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1ST SESSION

H. R. 12

To protect a person's ability to determine whether to continue or end a pregnancy, and to protect a health care provider's ability to provide abortion services.

IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 2023

Ms. CHU (for herself, Ms. ADAMS, Mr. AGUILAR, Mr. ALLRED, Mr. AUCHINCLOSS, Ms. BALINT, Ms. BARRAGÁN, Mrs. BEATTY, Mr. BERA, Mr. BEYER, Mr. BLUMENAUER, Ms. BLUNT ROCHESTER, Ms. BONAMICI, Mr. BOWMAN, Ms. BROWN, Ms. BROWNLEY, Ms. BUDZINSKI, Ms. BUSH, Ms. CARAVEO, Mr. CARBAJAL, Mr. CÁRDENAS, Mr. CARSON, Mr. CARTER of Louisiana, Mr. CARTWRIGHT, Mr. CASAR, Mr. CASTEN, Ms. CASTOR of Florida, Mr. CASTRO of Texas, Mr. CICILLINE, Ms. CLARKE of New York, Mr. CLEAVER, Mr. COHEN, Mr. CONNOLLY, Mr. COURTNEY, Ms. CRAIG, Ms. CROCKETT, Mr. CROW, Ms. DAVIDS of Kansas, Mr. DAVIS of Illinois, Ms. DEAN of Pennsylvania, Ms. DEGETTE, Ms. DELAURO, Ms. DELBENE, Mr. DELUZIO, Mr. DESAULNIER, Mrs. DINGELL, Mr. DOGGETT, Ms. ESCOBAR, Mr. ESPAILLAT, Mr. EVANS, Mrs. FLETCHER, Mr. FOSTER, Ms. LOIS FRANKEL of Florida, Mr. FROST, Mr. GARAMENDI, Ms. GARCIA of Texas, Mr. ROBERT GARCIA of California, Mr. GARCÍA of Illinois, Ms. PEREZ, Mr. GOLDMAN of New York, Mr. GOMEZ, Mr. GOTTHEIMER, Mr. GREEN of Texas, Mr. GRIJALVA, Mr. HIMES, Mr. HORSFORD, Ms. HOULAHAN, Ms. HOYLE of Oregon, Mr. HUFFMAN, Mr. IVEY, Mr. JACKSON of North Carolina, Ms. JACKSON LEE, Ms. JACOBS, Ms. JAYAPAL, Mr. JEFFRIES, Ms. KAMLAGER-DOVE, Ms. KELLY of Illinois, Mr. KHANNA, Mr. KILDEE, Mr. KILMER, Mr. KRISHNAMOORTHY, Ms. KUSTER, Mr. LARSEN of Washington, Mr. LARSON of Connecticut, Mrs. LEE of Nevada, Ms. LEE of California, Ms. LEE of Pennsylvania, Mr. LEVIN, Mr. LIEU, Ms. LOFGREN, Mr. LYNCH, Mr. MAGAZINER, Ms. MANNING, Ms. MATSUI, Mrs. MCBATH, Mrs. MCCLELLAN, Ms. MCCOLLUM, Mr. MCGOVERN, Mr. GALLEGO, Mr. MEEKS, Ms. MENG, Ms. MOORE of Wisconsin, Mr. MORELLE, Mr. MOSKOWITZ, Mr. MOULTON, Mr. MRVAN, Mr. MULLIN, Mr. NADLER, Mrs. NAPOLITANO, Mr. NEAL, Mr. NICKEL, Mr. NORCROSS, Ms. NORTON, Ms. OMAR, Mr. PALLONE, Mr. PANETTA, Mr. PASCRELL, Mr. PAYNE, Ms. PELOSI, Mr. PETERS, Ms. PETTERSEN, Ms. PINGREE, Mr. POCAN, Ms. PORTER, Ms. PRESSLEY, Mr. QUIGLEY, Mr. RASKIN, Mr. THANEDAR, Ms. ROSS, Mr. RUPPERSBERGER, Mr. RYAN, Ms. SALINAS,

Ms. SÁNCHEZ, Mr. SARBANES, Ms. SCANLON, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SCHNEIDER, Ms. SCHRIER, Mr. SCOTT of Virginia, Ms. SEWELL, Mr. SHERMAN, Ms. SHERRILL, Ms. SLOTKIN, Mr. SMITH of Washington, Mr. SORENSEN, Ms. STANSBURY, Mr. STANTON, Ms. STEVENS, Ms. STRICKLAND, Mr. SWALWELL, Mrs. SYKES, Mr. TAKANO, Mr. THOMPSON of California, Mr. THOMPSON of Mississippi, Ms. TITUS, Ms. TLAIB, Ms. TOKUDA, Mr. TONKO, Mrs. TORRES of California, Mr. TORRES of New York, Mrs. TRAHAN, Mr. TRONE, Ms. UNDERWOOD, Ms. VELÁZQUEZ, Ms. WASSERMAN SCHULTZ, Mrs. WATSON COLEMAN, Ms. WEXTON, Ms. WILD, Ms. WILLIAMS of Georgia, Ms. WILSON of Florida, Mrs. HAYES, Mr. MFUME, Mr. JOHNSON of Georgia, Mr. KIM of New Jersey, Mr. COSTA, Ms. LEGER FERNANDEZ, Ms. CLARK of Massachusetts, Ms. ESHOO, Mr. VASQUEZ, Ms. SPANBERGER, Mr. LANDSMAN, Mr. KEATING, Mrs. FOUSHEE, Mr. MENENDEZ, Mr. HOYER, Mr. BOYLE of Pennsylvania, Mr. SOTO, Ms. OCASIO-CORTEZ, Mr. PHILLIPS, Ms. PLASKETT, Mr. GOLDEN of Maine, Mr. MCGARVEY, Mr. RUIZ, Ms. SCHOLTEN, Mrs. PELTOLA, Ms. KAPTUR, Mr. CASE, Mr. NEGUSE, Mr. BISHOP of Georgia, Mr. JACKSON of Illinois, Ms. WATERS, Mr. VARGAS, Mrs. RAMIREZ, Mr. CLYBURN, Mr. VEASEY, and Mr. CORREA) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect a person’s ability to determine whether to continue or end a pregnancy, and to protect a health care provider’s ability to provide abortion services.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Women’s Health Pro-
 5 tection Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Abortion services are essential health care,
2 and access to those services is central to people’s
3 ability to participate equally in the economic and so-
4 cial life of the United States. Abortion access allows
5 people who are pregnant to make their own decisions
6 about their pregnancies, their families, and their
7 lives.

8 (2) Reproductive justice requires every indi-
9 vidual to have the right to make their own decisions
10 about having children regardless of their cir-
11 cumstances and without interference and discrimina-
12 tion. Reproductive justice is a human right that can
13 and will be achieved when all people, regardless of
14 actual or perceived race, color, national origin, immi-
15 gration status, sex (including gender identity, sex
16 stereotyping, or sexual orientation), age, or disability
17 status have the economic, social, and political power
18 and resources to define and make decisions about
19 their bodies, health, sexuality, families, and commu-
20 nities in all areas of their lives, with dignity and
21 self-determination.

22 (3) Abortion care, like all health care, is a
23 human right that should not depend on one’s ZIP
24 Code or region, age, actual or perceived race, na-
25 tional origin, immigration status, sex, or disability

1 status. Unfortunately, this is the current reality for
2 millions, creating a patchwork of abortion access
3 across the United States. Protecting the right to de-
4 termine whether to continue or end a pregnancy,
5 and the right of health care providers to provide
6 abortion care, is necessary and essential to achieving
7 this human right, and ultimately reproductive jus-
8 tice.

9 (4) On June 24, 2022, in its decision in *Dobbs*
10 v. *Jackson Women’s Health Organization*, the Su-
11 preme Court overruled *Roe v. Wade*, reversing dec-
12 ades of precedent recognizing a constitutional right
13 to terminate a pregnancy before fetal viability.

14 (5) The effects of the *Dobbs* decision were im-
15 mediate and disastrous. In the aftermath of the
16 *Dobbs* decision, many States imposed near-total
17 bans on abortion. As of March 2023, abortion is un-
18 available in 14 States, leaving 17.8 million women of
19 reproductive age (15–49) and transgender and gen-
20 der nonconforming individuals with the capacity to
21 become pregnant without abortion access in their
22 home State. Within 100 days of the ruling, 66 clin-
23 ics across 15 States were forced to stop offering
24 abortions.

1 (6) Travel time to an abortion clinic, already a
2 burden for abortion seekers under Roe, has more
3 than tripled since Dobbs. As distance to an abortion
4 facility increases, so do the accompanying (and po-
5 tentially prohibitive) burdens of time off work or
6 school, lost wages, transportation costs, lodging,
7 child care costs, and other ancillary costs.

8 (7) Even before the Dobbs decision, access to
9 abortion services had long been obstructed across
10 the United States in various ways, including: prohi-
11 bitions of, and restrictions on, insurance coverage;
12 mandatory parental involvement laws; restrictions
13 that shame and stigmatize people seeking abortion
14 services; and medically unnecessary regulations that
15 fail to further the safety of abortion services, but in-
16 stead cause harm people by delaying, complicating
17 access to, and reducing the availability of, abortion
18 services.

19 (8) Being denied an abortion can have serious
20 consequences for people’s physical, mental, and eco-
21 nomic health and well-being, and that of their fami-
22 lies. According to the Turnaway Study, a longitu-
23 dinal study published by Advancing New Standards
24 In Reproductive Health (ANSIRH) in 2019, individ-
25 uals who are denied a wanted abortion are more

1 likely to experience economic insecurity than individ-
2 uals who receive a wanted abortion. After following
3 participants for five years, the study found that peo-
4 ple who were denied abortion care were more likely
5 to live in poverty, experience debt, and have lower
6 credit scores for several years after the denial. These
7 findings demonstrate that when people have control
8 over when to have children and how many children
9 to have, their children benefit through increased eco-
10 nomic security and better maternal bonding.

11 (9) Abortion bans and restrictions have reper-
12 cussions for a broad range of health care beyond
13 pregnancy termination, including exacerbating the
14 existing maternal health crisis facing the United
15 States. The United States has the highest maternal
16 mortality rate of any industrialized nations, and
17 Black women and birthing people face three times
18 the risk of dying from pregnancy related causes as
19 their white counterparts. Even prior to Dobbs, re-
20 search found that States that enacted abortion re-
21 strictions based on gestation increased their mater-
22 nal mortality rate by 38 percent. Research has
23 found that a nationwide ban would increase the
24 United States maternal mortality rate by an addi-
25 tional 24 percent. Furthermore, States that have

1 banned, are planning to ban, or have severely re-
2 stricted abortion care have fewer maternal health
3 providers, more maternity care deserts, higher rates
4 of both maternal and infant mortality, and greater
5 racial inequity in health care.

6 (10) Abortion bans and restrictions additionally
7 harm people’s health by reducing access to other es-
8 sential health care services offered by many of the
9 providers targeted by the restrictions, including—

10 (A) screenings and preventive services, in-
11 cluding contraceptive services;

12 (B) testing and treatment for sexually
13 transmitted infections;

14 (C) LGBTQ health services; and

15 (D) referrals for primary care, intimate
16 partner violence prevention, prenatal care, and
17 adoption services.

18 (11) This ripple effect has only worsened since
19 the Dobbs decision. Clinicians and pharmacists have
20 denied access to essential medication for conditions
21 including gastric ulcers and autoimmune diseases be-
22 cause those drugs are also used for medication abor-
23 tion care. Patients are reporting being denied or de-
24 layed in their receipt of necessary and potentially
25 lifesaving treatment for ectopic pregnancies and mis-

1 carriage management because of the newfound legal
2 risks facing providers.

3 (12) Reproductive justice seeks to address re-
4 strictions on reproductive health, including abortion,
5 that perpetuate systems of oppression, lack of bodily
6 autonomy, white supremacy, and anti-Black racism.
7 This violent legacy has manifested in policies includ-
8 ing enslavement, rape, and experimentation on Black
9 women; forced sterilizations, medical experimen-
10 tation on low-income women’s reproductive systems;
11 and the forcible removal of Indigenous children. Ac-
12 cess to equitable reproductive health care, including
13 abortion services, has always been deficient in the
14 United States for Black, Indigenous, Latina/x, Asian
15 American and Pacific Islander, and People of Color
16 (BIPOC) and their families.

17 (13) The legacy of restrictions on reproductive
18 health, rights, and justice is not a dated vestige of
19 a dark history. Data show the harms of abortion-
20 specific restrictions fall especially heavily on people
21 with low incomes, people of color, immigrants, young
22 people, people with disabilities, and those living in
23 rural and other medically underserved areas. Abor-
24 tion bans and restrictions are compounded further
25 by the ongoing criminalization of people who are

1 pregnant, including those who are incarcerated, liv-
2 ing with HIV, or with substance-use disorders.
3 These populations already experience health dispari-
4 ties due to social, political, and environmental in-
5 equities, and restrictions on abortion services exacer-
6 bate these harms. Removing bans and restrictions on
7 abortion services would constitute one important
8 step on the path toward realizing reproductive jus-
9 tice by ensuring that the full range of reproductive
10 health care is accessible to all who need it.

11 (14) Abortion bans and restrictions are tools of
12 gender oppression, as they target health care serv-
13 ices that are used primarily by women. These pater-
14 nalistic bans and restrictions rely on and reinforce
15 harmful stereotypes about gender roles and women’s
16 decisionmaking, undermining their ability to control
17 their own lives and well-being. These restrictions
18 harm the basic autonomy, dignity, and equality of
19 women.

20 (15) The terms “woman” and “women” are
21 used in this bill to reflect the identity of the majority
22 of people targeted and most directly affected by bans
23 and restrictions on abortion services, which are root-
24 ed in misogyny. However, access to abortion services
25 is critical to the health of every person capable of

1 becoming pregnant. This Act is intended to protect
2 all people with the capacity for pregnancy—
3 cisgender women, transgender men, nonbinary indi-
4 viduals, those who identify with a different gender,
5 and others—who are unjustly harmed by restrictions
6 on abortion services.

7 (16) Pregnant individuals will continue to experi-
8 ence a range of pregnancy outcomes, including
9 abortion, miscarriage, stillbirths, and infant losses
10 regardless of how the State attempts to exert power
11 over their reproductive decisionmaking, and will con-
12 tinue to need support for their health and well-being
13 through their reproductive lifespans.

14 (17) Evidence from the United States and
15 around the globe bears out that criminalizing abor-
16 tion invariably leads to arrests, investigations, and
17 imprisonment of people who end their pregnancies or
18 experience pregnancy loss, leading to violations of
19 fundamental rights to liberty, dignity, bodily auton-
20 omy, equality, due process, privacy, health, and free-
21 dom from cruel and inhumane treatment.

22 (18) All major experts in public health and
23 medicine such as the American Medical Association,
24 American Public Health Association, American
25 Academy of Pediatrics, American Society of Addic-

1 tion Medicine, and the American College of Obstetri-
2 cians and Gynecologists, oppose the criminalization
3 of pregnancy outcomes because the threat of being
4 subject to investigation or punishment through the
5 criminal legal system when seeking health care
6 threatens pregnant people’s lives and undermines
7 public health by deterring people from seeking care
8 for obstetrical emergencies.

9 (19) Antiabortion stigma that is compounded
10 by abortion bans and restrictions also contributes to
11 violence and harassment that put both people seek-
12 ing and people providing abortion care at risk. From
13 1977 to 2021, there were 11 murders, 42 bombings,
14 196 acts of arson, 491 assaults, and thousands of
15 other incidents of criminal activity directed at abor-
16 tion seekers, providers, volunteers, and clinic staff.
17 This violence existed under Roe and has been stead-
18 ily escalating for years. The presence of dangerous
19 protestors and organized extremists acts as yet an-
20 other barrier to abortion care, and this threat has
21 become even more urgent as abortion bans pro-
22 liferate and stigma around abortion care increases.

23 (20) Abortion is one of the safest medical pro-
24 cedures in the United States. An independent, com-
25 prehensive review of the state of science on the safe-

1 ty and quality of abortion services, published by the
2 National Academies of Sciences, Engineering, and
3 Medicine in 2018, found that abortion in the United
4 States is safe and effective and that the biggest
5 threats to the quality of abortion services in the
6 United States are State regulations that create bar-
7 riers to care. Such abortion-specific restrictions, as
8 well as broader State bans, conflict with medical
9 standards and are not supported by the rec-
10 ommendations and guidelines issued by leading re-
11 productive health care professional organizations in-
12 cluding the American College of Obstetricians and
13 Gynecologists, the Society of Family Planning, the
14 National Abortion Federation, the World Health Or-
15 ganization, and others.

16 (21) For over 20 years, medication abortion
17 care has been available in the United States as a
18 safe, effective, Food and Drug Administration
19 (FDA)-approved treatment to end an early preg-
20 nancy. Today, medication abortion care accounts for
21 more than half of all pregnancy terminations in the
22 United States; however, significant barriers to access
23 remain in place, particularly in States that have im-
24 posed onerous restrictions that conflict with FDA's
25 regulation of medication abortion. Additionally, op-

1 ponents of abortion are now deploying new tactics to
2 limit access to this FDA-approved medication that
3 would set a dangerous precedent for the Federal
4 regulation of medication products and have national
5 repercussions.

6 (22) Health care providers are subject to licens-
7 ing laws in various jurisdictions, which are not af-
8 fected by this Act except as expressly provided in
9 this Act.

10 (23) International human rights law recognizes
11 that access to abortion is intrinsically linked to the
12 rights to life, health, equality and nondiscrimination,
13 privacy, and freedom from ill treatment. United Na-
14 tions (UN) human rights treaty monitoring bodies
15 have found that legal abortion services, like other re-
16 productive health care services, must be available,
17 accessible, affordable, acceptable, and of good qual-
18 ity. UN human rights treaty bodies have condemned
19 criminalization of abortion and medically unneces-
20 sary barriers to abortion services, including manda-
21 tory waiting periods, biased counseling requirements,
22 and third-party authorization requirements.

23 (24) Core human rights treaties ratified by the
24 United States protect access to abortion. For exam-
25 ple, in 2018, the UN Human Rights Committee,

1 which oversees implementation of the International
2 Covenant on Civil and Political Rights (ICCPR),
3 made clear that the right to life, enshrined in Article
4 6 of the ICCPR, at a minimum requires govern-
5 ments to provide safe, legal, and effective access to
6 abortion where a person’s life and health are at risk,
7 or when carrying a pregnancy to term would other-
8 wise cause substantial pain or suffering. The Com-
9 mittee stated that governments must not impose re-
10 strictions on abortion which subject women and girls
11 to physical or mental pain or suffering, discriminate
12 against them, arbitrarily interfere with their privacy,
13 or place them at risk of undertaking unsafe abor-
14 tions. The Committee stated that governments
15 should not apply criminal sanctions to women and
16 girls who undergo abortion or to medical service pro-
17 viders who assist them in doing so. Furthermore, the
18 Committee stated that governments should remove
19 existing barriers that deny effective access to safe
20 and legal abortion, refrain from introducing new
21 barriers to abortion, and prevent the stigmatization
22 of those seeking abortion.

23 (25) International human rights experts have
24 condemned the Dobbs decision and regression on
25 abortion rights in the United States more generally

1 as a violation of human rights. Immediately upon re-
2 lease of the decision, then-UN High Commissioner
3 for Human Rights Michelle Bachelet reiterated
4 human rights protections for abortion and the im-
5 pact that the decision will have on the fundamental
6 rights of millions within the United States, particu-
7 larly people with low incomes and people belonging
8 to racial and ethnic minorities. UN independent
9 human rights experts, including the UN Working
10 Group on discrimination against women and girls,
11 the UN Special Rapporteur on the right to health,
12 and the UN Special Rapporteur on violence against
13 women and girls, similarly denounced the decision.
14 At the conclusion of a human rights review of the
15 United States in August 2022, the UN Committee
16 on the Elimination of Racial Discrimination noted
17 deep concerns with the Dobbs decision and rec-
18 ommended that the United States address the dis-
19 parate impact that it will have on racial and ethnic
20 minorities, Indigenous women, and those with low
21 incomes.

22 (26) Abortion bans and restrictions affect the
23 cost and availability of abortion services, and the
24 settings in which abortion services are delivered.
25 People travel across State lines and otherwise en-

1 gage in interstate commerce to access this essential
2 medical care. Likewise, health care providers travel
3 across State lines and otherwise engage in interstate
4 commerce in order to provide abortion services to
5 patients, and more would be forced to do so absent
6 this Act.

7 (27) Legal limitations and requirements im-
8 posed upon health care providers or their patients
9 invariably affect commerce over which the United
10 States has jurisdiction. Health care providers engage
11 in a form of economic and commercial activity when
12 they provide abortion services, and there is an inter-
13 state market for abortion services.

14 (28) Abortion bans and restrictions substan-
15 tially affect interstate commerce in numerous ways.
16 For example, to provide abortion services, health
17 care providers engage in interstate commerce to pur-
18 chase medicine, medical equipment, and other nec-
19 essary goods and services. To provide and assist oth-
20 ers in providing abortion services, health care pro-
21 viders engage in interstate commerce to obtain and
22 provide training. To provide abortion services, health
23 care providers employ and obtain commercial serv-
24 ices from doctors, nurses, and other personnel who

1 engage in interstate commerce, including by and
2 traveling across State lines.

3 (29) Congress has the authority to enact this
4 Act to protect access to abortion services pursuant
5 to—

6 (A) its powers under the commerce clause
7 of section 8 of article I of the Constitution of
8 the United States;

9 (B) its powers under section 5 of the Four-
10 teenth Amendment to the Constitution of the
11 United States to enforce the provisions of sec-
12 tion 1 of the Fourteenth Amendment; and

13 (C) its powers under the necessary and
14 proper clause of section 8 of article I of the
15 Constitution of the United States.

16 (30) Congress has used its authority in the past
17 to protect access to abortion services and health care
18 providers' ability to provide abortion services. In the
19 early 1990s, protests and blockades at health care
20 facilities where abortion services were provided, and
21 associated violence, increased dramatically and
22 reached crisis level, requiring congressional action.
23 Congress passed the Freedom of Access to Clinic
24 Entrances Act (Public Law 103–259; 108 Stat. 694)

1 to address that situation and protect physical access
2 to abortion services.

3 (31) Congressional action is necessary to put an
4 end to harmful restrictions, to protect access to
5 abortion services for everyone regardless of where
6 they live, to protect the ability of health care pro-
7 viders to provide these services in a safe and acces-
8 sible manner, and to eliminate unwarranted burdens
9 on commerce and the right to travel.

10 **SEC. 3. PURPOSE.**

11 The purposes of this Act are as follows:

12 (1) To permit people to seek and obtain abor-
13 tion services, and to permit health care providers to
14 provide abortion services, without harmful or unwar-
15 ranted limitations or requirements that single out
16 the provision of abortion services for restrictions
17 that are more burdensome than those restrictions
18 imposed on medically comparable procedures, do not
19 significantly advance reproductive health or the safe-
20 ty of abortion services, or make abortion services
21 more difficult to access.

22 (2) To promote access to abortion services and
23 thereby protect women's ability to participate equally
24 in the economic and social life of the United States.

1 (3) To protect people’s ability to make decisions
2 about their bodies, medical care, family, and life’s
3 course.

4 (4) To eliminate unwarranted burdens on com-
5 merce and the right to travel. Abortion bans and re-
6 strictions invariably affect commerce over which the
7 United States has jurisdiction. Health care providers
8 engage in economic and commercial activity when
9 they provide abortion services. Moreover, there is an
10 interstate market for abortion services and, in order
11 to provide such services, health care providers en-
12 gage in interstate commerce to purchase medicine,
13 medical equipment, and other necessary goods and
14 services; to obtain and provide training; and to em-
15 ploy and obtain commercial services from health care
16 personnel, many of whom themselves engage in
17 interstate commerce, including by traveling across
18 State lines. Congress has the authority to enact this
19 Act to protect access to abortion services pursuant
20 to—

21 (A) its powers under the commerce clause
22 of section 8 of article I of the Constitution of
23 the United States;

24 (B) its powers under section 5 of the Four-
25 teenth Amendment to the Constitution of the

1 United States to enforce the provisions of sec-
2 tion 1 of the Fourteenth Amendment; and

3 (C) its powers under the necessary and
4 proper clause of section 8 of article I of the
5 Constitution of the United States.

6 **SEC. 4. DEFINITIONS.**

7 In this Act:

8 (1) **ABORTION SERVICES.**—The term “abortion
9 services” means an abortion and any medical or
10 non-medical services related to and provided in con-
11 junction with an abortion (whether or not provided
12 at the same time or on the same day as the abor-
13 tion).

14 (2) **GOVERNMENT.**—The term “government”
15 includes each branch, department, agency, instru-
16 mentality, and official of the United States or a
17 State.

18 (3) **HEALTH CARE PROVIDER.**—The term
19 “health care provider” means any entity (including
20 any hospital, clinic, or pharmacy) or individual (in-
21 cluding any physician, certified nurse-midwife, nurse
22 practitioner, pharmacist, or physician assistant)
23 that—

1 (A) is engaged or seeks to engage in the
2 delivery of health care services, including abor-
3 tion services; and

4 (B) if required by law or regulation to be
5 licensed or certified to engage in the delivery of
6 such services—

7 (i) is so licensed or certified; or

8 (ii) would be so licensed or certified
9 but for their past, present, or potential
10 provision of abortion services protected by
11 section 4.

12 (4) MEDICALLY COMPARABLE PROCEDURES.—
13 The term “medically comparable procedures” means
14 medical procedures that are similar in terms of
15 health and safety risks to the patient, complexity, or
16 the clinical setting that is indicated.

17 (5) PREGNANCY.—The term “pregnancy” refers
18 to the period of the human reproductive process be-
19 ginning with the implantation of a fertilized egg.

20 (6) STATE.—The term “State” includes the
21 District of Columbia, the Commonwealth of Puerto
22 Rico, and each territory and possession of the
23 United States, and any subdivision of any of the
24 foregoing, including any unit of local government,

1 such as a county, city, town, village, or other general
2 purpose political subdivision of a State.

3 (7) VIABILITY.—The term “viability” means
4 the point in a pregnancy at which, in the good-faith
5 medical judgment of the treating health care pro-
6 vider, and based on the particular facts of the case
7 before the health care provider, there is a reasonable
8 likelihood of sustained fetal survival outside the
9 uterus with or without artificial support.

10 **SEC. 5. PROTECTED ACTIVITIES AND SERVICES.**

11 (a) GENERAL RULES.—

12 (1) PRE-VIABILITY.—A health care provider has
13 a right under this Act to provide abortion services,
14 and a patient has a corresponding right under this
15 Act to terminate a pregnancy prior to viability with-
16 out being subject to any of the following limitations
17 or requirements:

18 (A) A prohibition on abortion prior to via-
19 bility, including a prohibition or restriction on
20 a particular abortion procedure or method, or a
21 prohibition on providing or obtaining such abor-
22 tions.

23 (B) A limitation on a health care pro-
24 vider’s ability to prescribe or dispense drugs
25 that could be used for reproductive health pur-

1 poses based on current evidence-based regimens
2 or the provider's good-faith medical judgment,
3 or a limitation on a patient's ability to receive
4 or use such drugs, other than a limitation gen-
5 erally applicable to the prescription, dispensing,
6 or distribution of drugs.

7 (C) A limitation on a health care provider's
8 ability to provide, or a patient's ability to re-
9 ceive, abortion services via telemedicine, other
10 than a limitation generally applicable to the
11 provision of medically comparable services via
12 telemedicine.

13 (D) A limitation or prohibition on a pa-
14 tient's ability to receive, or a provider's ability
15 to provide, abortion services in a State based on
16 the State of residency of the patient, or a prohi-
17 bition or limitation on the ability of any indi-
18 vidual to assist or support a patient seeking
19 abortion.

20 (E) A requirement that a health care pro-
21 vider perform specific tests or medical proce-
22 dures in connection with the provision of abor-
23 tion services (including prior to or subsequent
24 to the abortion), unless generally required for

1 the provision of medically comparable proce-
2 dures.

3 (F) A requirement that a health care pro-
4 vider offer or provide a patient seeking abortion
5 services medically inaccurate information.

6 (G) A limitation or requirement concerning
7 the physical plant, equipment, staffing, or hos-
8 pital transfer arrangements of facilities where
9 abortion services are provided, or the creden-
10 tials or hospital privileges or status of personnel
11 at such facilities, that is not imposed on facili-
12 ties or the personnel of facilities where medi-
13 cally comparable procedures are performed.

14 (H) A requirement that, prior to obtaining
15 an abortion, a patient make one or more medi-
16 cally unnecessary in-person visits to the pro-
17 vider of abortion services or to any individual or
18 entity that does not provide abortion services.

19 (I) A limitation on a health care provider's
20 ability to provide immediate abortion services
21 when that health care provider believes, based
22 on the good-faith medical judgment of the pro-
23 vider, that delay would pose a risk to the pa-
24 tient's life or health.

1 (J) A requirement that a patient seeking
2 abortion services at any point or points in time
3 prior to viability disclose the patient's reason or
4 reasons for seeking abortion services, or a limi-
5 tation on providing or obtaining abortion serv-
6 ices at any point or points in time prior to via-
7 bility based on any actual, perceived, or poten-
8 tial reason or reasons of the patient for obtain-
9 ing abortion services, regardless of whether the
10 limitation is based on a health care provider's
11 actual or constructive knowledge of such reason
12 or reasons.

13 (2) POST-VIABILITY.—

14 (A) IN GENERAL.—A health care provider
15 has a right under this Act to provide abortion
16 services and a patient has a corresponding right
17 under this Act to terminate a pregnancy after
18 viability when, in the good-faith medical judge-
19 ment of the treating health care provider, it is
20 necessary to protect the life or health of the pa-
21 tient. This subparagraph shall not otherwise
22 apply after viability.

23 (B) ADDITIONAL CIRCUMSTANCES.—A
24 State may provide additional circumstances

1 under which post viability abortions are per-
2 mitted under this paragraph.

3 (C) LIMITATION.—In the case where a ter-
4 mination of a pregnancy after viability, in the
5 good-faith medical judgement of the treating
6 health care provider, is necessary to protect the
7 life or health of the patient, a State shall not
8 impose any of the limitations or requirements
9 described in paragraph (1).

10 (b) OTHER LIMITATIONS OR REQUIREMENTS.—The
11 rights described in subsection (a) shall not be limited or
12 otherwise infringed through any other limitation or re-
13 quirement that—

14 (1) expressly, effectively, implicitly, or as imple-
15 mented, singles out abortion, the provision of abor-
16 tion services, individuals who seek abortion services
17 or who provide assistance and support to those seek-
18 ing abortion services, health care providers who pro-
19 vide abortion services, or facilities in which abortion
20 services are provided; and

21 (2) impedes access to abortion services.

22 (c) FACTORS FOR CONSIDERATION.—A court may
23 consider the following factors, among others, in deter-
24 mining whether a limitation or requirement impedes ac-
25 cess to abortion services for purposes of subsection (b)(2):

1 (1) Whether the limitation or requirement, in a
2 provider's good-faith medical judgment, interferes
3 with a health care provider's ability to provide care
4 and render services, or poses a risk to the patient's
5 health or safety.

6 (2) Whether the limitation or requirement is
7 reasonably likely to delay or deter a patient in ac-
8 cessing abortion services.

9 (3) Whether the limitation or requirement is
10 reasonably likely to directly or indirectly increase the
11 cost of providing abortion services or the cost for ob-
12 taining abortion services such as costs associated
13 with travel, childcare, or time off work.

14 (4) Whether the limitation or requirement is
15 reasonably likely to have the effect of necessitating
16 patient travel that would not otherwise have been re-
17 quired, including by making it necessary for a pa-
18 tient to travel out of State to obtain services.

19 (5) Whether the limitation or requirement is
20 reasonably likely to result in a decrease in the avail-
21 ability of abortion services in a given State or geo-
22 graphic region.

23 (6) Whether the limitation or requirement im-
24 poses penalties that are not imposed on other health
25 care providers for comparable conduct or failure to

1 act, or that are more severe than penalties imposed
2 on other health care providers for comparable con-
3 duct or failure to act.

4 (7) The cumulative impact of the limitation or
5 requirement combined with other limitations or re-
6 quirements.

7 (d) EXCEPTION.—To defend against a claim that a
8 limitation or requirement violates a health care provider’s
9 or patient’s rights under subsection (b) a party must es-
10 tablish, by clear and convincing evidence, that the limita-
11 tion or requirement is essential to significantly advance
12 the safety of abortion services or the health of patients
13 and that the safety or health objective cannot be accom-
14 plished by a different means that does not interfere with
15 the right protected under subsection (b).

16 **SEC. 6. PROTECTION OF THE RIGHT TO TRAVEL.**

17 A person has a fundamental right under the Con-
18 stitution of the United States and this Act to travel to
19 a State other than the person’s State of residence, includ-
20 ing to obtain reproductive health services such as prenatal,
21 childbirth, fertility, and abortion services, and a person
22 has a right under this Act to assist another person to ob-
23 tain such services or otherwise exercise the right described
24 in this section.

1 **SEC. 7. APPLICABILITY AND PREEMPTION.**

2 (a) IN GENERAL.—

3 (1) SUPERSEDING INCONSISTENT LAWS.—Ex-
4 cept as provided under subsection (b), this Act shall
5 supersede any inconsistent Federal or State law, and
6 the implementation of such law, whether statutory,
7 common law, or otherwise, and whether adopted
8 prior to or after the date of enactment of this Act.
9 A Federal or State government official shall not ad-
10 minister, implement, or enforce any law, rule, regu-
11 lation, standard, or other provision having the force
12 and effect of law that conflicts with any provision of
13 this Act, notwithstanding any other provision of
14 Federal law, including the Religious Freedom Res-
15 toration Act of 1993 (42 U.S.C. 2000bb et seq.).

16 (2) LAWS AFTER DATE OF ENACTMENT.—Fed-
17 eral law enacted after the date of the enactment of
18 this Act shall be subject to this Act unless such law
19 explicitly excludes such application by reference to
20 this Act.

21 (b) LIMITATIONS.—The provisions of this Act shall
22 not supersede or apply to—

23 (1) laws regulating physical access to clinic en-
24 trances;

25 (2) laws regulating insurance or medical assist-
26 ance coverage of abortion services;

1 (3) the procedure described in section
2 1531(b)(1) of title 18, United States Code; or

3 (4) generally applicable State contract law.

4 (c) **PREEMPTION DEFENSE.**—In any legal or admin-
5 istrative action against a person or entity who has exer-
6 cised or attempted to exercise a right protected by section
7 4 or section 5 or against any person or entity who has
8 taken any step to assist any such person or entity in exer-
9 cising such right, this Act shall also apply to, and may
10 be raised as a defense by, such person or entity, in addi-
11 tion to the remedies specified in section 8.

12 **SEC. 8. RULES OF CONSTRUCTION.**

13 (a) **LIBERAL CONSTRUCTION BY COURTS.**—In any
14 action before a court under this Act, the court shall lib-
15 erally construe the provisions of this Act to effectuate the
16 purposes of the Act.

17 (b) **PROTECTION OF LIFE AND HEALTH.**—Nothing
18 in this Act shall be construed to authorize any government
19 official to interfere with, diminish, or negatively affect a
20 person’s ability to obtain or provide abortion services prior
21 to viability, or after viability when, in the good-faith med-
22 ical judgment of the treating health care provider, continu-
23 ation of the pregnancy would pose a risk to the pregnant
24 patient’s life or health.

1 (c) GOVERNMENT OFFICIALS.—Any person who, by
2 operation of a provision of Federal or State law, is per-
3 mitted to implement or enforce a limitation or requirement
4 that violates section 4 or 5 shall be considered a govern-
5 ment official for purposes of this Act.

6 **SEC. 9. ENFORCEMENT.**

7 (a) ATTORNEY GENERAL.—The Attorney General
8 may commence a civil action on behalf of the United
9 States in any district court of the United States against
10 any State that violates, or against any government official
11 (including a person described in section 7(c)) who imple-
12 ments or enforces a limitation or requirement that vio-
13 lates, section 4 or 5. The court shall declare unlawful the
14 limitation or requirement if it is determined to be in viola-
15 tion of this Act.

16 (b) PRIVATE RIGHT OF ACTION.—

17 (1) IN GENERAL.—Any individual or entity ad-
18 versely affected by an alleged violation of this Act,
19 including any person or health care provider, may
20 commence a civil action against any government offi-
21 cial (including a person described in section 7(c))
22 that implements or enforces a limitation or require-
23 ment that violates, section 4 or 5. The court shall
24 declare unlawful the limitation or requirement if it
25 is determined to be in violation of this Act.

1 (2) HEALTH CARE PROVIDER.—A health care
2 provider may commence an action for relief on its
3 own behalf, on behalf of the provider’s staff, and on
4 behalf of the provider’s patients who are or may be
5 adversely affected by an alleged violation of this Act.

6 (c) PRE-ENFORCEMENT CHALLENGES.—A suit
7 under subsection (a) or (b) may be brought to prevent en-
8 forcement or implementation by any government of a
9 State limitation or requirement that is inconsistent with
10 section 4 or 5.

11 (d) DECLARATORY AND EQUITABLE RELIEF.—In
12 any action under this section, the court may award appro-
13 priate declaratory and equitable relief, including tem-
14 porary, preliminary, or permanent injunctive relief.

15 (e) COSTS.—In any action under this section, the
16 court shall award costs of litigation, as well as reasonable
17 attorney’s fees, to any prevailing plaintiff. A plaintiff shall
18 not be liable to a defendant for costs or attorney’s fees
19 in any non-frivolous action under this section.

20 (f) JURISDICTION.—The district courts of the United
21 States shall have jurisdiction over proceedings under this
22 Act and shall exercise the same without regard to whether
23 the party aggrieved shall have exhausted any administra-
24 tive or other remedies that may be provided for by law.

1 (g) ABROGATION OF STATE IMMUNITY.—Neither a
2 State that enforces or maintains, nor a government official
3 (including a person described in section 7(c)) who is per-
4 mitted to implement or enforce any limitation or require-
5 ment that violates section 4 or 5 shall be immune under
6 the Tenth Amendment to the Constitution of the United
7 States, the Eleventh Amendment to the Constitution of
8 the United States, or any other source of law, from an
9 action in a Federal or State court of competent jurisdic-
10 tion challenging that limitation or requirement, unless
11 such immunity is required by clearly established Federal
12 law, as determined by the Supreme Court of the United
13 States.

14 **SEC. 10. EFFECTIVE DATE.**

15 This Act shall take effect upon the date of enactment
16 of this Act.

17 **SEC. 11. SEVERABILITY.**

18 If any provision of this Act, or the application of such
19 provision to any person, entity, government, or cir-
20 cumstance, is held to be unconstitutional, the remainder
21 of this Act, or the application of such provision to all other
22 persons, entities, governments, or circumstances, shall not
23 be affected thereby.

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