] Brooke Winner, et al., *Effectiveness of Long-Acting Reversible Contraception,* N ENGL J MED 366; 21, nejm.org, May 24, 2012.
[16] Bhadra Shah, M.D., *How Much Does an IUD Cost Without Insurance? available at* https://spendonhealth.com/iud-cost-without-insurance/ (last visited March 1, 2021).
[17] Karen Weise, *Warren Buffet's Family Secretly Funded a Birth Control Revolution,* Bloomberg Business (July 30, 2015), *available at* http://www.bloomberg.com/news/articles/2015-07-30/warren-buffett-s-family-secretly-funded-a-birth-control-revolution (last visited March 1, 2021).
[18] Liletta Patient Savings Program, *available at* https://www.liletta.com/acquiring/savings-card (last visited Feb. 25, 2021).
[19] American College of Obstetricians and Gynecologists, *supra,* note 12, at 2.
[20] Amy Branum, M.S.P.H, Ph.D., and Jo Jones, Ph.D., U.S. Department of Health and Human Services, Centers for Disease Control, National Center for Health Statistics, *Trends in Long-Acting Reversible Contraception Use Among U.S. Women Aged 15-44 (February 2015) available at* https://www.cdc.gov/nchs/data/databriefs/db188.pdf (last visited March 1, 2021).

increased access to LARC methods.[21] For example, adolescents are more than twice as likely as women aged 30 or older to experience a birth control pill failure.[22]

Title X Family Planning

The federal Title X Family Planning Program is a grant program created in 1970 for low-income patients to receive family planning and reproductive health services. Named for Title X of the Social Security Act, it funds services including contraception, testing and treatment for sexually transmitted infections, and breast and cervical cancer screenings. Title X regulations prohibit funds from being used for abortion care, though health centers that provide abortions have received Title X funds.

Title X is administered by the U.S. Department of Health and Human Services, Office of Population Affairs. The program is implemented through grants to over 3,500 clinical sites, including public health departments and not-for-profit health centers.[23]

Title V Maternal and Child Health (MCH) Block Grant Program

The MCH is one of the largest federal block grant programs, and the program's funding, under Title V of the Social Security Act, is a major source of support for promoting and improving the health and well-being of mothers, children, and their families. In 2019, the MCH funded 59 states and jurisdictions to provide health care and public health services for an estimated 60 million people. Services reached 92 percent of all pregnant women, 98 percent of infants, and 60 percent of children nationwide, including children with special health care needs.[24]

State maternal and child health agencies, which are usually located within a state health department, apply annually for Title V funding. States have flexibility in how Title V funds are used to support a wide range of activities that address state and national needs. States and jurisdictions must match every $4 of federal Title V money that they receive by at least $3 of state and/or local money.[25]

The DOH Family Planning Program

Under s. 381.0051, F.S., known as the "Comprehensive Family Planning Act," (Act) the DOH provides family planning services through its Family Planning Program.

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[21] American College of Obstetricians and Gynecologists, *supra, note 6*, at 1.
[22] Heather D. Boonstra, *Leveling the Playing Field: The Promise of Long-Acting Reversible Contraceptives for Adolescents*, Guttmacher Policy Review, Vol. 16, p. 14, *available at* https://www.guttmacher.org/pubs/gpr/16/4/gpr160413.html (last visited March 1, 2021).
[23] Physicians for Reproductive Health, *Title X Explainer, available at* https://prh.org/what-is-title-x-an-explainer/ (last visited March 1, 2021).
[24] Health Resources & Services Administration, *Title V Maternal and Child Health Services Block Grant Program, available at* https://mchb.hrsa.gov/maternal-child-health-initiatives/title-v-maternal-and-child-health-services-block-grant-program (last visited March 1, 2021).
[25] *Id.*

The Act directs the DOH to implement a comprehensive family planning program designed to include, but not be limited to:[26]

- Comprehensive family planning education and counseling programs.
- Prescriptions for and provision of all medically recognized methods of contraception.
- Medical evaluation.
- Treatment of physical complications other than pregnancy resulting from the use of contraceptive methods.
- Provision of services at locations and times readily available to the population served.
- Emphasis and stress on service to postpartum mothers.

Services available from the DOH include pregnancy testing and counseling; physical examinations; and screening for hypertension, breast and cervical cancer, and sexually transmitted diseases, including HIV counseling and testing. Counseling and education for health promotion and disease prevention is also available. Abstinence counseling is available to all who want and are in need of services. Follow-up and referral services are offered based on the individual's history and need for medical or social services.[27]

Under the Act, the program must make services available to all persons seeking such services, subject to the provisions of the Act, at a cost based on a fee schedule prepared and published by the DOH. Fees must be based on the cost of service and a person’s ability to pay.[28] Priority is given to persons from low-income families. Services are provided on a sliding fee scale, based on family household income and size. Persons determined to have incomes of 100 percent or less of poverty do not pay fees for services.[29]

The Act provides that maternal health and contraceptive information and services of a nonsurgical nature may be rendered to any minor by a physician licensed under ch. 458 or ch. 459, F.S., as well as by the DOH through the family planning program, if the minor:[30]

- Is married;
- Is a parent;
- Is pregnant;
- Has the consent of a parent or legal guardian; or
- May, in the opinion of the physician, suffer probable health hazards if such services are not provided.

Under the Act, the application of nonpermanent, internal contraceptive device such as a LARC device is specifically deemed to not be a surgical procedure.[31]

The DOH provides services through the program, including the provision of LARC devices, in all 67 counties in Florida. The provision of services is supported by the Title X federal grant and,

[26] Section 381.0051(3)(a), F.S.
[27] Florida Dept. of Health, *Family Planning, available at* http://www.floridahealth.gov/programs-and-services/womens-health/family-planning/index.html (last visited March 1, 2021).
[28] Section 381.0051(3)(b), F.S.
[29] Florida Dept. of Health, s*upra,* note 27.
[30] Section 381.0051(4)(a), F.S.
[31] Section 381.0051(4)(b), F.S.

in part, by the Title V federal grant applied for and awarded to the DOH, along with state general revenue. The DOH distributes these funds to each county health department (CHD) for the provision of family planning services. The program served 106,515 clients in calendar year 2019, including 17,937 clients aged 19 or younger. Due to COVID-19, there was a 24-percent drop in client numbers in 2020 compared to 2019, but the DOH expects client numbers to rebound once there is a return to normal operations.[32]

Florida's Family Planning Program was appropriated approximately $3.2 million in general revenue for the 2020-2021 fiscal year for family planning pharmaceutical purchases, and the DOH has fully utilized such funding each year it has been appropriated. Supplemental funding from Title X for the purchase of LARC devices was utilized, on average, in the amount of $369,693 for the past six grant years. Since July 1, 2016, all counties have had full access to ordering LARC devices, available through the DOH Bureau of Public Health Pharmacy.[33]

The DOH currently provides both hormonal and non-hormonal intrauterine devices and implants, training for providers and staff, technical assistance, general support to expand capacity of family planning clinics, marketing and outreach, and related family planning and LARC services through the Title X funding. In 2019, 12,286 (11.5 percent) of the DOH's family planning clients were listed as using a LARC method, and 1,571 (8.8 percent) were 19 years old or younger.[34]

Most of the DOH's family planning services are provided at CHD clinic sites, but there are a small number of CHDs that have subcontracts in place for the provision of family planning services.[35]

Unintended Pregnancy and Abortion

Research published in *The Lancet Global Health* in 2020 found that, globally, between 2015 and 2019, there were approximately 121 million unintended pregnancies annually, corresponding to a global rate of 64 unintended pregnancies per 1,000 females aged 15-49 years, and that about 61 percent of those unintended pregnancies ended in abortion.[36]

The study did not publish data for individual countries but did so for various regions of the world. According to the study, for Europe and "northern America" between 2015 and 2019, there were, annually, approximately 35 unintended pregnancies per 1,000 females aged 15-49 years, and about 49 percent of unintended pregnancies in those regions ended in abortion.[37]

The study also found an inverse relationship between income and unintended pregnancy.[38]

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[32] Florida Dept. of Health, *supra,* note 11.
[33] *Id.*
[34] *Id.*
[35] *Id.*
[36] Jonathan Bearak, Ph.D., et al., *Unintended pregnancy and abortion by income, region, and the legal status of abortion: estimates from a comprehensive model for 1990–2019,* The Lancet Global Health, Vol. 8, Issue 9, p. e1155, *available at* https://www.thelancet.com/journals/langlo/article/PIIS2214-109X(20)30315-6/fulltext (last visited Feb. 26, 2021).
[37] *Id.,* p. e1156.
[38] *Id.,* p. e1159.

III. Effect of Proposed Changes:

Whereas Clauses

Under SB 1154's "Whereas Clauses," the Legislature finds that:
- Abortions end unborn life and, especially among young women, carry health risks for the mother;
- A variety of methods and options to discourage and prevent abortions should be developed and supported;
- Programs that provide HLARC methods contribute to declines in the number of abortions;
- HLARC methods improve health care outcomes and wellness for women and families by enabling women to better plan pregnancies; and
- Including HLARC as an option for women is an important step in preventing abortions and reducing health risks for all women.

The HLARC Program

Section 1 of the bill creates s. 381.00515, F.S., to establish the HLARC program within the DOH and authorizes the DOH to adopt rules for the program. The bill directs the DOH to contract with eligible family planning providers for statewide implementation, and it requires such contracts to provide for all of the following:
- The provision of hormonal IUDs and implants to participants.
- Training for providers and their staff regarding the provision of HLARC devices, counseling, and the management of side effects.
- Technical assistance with issues such as coding, billing, pharmacy rules, and clinic management associated with the increased use of HLARC devices.
- General support to expand the capacity of family planning providers for an increased demand for HLARC services.
- Marketing and outreach regarding the availability of HLARC services among other currently available contraceptive services.
- Other services the DOH considers necessary to ensure the health and safety of participants who receive HLARC devices.

Funding the Program

The bill directs the Legislature to make annual appropriations from the General Revenue Fund to the DOH for operation of the program, and it provides that funds appropriated under the bill may not supplant or reduce any other appropriation of state funds to family planning providers or to the DOH for family planning services. The bill also directs the DOH to seek grants from federal agencies and other sources to supplement state funds for the program.

Annual Report

The bill requires that by January 1, 2022, and annually thereafter, the DOH must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the effectiveness of the program and directs the DOH to publish the report on its website. The

report must include, but need not be limited to, all of the following data pertaining to the previous calendar year:

- An assessment of the operation of the program, including any progress made in reducing the number of abortions, especially among teenagers.
- An assessment of the effectiveness of the program in increasing the availability of HLARC services.
- The number and location of family planning providers that participated in the program.
- The number of clients served by participating family planning providers.
- The number of times HLARC services were provided by participating family providers.
- The average cost per client served.
- The demographic characteristics of clients served.
- The sources and amounts of funding used for the program.
- A description of federal and other grants the DOH applied for in order to provide HLARC services, including the outcomes of the grant applications.
- An analysis of the return on investment for the provision of HLARC services regarding tax dollars saved in the provision of health and social services.
- A description and analysis of marketing and outreach activities conducted to promote the availability of HLARC services.
- Recommendations for improving the program.

Other Provisions

Section 2 of the bill provides a legislative finding that enactment of the bill is necessary to protect the public health, safety, and welfare.

Section 3 of the bill provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If the HLARC program results in HLARC devices being administered that would not otherwise have been administered, private sector manufacturers and providers of such devices may experience an increase in revenue. Women who would have paid for LARC devices on their own but will instead receive one through the HLARC program, may experience an out-of-pocket cost savings. Women receiving HLARC devices under the program who would not otherwise have received one, may avoid the fiscal demands of an unintended pregnancy.

C. Government Sector Impact:

To the extent the HLARC program results in fewer unintended pregnancies and births paid for under government-sponsored programs such as Medicaid, the state will experience a cost savings. That impact is indeterminate.

SB 1154 directs the Legislature to make annual appropriations to the DOH from the General Revenue Fund to operate the HLARC program. However, the bill does not specify that the program's implementation and ongoing operation are contingent on such appropriations. The bill itself does not appropriate funds for the program, and, as of this writing, neither house of the Legislature has filed a budget bill for the 2021-2022 fiscal year, so the Legislature's intent to fund the program is unknown.

The DOH indicates it will need to hire one full-time equivalent employee and one "other personal services" employee to implement the bill and will need funding for the marketing and outreach that the bill requires. The DOH estimates a total negative fiscal impact of $195,701 in general revenue, about $4,500 of which is nonrecurring.[39]

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 51-53 of the bill direct the DOH to contract with "eligible family planning providers" to implement the HLARC program throughout the state, but the bill does not provide criteria under which a family planning provider would be considered "eligible."

VIII. Statutes Affected:

This bill creates section 381.00515 of the Florida Statutes.

[39] Florida Dept. of Health, *supra,* note 11.

This bill creates a non-statutory section within the Laws of Florida.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.