

Support HB 2338

The Birth Control Protection Act

The Problem: The Code of Virginia does not distinguish between FDA-approved methods of contraception and abortion. In the absence of a statutory definition, there have been attempts to blur the lines between contraception and abortion, as well as limit access to family planning services under the code section relating to abortion:

- In 2002, the Virginia House of Delegates passed HB 563, which sought to limit access to “any birth control pill or other medicine for the purpose of performing an abortion.”
- In 2003, the Board of Visitors of James Madison University voted to stop dispensing emergency contraception on campus at the insistence of currently sitting members of the House and State Senate by characterizing the FDA-approved contraceptive as “abortion.”
- In 2003, the Virginia House of Delegates passed HB 1741, a measure that presumably enabled any Virginia “pharmacist” to refuse to “[dispense] any medication prescribed for the purpose of performing an abortion.” This measure targeted contraceptives since abortion medications are not dispensed at pharmacies and can only be administered by a licensed medical clinician.
- In 2007, HB 2797 was introduced to define human life as beginning at “the moment of fertilization,” a definition that threatens access to many FDA-approved methods of contraception. This year’s HB 1639 poses a similar threat to access to contraception.

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The Solution: Amend § 54.1-2900 of the Code of Virginia to include a definition of birth control: *“Birth control” means contraceptive methods that are approved by the U.S. Food and Drug Administration. Birth control shall not be considered abortion for the purposes of Title 18.2.*

Contraception is basic health care for women—it reduces unintended pregnancy and thus the need for abortion.

- More than 40 million women of reproductive age are sexually active and do not want to become pregnant.¹ Timely access to birth control is essential to preventing unintended pregnancies.
- In the United States, the average woman wants only two children and will spend five years of her life pregnant or trying to get pregnant and nearly three decades trying to avoid pregnancy.² If a woman does not have access to contraception, she could have between 12 and 15 pregnancies, endangering her health and the health of her children.³
- Contraceptive use is a key predictor of women’s recourse to abortion. The very small group of American women who are at risk of experiencing an unintended pregnancy but are not using contraceptives account for almost half of all abortions—46% in 2000.⁴

Federal law and accepted medical definition distinguish between abortion and contraception.

- Federal law differentiates between abortion and contraception, defined as “drugs or devices to prevent implantation of the fertilized ovum.”⁵
- The American College of Obstetricians and Gynecologists states, “the primary contraceptive effect of all the non-barrier methods, including emergency contraceptive pills, is to prevent ovulation and/or fertilization. Additional contraceptive actions for all of these also may affect the process beyond fertilization but prior to pregnancy.”⁶
- The American Medical Association states that hormonal contraception that may affect implantation “cannot terminate an established pregnancy.”⁷

¹ The Alan Guttmacher Institute, Facts in Brief: Contraceptive Use (Jan 2008). ² Ibid. ³ Abigail Trafford, *Viagra and the Other Sex Pill*, WASH. POST, May 19, 1998, at Z6. ⁴ The Alan Guttmacher Institute, *State Facts About Abortion*, <http://www.guttmacher.org/pubs/sfaa/virginia.html> ⁵ The Alan Guttmacher Institute, *The Implications of Defining When a Woman is Pregnant*, [guttmacher.org/pubs/tgr/08/2/gr080207.html](http://www.guttmacher.org/pubs/tgr/08/2/gr080207.html), May 2005 ⁶ Ibid. ⁷ Ibid.



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