

# SENATE BILL No. 305

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-10-8-23; IC 27-8-36; IC 27-13-7-25.

**Synopsis:** Contraceptive coverage. Requires state employee health plans, policies of accident and sickness insurance, and health maintenance organization contracts to provide coverage for contraceptive products and services without cost sharing. Exempts certain policies and contracts sold to certain employers.

**Effective:** July 1, 2020.

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January 9, 2020, read first time and referred to Committee on Insurance and Financial Institutions.

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Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

# SENATE BILL No. 305

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-10-8-23 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2020]: **Sec. 23. (a) As used in this section, "contraceptive  
4 products and services" means the following:**  
5 **(1) All contraceptive drugs, devices, products, and procedures  
6 that are approved by the federal Food and Drug  
7 Administration. However, the term does not include:**  
8 **(A) male condoms; or**  
9 **(B) oral contraceptive drugs for which there is no  
10 therapeutic equivalent.**  
11 **(2) All emergency contraception that is approved by the  
12 federal Food and Drug Administration.**  
13 **(3) A prescription contraceptive drug, device, or product that  
14 is dispensed in a dosage or amount that is intended to last for  
15 a period not to exceed:**  
16 **(A) three (3) months when first dispensed; and**  
17 **(B) twelve (12) months each time the prescription**



- 1           contraceptive is subsequently dispensed.
- 2           **(4) Voluntary female sterilization procedures.**
- 3           **(5) Voluntary male sterilization procedures.**
- 4           **(6) Patient education and counseling concerning**
- 5           **contraception.**
- 6           **(7) Follow-up services related to a rendered contraceptive**
- 7           **drug, device, product, or procedure.**
- 8           **(b) As used in this section, "cost sharing" means payment by a**
- 9           **covered individual of a deductible, coinsurance, copayment, or**
- 10           **other out-of-pocket cost required under a state employee health**
- 11           **plan.**
- 12           **(c) As used in this section, "covered individual" means an**
- 13           **individual entitled to coverage under a state employee health plan.**
- 14           **(d) As used in this section, "state employee health plan" means**
- 15           **the following:**
- 16               **(1) A self-insurance program established under section 7(b) of**
- 17               **this chapter.**
- 18               **(2) A contract for prepaid health care services entered into**
- 19               **under section 7(c) of this chapter.**
- 20           **(e) As used in this section, "therapeutic equivalent" means a**
- 21           **drug, device, or product that, in relation to another drug, device,**
- 22           **or product:**
- 23               **(1) is:**
- 24                   **(A) approved as safe and effective; and**
- 25                   **(B) assigned the same therapeutic equivalence code;**
- 26               **by the federal Food and Drug Administration;**
- 27               **(2) contains identical amounts:**
- 28                   **(A) of the same active drug ingredient; and**
- 29                   **(B) in the same dosage form and route of administration;**
- 30               **and**
- 31               **(3) meets compendial or other applicable standards of**
- 32               **strength, quality, purity, and identity.**
- 33           **(f) A state employee health plan shall provide coverage for**
- 34           **contraceptive products and services without cost sharing, subject**
- 35           **to the following:**
- 36               **(1) If:**
- 37                   **(A) a contraceptive product or service has at least one (1)**
- 38                   **therapeutic equivalent contraceptive product or service;**
- 39                   **and**
- 40                   **(B) the covered individual's health care provider has not**
- 41                   **prohibited substitution of a therapeutic equivalent**
- 42                   **contraceptive product or service;**



1           **only one (1) of the contraceptive products or services must be**  
 2           **covered without cost sharing.**

3           **(2) If:**

4           **(A) a contraceptive product or service has at least one (1)**  
 5           **therapeutic equivalent contraceptive product or service;**  
 6           **and**

7           **(B) the covered individual's health care provider has**  
 8           **prohibited substitution of a therapeutic equivalent**  
 9           **contraceptive product or service;**

10           **the contraceptive product or service specifically prescribed by**  
 11           **the covered individual's health care provider must be covered**  
 12           **without cost sharing.**

13           SECTION 2. IC 27-8-36 IS ADDED TO THE INDIANA CODE AS  
 14           A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 15           1, 2020]:

16           **Chapter 36. Coverage for Contraceptive Products and Services**

17           **Sec. 1. As used in this chapter, "church" means a church, a**  
 18           **convention or association of churches, or an elementary or**  
 19           **secondary school that is controlled, operated, or principally**  
 20           **supported by a church or a convention or association of churches.**

21           **Sec. 2. As used in this chapter, "contraceptive products and**  
 22           **services" means the following:**

23           **(1) All contraceptive drugs, devices, products, and procedures**  
 24           **that are approved by the federal Food and Drug**  
 25           **Administration. However, the term does not include:**

26           **(A) male condoms; or**

27           **(B) oral contraceptive drugs for which there is no**  
 28           **therapeutic equivalent.**

29           **(2) All emergency contraception that is approved by the**  
 30           **federal Food and Drug Administration.**

31           **(3) A prescription contraceptive drug, device, or product that**  
 32           **is dispensed in a dosage or amount that is intended to last for**  
 33           **a period not to exceed:**

34           **(A) three (3) months when first dispensed; and**

35           **(B) twelve (12) months each time the prescription**  
 36           **contraceptive is subsequently dispensed.**

37           **(4) Voluntary female sterilization procedures.**

38           **(5) Voluntary male sterilization procedures.**

39           **(6) Patient education and counseling concerning**  
 40           **contraception.**

41           **(7) Follow-up services related to a rendered contraceptive**  
 42           **drug, device, product, or procedure.**



1           **Sec. 3. As used in this chapter, "cost sharing" means payment**  
 2 **by an insured of a deductible, coinsurance, copayment, or other**  
 3 **out-of-pocket cost required under a policy of accident and sickness**  
 4 **insurance.**

5           **Sec. 4. As used in this chapter, "insured" means an individual**  
 6 **entitled to coverage under a policy of accident and sickness**  
 7 **insurance.**

8           **Sec. 5. (a) Subject to subsection (b), as used in this chapter,**  
 9 **"policy of accident and sickness insurance" has the meaning set**  
 10 **forth in IC 27-8-5-1.**

11           **(b) As used in this chapter, "policy of accident and sickness**  
 12 **insurance" does not include a policy purchased by an employer**  
 13 **that:**

- 14           **(1) is a church or qualified church controlled organization;**
- 15           **(2) notifies the department of insurance that the employer is**  
 16 **a church or qualified church controlled organization; and**
- 17           **(3) provides written notice to employees, before enrollment in**  
 18 **the policy of accident and sickness insurance, listing the**  
 19 **contraceptive products and services for which the policy does**  
 20 **not provide coverage as a result of the employer's religious**  
 21 **objections.**

22           **Sec. 6. As used in this chapter, "qualified church controlled**  
 23 **organization" refers to a church controlled organization that is**  
 24 **described in Section 501(c)(3) of the Internal Revenue Code.**  
 25 **However, the term does not include an organization that:**

- 26           **(1) offers goods, services, or facilities for sale, other than on**  
 27 **an incidental basis, to the general public, other than goods,**  
 28 **services, or facilities that are sold at a nominal charge that is**  
 29 **substantially less than the cost of providing the goods,**  
 30 **services, or facilities; and**
- 31           **(2) normally receives more than twenty-five percent (25%) of**  
 32 **the organization's support from either or both of the**  
 33 **following:**
  - 34           **(A) Governmental sources.**
  - 35           **(B) Receipts from admissions, sales of merchandise,**  
 36 **performance of services, or furnishing of facilities in**  
 37 **activities that are not unrelated trades or businesses.**

38           **Sec. 7. As used in this chapter, "therapeutic equivalent" means**  
 39 **a drug, device, or product that, in relation to another drug, device,**  
 40 **or product:**

- 41           **(1) is:**
  - 42           **(A) approved as safe and effective; and**



- 1           **(B) assigned the same therapeutic equivalence code;**  
 2           **by the federal Food and Drug Administration;**  
 3           **(2) contains identical amounts:**  
 4           **(A) of the same active drug ingredient; and**  
 5           **(B) in the same dosage form and route of administration;**  
 6           **and**  
 7           **(3) meets compendial or other applicable standards of**  
 8           **strength, quality, purity, and identity.**

9           **Sec. 8. A policy of accident and sickness insurance shall provide**  
 10           **coverage for contraceptive products and services without cost**  
 11           **sharing, subject to the following:**

12           **(1) If:**

13           **(A) a contraceptive product or service has at least one (1)**  
 14           **therapeutic equivalent contraceptive product or service;**  
 15           **and**

16           **(B) the insured's health care provider has not prohibited**  
 17           **substitution of a therapeutic equivalent contraceptive**  
 18           **product or service;**

19           **only one (1) of the contraceptive products or services must be**  
 20           **covered without cost sharing.**

21           **(2) If:**

22           **(A) a contraceptive product or service has at least one (1)**  
 23           **therapeutic equivalent contraceptive product or service;**  
 24           **and**

25           **(B) the insured's health care provider has prohibited**  
 26           **substitution of a therapeutic equivalent contraceptive**  
 27           **product or service;**

28           **the contraceptive product or service specifically prescribed by**  
 29           **the insured's health care provider must be covered without**  
 30           **cost sharing.**

31           **SECTION 3. IC 27-13-7-25 IS ADDED TO THE INDIANA CODE**  
 32           **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**  
 33           **1, 2020]: Sec. 25. (a) As used in this section, "church" means a**  
 34           **church, a convention or association of churches, or an elementary**  
 35           **or secondary school that is controlled, operated, or principally**  
 36           **supported by a church or a convention or association of churches.**

37           **(b) As used in this section, "contraceptive products and**  
 38           **services" means the following:**

39           **(1) All contraceptive drugs, devices, products, and procedures**  
 40           **that are approved by the federal Food and Drug**  
 41           **Administration. However, the term does not include:**

42           **(A) male condoms; or**



- 1           **(B) oral contraceptive drugs for which there is no**  
 2           **therapeutic equivalent.**  
 3           **(2) All emergency contraception that is approved by the**  
 4           **federal Food and Drug Administration.**  
 5           **(3) A prescription contraceptive drug, device, or product that**  
 6           **is dispensed in a dosage or amount that is intended to last for**  
 7           **a period not to exceed:**  
 8               **(A) three (3) months when first dispensed; and**  
 9               **(B) twelve (12) months each time the prescription**  
 10            **contraceptive is subsequently dispensed.**  
 11           **(4) Voluntary female sterilization procedures.**  
 12           **(5) Voluntary male sterilization procedures.**  
 13           **(6) Patient education and counseling concerning**  
 14            **contraception.**  
 15           **(7) Follow-up services related to a rendered contraceptive**  
 16            **drug, device, product, or procedure.**  
 17           **(c) As used in this section, "cost sharing" means payment of a**  
 18            **copayment or other out-of-pocket cost required under a group**  
 19            **contract.**  
 20           **(d) As used in this section, "group contract" does not include a**  
 21            **group contract purchased by an employer that:**  
 22               **(1) is a church or qualified church controlled organization;**  
 23               **(2) notifies the department of insurance that the employer is**  
 24               **a church or qualified church controlled organization; and**  
 25               **(3) provides written notice to employees, before enrollment in**  
 26               **the group contract, listing the contraceptive products and**  
 27               **services for which the group contract does not provide**  
 28               **coverage as a result of the employer's religious objections.**  
 29           **(e) As used in this section, "qualified church controlled**  
 30            **organization" refers to a church controlled organization that is**  
 31            **described in Section 501(c)(3) of the Internal Revenue Code.**  
 32            **However, the term does not include an organization that:**  
 33               **(1) offers goods, services, or facilities for sale, other than on**  
 34               **an incidental basis, to the general public, other than goods,**  
 35               **services, or facilities that are sold at a nominal charge that is**  
 36               **substantially less than the cost of providing the goods,**  
 37               **services, or facilities; and**  
 38               **(2) normally receives more than twenty-five percent (25%) of**  
 39               **the organization's support from either or both of the**  
 40               **following:**  
 41                   **(A) Governmental sources.**  
 42                   **(B) Receipts from admissions, sales of merchandise,**



- 1 performance of services, or furnishing of facilities in  
 2 activities that are not unrelated trades or businesses.
- 3 (f) As used in this chapter, "therapeutic equivalent" means a  
 4 drug, device, or product that, in relation to another drug, device,  
 5 or product:
- 6 (1) is:
- 7 (A) approved as safe and effective; and  
 8 (B) assigned the same therapeutic equivalence code;  
 9 by the federal Food and Drug Administration;
- 10 (2) contains identical amounts:
- 11 (A) of the same active drug ingredient; and  
 12 (B) in the same dosage form and route of administration;  
 13 and
- 14 (3) meets compendial or other applicable standards of  
 15 strength, quality, purity, and identity.
- 16 (g) An individual contract or a group contract shall provide  
 17 coverage for contraceptive products and services without cost  
 18 sharing, subject to the following:
- 19 (1) If:
- 20 (A) a contraceptive product or service has at least one (1)  
 21 therapeutic equivalent contraceptive product or service;  
 22 and  
 23 (B) the enrollee's health care provider has not prohibited  
 24 substitution of a therapeutic equivalent contraceptive  
 25 product or service;  
 26 only one (1) of the contraceptive products or services must be  
 27 covered without cost sharing.
- 28 (2) If:
- 29 (A) a contraceptive product or service has at least one (1)  
 30 therapeutic equivalent contraceptive product or service;  
 31 and  
 32 (B) the enrollee's health care provider has prohibited  
 33 substitution of a therapeutic equivalent contraceptive  
 34 product or service;  
 35 the contraceptive product or service specifically prescribed by  
 36 the enrollee's health care provider must be covered without  
 37 cost sharing.
- 38 SECTION 4. [EFFECTIVE JULY 1, 2020] (a) IC 5-10-8-23, as  
 39 added by this act, applies to a state employee health plan that is  
 40 established, entered into, amended, or renewed after June 30, 2020.
- 41 (b) IC 27-8-36, as added by this act, applies to a policy of  
 42 accident and sickness insurance that is issued, delivered, amended,





- 1 or renewed after June 30, 2020.
- 2 (c) IC 27-13-7-25, as added by this act, applies to an individual
- 3 contract and a group contract that is entered into, delivered,
- 4 amended, or renewed after June 30, 2020.
- 5 (d) This SECTION expires July 1, 2023.

