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26 United States Supreme Court confirmed the constitutional right
27 of all people to legally access contraceptives regardless of
28 marital status, and

29 WHEREAS, in *Carey v. Population Services International*, 431
30 U.S. 678 (1977), the United States Supreme Court affirmed the
31 constitutional right to contraceptives for minors, and

32 WHEREAS, the right to contraception has been repeatedly
33 recognized internationally as a human right, and

34 WHEREAS, the United Nations Population Fund has published
35 several reports outlining family planning as a basic human right
36 that advances women's health, economic empowerment, and
37 equality, and

38 WHEREAS, access to contraceptives is internationally
39 recognized by the World Health Organization as advancing other
40 human rights such as the right to life, liberty, expression,
41 health, work, and education, and

42 WHEREAS, contraception is safe, essential health care, and
43 access to contraceptive products and services is central to
44 people's ability to participate equally in economic and social
45 life, allowing people to make decisions about their families and
46 their lives, and

47 WHEREAS, contraception is key to sexual and reproductive
48 health and is critical to preventing unintended pregnancy, and
49 many contraceptives are highly effective in preventing and
50 treating a wide array of often severe medical conditions and

51 decrease the risk of certain cancers, and

52 WHEREAS, family planning improves health outcomes for
 53 women, their families, and their communities and reduces rates
 54 of maternal and infant mortality and morbidity, and

55 WHEREAS, the United States has a long history of
 56 reproductive coercion, including the childbearing forced upon
 57 enslaved women, as well as the forced sterilization of Black
 58 women, Puerto Rican women, indigenous women, immigrant women,
 59 and disabled women, and reproductive coercion continues to
 60 occur, and

61 WHEREAS, the right to make personal decisions about
 62 contraceptive use is important for all people, and is especially
 63 critical for historically marginalized groups, including Black,
 64 indigenous, and other people of color; immigrants; lesbian, gay,
 65 bisexual, transgender, and queer people; people with
 66 disabilities; people with low incomes; and people living in
 67 rural and underserved areas, and

68 WHEREAS, many people who are part of these marginalized
 69 groups already face barriers, exacerbated by social, political,
 70 economic, and environmental inequities, to comprehensive health
 71 care, including reproductive health care, that reduce their
 72 ability to make decisions about their health, families, and
 73 lives, and

74 WHEREAS, policies governing pharmaceutical and insurance
 75 policies affect the accessibility of contraceptives and the

76 settings in which contraception services are delivered, and
 77 WHEREAS, despite the clearly established constitutional
 78 right to contraception, access to contraceptives, including
 79 emergency contraceptives and long-acting reversible
 80 contraceptives, has been obstructed in various ways, and

81 WHEREAS, as of June 2023, at least 4 states tried to ban
 82 access to some or all contraceptives by restricting access to
 83 public funding for these products and services, and

84 WHEREAS, health care providers' refusals to offer
 85 contraceptives and contraception-related information on the
 86 basis of their own personal beliefs impede patients from
 87 obtaining their preferred method of contraception, and

88 WHEREAS, states have attempted to define abortion
 89 expansively so as to include contraceptives in state bans on
 90 abortion and have also restricted access to emergency
 91 contraception, and

92 WHEREAS, in June 2022, Justice Thomas, in his concurring
 93 opinion in *Dobbs v. Jackson Women's Health Organization*, 142 S.
 94 Ct. 2228 (2022), stated that the United States Supreme Court
 95 "should reconsider all of this Court's substantive due process
 96 precedents, including *Griswold*, *Lawrence*, and *Obergefell*" and
 97 that the court has "a duty to correct the error established in
 98 those precedents" by overruling them, and

99 WHEREAS, in order to further public health and to combat
 100 efforts to restrict access to reproductive health care, action

101 is necessary to protect access to contraceptives, contraception,
 102 and contraception-related information for everyone, regardless
 103 of actual or perceived race, ethnicity, sex, including gender
 104 identity and sexual orientation, income, disability, national
 105 origin, immigration status, or geography, NOW, THEREFORE,

107 Be It Enacted by the Legislature of the State of Florida:

109 Section 1. Section 381.998, Florida Statutes, is created
 110 to read:

111 381.998 Right to contraception.-

112 (1) This section may be cited as the "Right to
 113 Contraception Act."

114 (2) As used in this section, the term:

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

118 (b) "Contraceptive" means any drug, device, or biological
 119 product intended for use in the prevention of pregnancy, whether
 120 specifically intended to prevent pregnancy or for other health
 121 needs, that is legally marketed under the Federal Food, Drug,
 122 and Cosmetic Act, such as oral contraceptives, long-acting
 123 reversible contraceptives, emergency contraceptives, internal
 124 and external condoms, injectables, vaginal barrier methods,
 125 transdermal patches, and vaginal rings or other contraceptives.

126 (c) "Health care provider" has the meaning as in s.
 127 381.00321(1).

128 (d) "Political subdivision" has the same meaning as in s.
 129 1.01(8).

130 (3)(a) A person may obtain contraceptives and engage in
 131 contraception, and a health care provider may provide
 132 contraceptives, contraception, and contraception-related
 133 information.

134 (b) This subsection does not limit any of the following:

135 1. Expressly, effectively, implicitly, or as implemented,
 136 the provision of contraceptives, contraception, or
 137 contraception-related information; health care providers who
 138 provide contraceptives, contraception, or contraception-related
 139 information; or facilities in which contraceptives,
 140 contraception, or contraception-related information is provided.

141 2. Access to contraceptives, contraception, or
 142 contraception-related information.

143 (c) For a defense against a claim that a limitation or
 144 requirement violates a health care provider's or patient's
 145 rights under paragraph (b), a party must establish, by clear and
 146 convincing evidence, all of the following:

147 1. The limitation or requirement significantly advances
 148 the safety of contraceptives, contraception, and contraception-
 149 related information.

150 2. The safety of contraceptives, contraception, and

151 contraception-related information or the health of patients
 152 cannot be advanced by a less restrictive alternative measure or
 153 action.

154 (4) (a) The state or any political subdivision may not
 155 administer, implement, or enforce any law, rule, regulation,
 156 standard, or other provision having the force and effect of law
 157 in a manner that:

158 1. Prohibits or restricts the sale, provision, or use of
 159 any contraceptives that have been approved by the federal Food
 160 and Drug Administration for contraceptive purposes.

161 2. Prohibits or restricts any person from aiding another
 162 person in obtaining any contraceptives approved by the federal
 163 Food and Drug Administration or contraceptive methods.

164 3. Exempts any contraceptives approved by the federal Food
 165 and Drug Administration from any other general law in a way that
 166 would make it more difficult to sell, provide, obtain, or use
 167 those contraceptives or contraceptive methods.

168 (b) This section does not supersede or otherwise affect
 169 any provision relating to coverage under group health plans or
 170 group or individual health insurance coverage and may not be
 171 construed as requiring the provision of specific benefits under
 172 these plans or coverage.

173 (c) An individual or entity who is subject to a limitation
 174 or requirement that violates this section shall have an
 175 affirmative defense to any action brought under this section to

176 any cause of action against the individual or entity.

177 (5) (a) This section shall be liberally construed to
 178 effectuate its purposes.

179 (b) This section does not:

180 1. Authorize the state or a political subdivision to
 181 interfere with a health care provider's ability to provide
 182 contraceptives or contraception-related information or a
 183 person's ability to obtain contraceptives or to engage in
 184 contraception.

185 2. Permit or sanction the conduct of any sterilization
 186 procedure without the patient's voluntary and informed consent.

187 (6) (a) The Attorney General may commence a civil action on
 188 behalf of the state against any person that violates or enforces
 189 a limitation or requirement that violates this section. In any
 190 civil action brought under this paragraph, the Attorney General
 191 may compromise and settle the action as he or she determines is
 192 in the best interest of the state.

193 (b) Any person or entity, including a health care provider
 194 or patient, adversely affected by an alleged violation of this
 195 section may commence a civil action against any person that
 196 violates, implements, or enforces a limitation or a requirement
 197 that violates this section.

198 (c) A health care provider may commence an action for
 199 relief on its own behalf, on behalf of the health care
 200 provider's staff, and on behalf of the health care provider's

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201 patients who are or may be adversely affected by an alleged
202 violation of this section.

203 (d) If a court finds that there has been a violation of
204 this section, the court shall hold unlawful and set aside the
205 limitation or requirement. In any action under this section, the
206 court may award appropriate equitable relief, including
207 temporary, preliminary, or permanent injunctive relief.

208 (e) The court shall award to any prevailing plaintiff
209 attorney fees and costs. Unless a court determines an action is
210 frivolous, the court may not hold a plaintiff liable to a
211 defendant for attorney fees and costs in an action under this
212 section.

213 Section 2. This act shall take effect July 1, 2024.