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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Affordability is Access Act of 2026''.

SEC. 2. PURPOSE.

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

tion by, the Food and Drug Administration for use without a prescription.

SEC. 3. FINDINGS.

The Senate finds the following:

(1) Birth control is critical health care that almost all women, as well as many trans men and nonbinary people, will use at some point in their lifetimes.

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

(3) Contraceptive access is associated with health benefits for women, newborns, families, and communities and can lower the risk of harm to maternal and infant health.

(4) An estimated 73,000,000 women of reproductive age (ages 15 through 49) live in the United States. Among the 46,000,000 of such women who are sexually active and not seeking children, 89 percent use a form of birth control.

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

advancing access to birth control and has helped ensure 58,000,000 women have the power to decide for themselves if and when to become pregnant.

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

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

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

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

SEC. 4. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) in order to increase access to oral birth control, such birth control must be both easier to obtain and affordable and, to make such birth control either easier to obtain or more affordable, but not both, is to leave unacceptable barriers in place;

(2) women are often denied coverage for the newer contraceptive products on the market, even though contraceptives are required by law to be covered at 100 percent, which both limits patients' options and discourages the development of new contraceptive products;

(3) it is imperative that the entities that research and develop oral birth control and whose medical and scientific experts have developed clinical and other evidence that oral birth control for routine, daily use is safe and effective when sold without a prescription, apply to the Food and Drug Administration for review and approval for sale of such birth control without a prescription;

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

whether the oral birth control meets the rigorous safety, efficacy, and quality standards for over-the-counter use under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), and if the product meets those standards, the Food and Drug Administration should approve the application without delay; and

(5) if and when the Food and Drug Administration approves an oral birth control that is available over-the-counter, such birth control should be covered by health insurance, without a prescription and without cost-sharing.

SEC. 5. CLARIFYING COVERAGE REQUIREMENTS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall clarify that coverage of contraceptives pursuant to section 2713(a)(4) of the Public Health Service Act (42 U.S.C. 300gg–13(a)(4)) includes coverage of—

(1) all over-the-counter contraceptives approved, granted, or cleared by the Food and Drug Administration, even if the enrollee does not have a prescription for the contraceptive; and

(2) all prescription contraceptives approved, granted, or cleared by the Food and Drug Administration, except that, in the case of any prescription

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

SEC. 6. RULES OF CONSTRUCTION.

(a) NON-INTERFERENCE WITH FDA REGULATION.—Nothing in this Act shall be construed to modify or interfere with Food and Drug Administration processes to review or approve, or otherwise determine the safety and efficacy of, and make available, non-prescription drugs or devices, modify or interfere with the scientific and medical considerations of the Food and Drug Administration, or alter any other authority of the Food and Drug Administration.

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

SEC. 7. DUTIES OF RETAILERS TO ENSURE ACCESS TO CONTRACEPTION FOR USE WITHOUT A PRESCRIPTION.

(a) IN GENERAL.—Any retailer that stocks contraception that is approved, granted, or cleared by, or otherwise legally marketed under regulation by, the Food and Drug Administration for use without a prescription may not interfere with an individual's access to or purchase of such contraception or access to medically accurate, comprehensive information about such contraception.

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