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The Supreme Court Recognized a Constitutional Right to Contraception in 1965: 60 years later, Gaps Persist and Attacks Continue

June 7, 2025, marks the 60th anniversary of the Supreme Court's landmark decision in *Griswold v. Connecticut*.¹ This decision was the first time the Supreme Court of the United States recognized a constitutional right to birth control. Birth control is integral to people's ability to make decisions about their reproductive health and family planning, giving individuals greater control over their futures; access to birth control also improves health outcomes.²

While *Griswold* and subsequent cases have paved the way for a significant expansion of birth control access during the past 60 years, this progress is not set in stone. Despite the popularity and prevalence of birth control, progress has been uneven, with continuous attacks on the right to contraception as well as access. Gaps in contraception access persist to the present day, and in the last decade, these attacks have become increasingly brazen and harmful – threatening both the right itself and access all together. In this moment, it is important to identify both the progress and the threats, and to address the inequities that continue to limit access. Only then is it possible to ensure that every individual can access the contraceptive methods that best meet their needs.

The Right to Contraception Evolved Over Time and Has Led to Birth Control's Use and Popularity.

The constitutional right to contraception expanded gradually. The 1965 *Griswold* decision marked the initial step, establishing the right for married people, deeming it a fundamental constitutional right. As societal attitudes evolved, the Supreme Court heard additional cases that reinforced and broadened this protection. The Supreme Court expanded the right to contraception to unmarried individuals in the 1972 case *Eisenstadt v. Baird*.³ In 1977, the Supreme Court made clear that minors also have a constitutional right to contraception in *Carey v. Population Services International*,⁴ invalidating a state law that prohibited minors' access to birth control. The Court in that case made clear that blanket prohibitions on the right to access contraception are unconstitutional.⁵

Over the six decades since *Griswold*, because of federal and state-level legal protections and programs to expand contraceptive access, birth control has become increasingly accessible. Following the *Griswold* decision, states with birth control restrictions repealed them, increasing access across the country. Additional birth control methods became available on the market, improving user experience by increasing options so patients could obtain birth control that best fit their needs.⁶ As described below, the federal government and states began to advance policies, programs, and laws to expand contraceptive access.⁷

All of this has led to the widespread use and popularity of birth control. Today, most women⁸ of reproductive age in America use some form of birth control.⁹ While a majority use it for pregnancy prevention, at least one in seven use it for other reasons, such as managing a medical condition or preventing sexually transmitted infections.¹⁰ And protecting the right to birth control is also extremely popular, with over 90% of Americans supporting the legality of birth control.¹¹

Chipping Away at the Right and Access to Birth Control.

While the decades after *Griswold* brought increased access to contraceptives, attacks on contraception began, still persist, and are even increasing.

The Supreme Court Recently Laid the Groundwork for Overturning the Right to Contraception.

In 2022, the Supreme Court made it abundantly clear that reproductive rights in this country are not safe when they erroneously overturned decades of precedent and overruled the constitutional right to abortion in *Dobbs v. Jackson Women's Health Organization*.¹² While the Supreme Court justices who voted to overturn *Roe v. Wade* tried to claim that their ruling does not affect the right to contraception, the decision actually lays the groundwork for that exact outcome.¹³ And one of those Supreme Court justices, Justice Thomas, called for the Court to reconsider and overturn *Griswold* and similar cases.¹⁴

Critical Federal Programs Providing Birth Control Access Are Under Attack.

Since the decision in *Griswold*, the federal government has recognized the fundamental importance of birth control to people's lives and enacted laws and created programs to help enable people access the birth control they need. That has included addressing one of the most significant barriers to birth control access: cost. Studies have repeatedly shown that cost is a barrier to people using the birth control that

they want.¹⁵ Three federal programs have been instrumental in addressing cost barriers to birth control but are facing sustained attempts to roll them back or undermine them.

- **The Title X Program-** Created by Congress and President Nixon in 1970, Title X is the nation's comprehensive family planning services program. Title X clinics provide free family planning services for individuals below the federal poverty line¹⁶ and a sliding scale for other low-income individuals. This includes the uninsured who do not qualify for Medicaid, filling an important coverage gap, especially in states without "Medicaid expansion." Title X was serving 3.9 million people in 2018,¹⁷ but after the first Trump Administration imposed burdensome restrictions,¹⁸ this plummeted to just 1.5 million in 2020. The current administration is seeking to curtail Title X again.¹⁹ In 2025, the Trump Administration has illegally frozen \$65.8 million in Title X grants from 16 providers,²⁰ leaving seven states entirely without any Title X funding.²¹ These harmful actions have been challenged in court, but in the meantime, according to at least one estimate, over 834,000 people could lose access without restored funding.²²
- **Medicaid Coverage-** Medicaid was established by Congress in 1972 to provide healthcare to people with low incomes. Family planning services have been a cornerstone of the program: the federal Medicaid law classifies family planning as a "mandatory" benefit, meaning that the government pays a higher matching rate for these services than for other services, and enrollees do not have to pay cost-sharing for contraceptives.²³ Medicaid also guarantees that enrollees can obtain services from any provider (known as the "free-choice-of-provider provision"). Over the years, Medicaid coverage has continued to improve, particularly as most states expanded access to Medicaid to additional individuals following the passage of the Affordable Care Act. A 2023 review of existing studies showed, in part, that Medicaid expansion led to increased healthcare coverage, including increasing both short and long-term contraceptive use.²⁴ Despite the importance of Medicaid to people's health, financial security, and lives, threats are looming. Congress is currently considering a reconciliation bill, a type of spending bill, that proposes to cut hundreds of millions of dollars²⁵ in Medicaid coverage which would, according to the Congressional Budget Office, deny Medicaid coverage to over 10 million people across the country.²⁶ As of June 7th, 2025, the reconciliation

package has passed the House and is being debated in the Senate.²⁷ At the same time, the Supreme Court is poised to decide whether Medicaid enrollees will continue to be able to access care from the provider of their choice.²⁸ Losing access to a trusted provider can undermine personalized care, disrupt trust, and create barriers to timely and effective treatment, ultimately compromising health outcomes and autonomy, especially for certain underserved communities.

- **The ACA's Birth Control Benefit-** One of the most well-known provisions of the Affordable Care Act is the requirement that most private health plans in the country, as well as plans under the ACA's Medicaid expansion, cover the full range of contraception and related services, without cost-sharing.²⁹ However, some individuals are enrolled in plans that are not required to provide this coverage, including those who are enrolled in plans that refuse to cover contraception. This is the result of Trump administration rules and lawsuits against the ACA's birth control benefit, which led to Supreme Court cases allowing a range of nonprofit and private employers to deny this critical coverage to their employees.³⁰ Most recently, the Trump administration has continued a concerted effort to repeal and weaken the ACA overall³¹ and Project 2025 outlines specific ways to undermine the birth control benefit in particular.³² And is likely that the legal assault on this benefit will continue.³³

Attacks on Sources of Accurate Birth Control Information.

Over the last six decades, the federal government has taken action to make sure that people have access to the information needed to make decisions about birth control. This includes producing up-to-date resources for health care providers through the Centers for Disease Control and Prevention (CDC), part of the federal Department of Health and Human Services. The CDC has long maintained important resources about birth control, particularly the "U.S. Medical Eligibility Criteria for Contraceptive Use," which are guidelines that allow health care providers to assess which contraception is best for patients with specific medical conditions. In early February 2025, these guidelines were taken down in response to Trump's Executive Order³⁴ ordering the removal of all content related to Diversity, Equity, and Inclusion (DEI). Courts ordered that the guidelines be restored, but when the administration added them back to the government website, it did so under text that harmfully calls into question the validity of these guidelines.³⁵

The CDC then fired hundreds of scientists in April of 2025, including the entire team that maintained the guidance.³⁶ As a result, the continued reliability of this long-standing evidence-based resource that ensures access to safe and medically appropriate birth control is in question.

State Legislatures and Officials Are Targeting Contraception.

At the state level, some legislatures have sought to enshrine a right and access to birth control in state law.³⁷ Unfortunately, in other states, lawmakers have sought to reduce birth control access³⁸ and spread misinformation about pregnancy and birth control.³⁹

This has included imposing age restrictions on accessing contraception, so that young people cannot obtain the contraceptive care they need, Parental consent requirements and various age restrictions exist in over 20 states, impacting minors' ability to receive confidential contraceptive services.⁴⁰ Other states are requiring prescriptions where none are necessary for certain contraceptive methods, adding barriers to people's ability to get Medicaid or other insurance coverage for the contraception they need. At least 8 others including states like Oklahoma have sought to restrict access to certain birth control methods like IUDs and emergency contraceptives, often targeting the most vulnerable populations.⁴¹ State legislators often use blatant misinformation to justify their proposed restrictions on emergency contraception.⁴²

Existing Barriers to Access Continue to Persist and Should be Addressed.

In addition to new attacks on birth control restricting access, other barriers have existed since Griswold and continue to exist. Among these are:

- **Prescription Requirements For Over-the-Counter Methods-** In 2024, "Opill," a progestin-only pill, became the first daily birth control pill to be offered for sale on store shelves without a prescription. This can significantly improve people's ability to get birth control by removing the barriers and costs associated with getting a birth control prescription. However, not all private insurance and not all state Medicaid plans cover Opill without a prescription, forcing many who want this over-the-counter (OTC) method, to pay out of pocket, negating the potential benefit of OTC in improving access. While a few states require insurance coverage for over-the-counter contraceptives without requiring a prescription or cost-sharing, not all of them include

state Medicaid programs in their requirements, and few if any of these states have provided clear guidance on billing, claims, or operations to ensure people can actually use this benefit.⁴³ Federal officials have the authority and should require nationwide coverage of OTC contraceptives without a prescription,⁴⁴ which could provide 56.8 million women with full coverage of OTC contraception methods.⁴⁵ State governments can also pass legislation requiring this benefit for state-regulated insurance plans and in their Medicaid plans.

- **Lack of No-Cost Coverage for Vasectomies-** While the ACA requires coverage of no-cost birth control, including sterilization for women, plans are not required to cover male sterilization (vasectomies) without cost-sharing.⁴⁶ With demand for vasectomies increasing after the Supreme Court eliminated the right to abortion,⁴⁷ ensuring access and affordability to this form of contraception is increasingly important. A form of permanent contraception, vasectomies are quick procedures with few side effects and are safer than the equivalent procedures for women and other people with uteruses.⁴⁸ In addition to posing a cost barrier that may sway people's decisions around whether to obtain this form of contraception, providing no-cost coverage for sterilization only for women, and not men, perpetuates negative gender stereotypes that only women should be responsible for avoiding unintended pregnancy. The federal government and states should rectify this inequity. Requiring plans to cover no-cost vasectomy will allow men more reproductive autonomy and ensure that individuals can choose their preferred method based on their lived circumstances and health needs, not costs.
- **Lack of compliance with contraceptive coverage by insurance providers-** According to KFF's 2024 Women's Health Survey, a quarter (24%) of contraceptive users with private insurance say they paid out-of-pocket for some or all costs.⁴⁹ This is unacceptable since plans are required to provide contraceptive coverage without cost-sharing to their enrollees. But too many plans are not in compliance with the ACA birth control benefit.⁵⁰ The National Women's Law Center hears frequent reports of violations among insurance plans that should be covering birth control without out-of-pocket costs. When that happens, people are forced to pay out-of-pocket for the birth control they need, or they choose a method that is not right for them because of cost, or just do not use contraception. The federal government

can and must do more to strengthen regulations and enforcement, and state agencies can also do a better job of ensuring compliance among the plans they regulate, so everyone has the coverage they are entitled to by law.

Continuing Gaps in Coverage for Certain Populations.

Everyone does not have the same access to free birth control despite federal and state efforts to improve access. Some of the groups affected by these persistent gaps include:

- **Young people, who face additional barriers to access-** In addition to age and parental consent restrictions, young people face additional barriers to getting birth control: lack of transportation, lack of information due to poor or no sex education, difficulty navigating large health care systems, appointment availability, confidentiality concerns,⁵¹ and cost.⁵² For example, in Texas, young people's access to confidential contraceptive care in the Title X program has been taken away from them.⁵³ These barriers often prevent adolescents from obtaining a prescription for birth control or seeking OTC birth control, which is exacerbated for groups who already face barriers to care.⁵⁴
- **Military Beneficiaries are Not Fully Covered-** Service members, retirees, veterans, and their eligible dependents receive health insurance through a mix of programs administered by the Department of Defense (TRICARE) and the Department of Veterans Affairs (VA). While both TRICARE and VA cover prescription birth control without cost-sharing, they require a prescription for someone to get coverage of OTC methods,⁵⁵ and some of the clinics that serve military beneficiaries have very limited hours and long wait times and require multiple visits.⁵⁶ The current administration has been gutting the VA and laying off personnel, which will only further reduce access.⁵⁷ The federal government has a responsibility to our veterans, to maintain and improve quality of care; veterans should not have less ready access to contraception than the civilian population.
- **Medicare Beneficiaries May Not Have the Coverage They Need-** Medicare is a federal health insurance program that primarily insures people age 65 and older but also covers over one million reproductive-age women with disabilities.⁵⁸ Medicare Part B covers office-based services, but does not provide contraceptive

coverage services, like IUD or implant placement, that are needed for purposes of preventing pregnancy. Medicare Part D, which covers prescription drugs, covers many - but not all - forms of contraception and is subject to cost sharing. Medicare should align with the ACA's no cost sharing requirement for contraceptive services.

Looking Ahead to the Future of Birth Control Access.

Since *Griswold*, there has been 60 years of progress on birth control, which has been formational to society – allowing people to plan their families and their lives and to protect their health and wellbeing. But gaps in access remain, challenges continue, and new threats jeopardize the very foundation of birth control rights and access in this country. It's critical that past gains are defended and protected, while at the same time addressing the persistent gaps and ongoing challenges to equitable contraceptives access. Everyone should have access to the birth control they want or need, when they want or need it, without any barriers standing in their way.

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51. In many areas, especially small towns, one's pharmacist may be one's neighbor. While medical privacy laws like HIPPA should protect patient information, anecdotally, there are cases where a pharmacist informs the parents about the youth's purchase of birth control because the pharmacist and the parent are friends. Also, running into people at the pharmacy who know their parents or peers can cause, at the very least, embarrassment, and at the worst – someone to not get access to the medication they need entirely.
52. Kristen Reilly, Kelsey K. Schmuhl, and Andrea E. Bonny, "Removing Barriers to Contraceptive Access for Adolescents," *Journal of Pediatric Pharmacology and Therapeutics* 29, no. 3 (2024): 331–335, <https://pmc.ncbi.nlm.nih.gov/articles/PMC11163908/>.
53. A notoriously extremist judge invalidated Title X's confidentiality protection for young people in a case brought by a father who was represented by anti-reproductive health lawyer Jonathan Mitchell. The Fifth Circuit upheld the decision in a deeply flawed legal opinion. The case is ongoing, and the ruling only affects Title X clinics in Texas. - See Pooja Salhotra, "5th Circuit Upholds Texas Law Requiring Minors to Obtain Parental Consent for Contraception," *The Texas Tribune*, March 12, 2024, <https://www.texastribune.org/2024/03/12/texas-parental-consent-birth-control-fifth-circuit-title-x/>.
54. Reilly, Schmuhl, and Bonny, "Removing Barriers to Contraceptive Access."
55. Department of Veterans Affairs, "CHAMPVA Coverage of Audio-Only Telehealth, Mental Health Services, and Cost Sharing for Certain Contraceptive Services and Contraceptive Products Approved, Cleared, or Granted by FDA," *Federal Register*, Vol. 89, No. 84 (April 30, 2024): 34133–37, <https://www.federalregister.gov/documents/2024/04/30/2024-09072/champva-coverage-of-audio-only-telehealth-mental-health-services-and-cost-sharing-for-certain>.
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57. Eric Umansky and Vernal Coleman, "Internal VA Emails Reveal How Trump Cuts Jeopardize Veterans' Care — Including to 'Life-Saving Cancer Trials,'" *ProPublica*, May 6, 2025, <https://www.propublica.org/article/trump-veterans-affairs-budget-staff-cuts-jeopardize-cancer-research>.
58. Meredith Freed, Juliette Cubanski, Michelle Long, Nancy Ochieng, and Alina Salganicoff, "Coverage of Sexual and Reproductive Health Services in Medicare," *KFF*, April 30, 2024, <https://www.kff.org/medicare/issue-brief/coverage-of-sexual-and-reproductive-health-services-in-medicare/>.