

118TH CONGRESS  
1ST SESSION

# S. 2439

To establish a grant program to fund reproductive health patient navigators  
for individuals seeking abortion services.

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## IN THE SENATE OF THE UNITED STATES

JULY 20, 2023

Ms. CORTEZ MASTO (for herself, Mrs. MURRAY, Ms. KLOBUCHAR, Ms. SMITH,  
Ms. WARREN, Ms. HIRONO, Mr. PADILLA, Mr. BENNET, Mr.  
BLUMENTHAL, Mr. WELCH, and Ms. DUCKWORTH) introduced the fol-  
lowing bill; which was read twice and referred to the Committee on  
Health, Education, Labor, and Pensions

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## A BILL

To establish a grant program to fund reproductive health  
patient navigators for individuals seeking 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 “Reproductive Health  
5 Patient Navigator Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

1           (1) As the legal hurdles to abortion services in-  
2           crease, so does the complexity of navigating access  
3           to these essential reproductive health services.

4           (2) Community-based organizations like abor-  
5           tion funds are connecting people to abortions, by  
6           working with individuals to navigate an ever-evolving  
7           landscape of reproductive health care.

8           (3) Abortion funds have been helping individ-  
9           uals navigate the complexity of abortion services for  
10          decades and are well placed to lead patient naviga-  
11          tion programs.

12 **SEC. 3. ESTABLISHMENT OF GRANT PROGRAM FOR REPRO-**  
13 **DUCTIVE HEALTH PATIENT NAVIGATORS.**

14          Subpart V of part D of title III of the Public Health  
15          Service Act (42 U.S.C. 256 et seq.) is amended by adding  
16          at the end the following:

17 **“SEC. 340A-1. ESTABLISHMENT OF GRANT PROGRAM FOR**  
18 **REPRODUCTIVE HEALTH PATIENT NAVIGA-**  
19 **TORS.**

20          “(a) IN GENERAL.—The Secretary shall establish a  
21          grant program to support eligible entities for purposes of  
22          serving as reproductive health patient navigators for indi-  
23          viduals seeking to access abortion services in order to con-  
24          nect those individuals to abortion services.

1       “(b) ELIGIBLE ENTITIES.—To be eligible to receive  
2 a grant under this section, an entity shall—

3           “(1) be an abortion fund or other nonprofit or-  
4 ganization, a community-based organization, a  
5 State, local governmental entity, or Tribal govern-  
6 ment that, through programs, services, or activities  
7 that are unbiased and medically- and factually-accu-  
8 rate, assists individuals seeking abortion services;  
9 and

10          “(2) submit an application to the Secretary, at  
11 such time, in such manner, and containing such in-  
12 formation as the Secretary may require, including a  
13 plan for—

14           “(A) establishing and operating a program  
15 of patient navigator services to help individuals  
16 seeking abortion services access abortion serv-  
17 ices, as described in subsection (c); and

18           “(B) ensuring that any personally identifi-  
19 able patient data obtained through the oper-  
20 ation of such program is kept confidential.

21       “(c) ACTIVITIES.—An eligible entity receiving a grant  
22 under this section shall use such funds for one or more  
23 of the following activities related to abortion services:

1           “(1) Offering individuals seeking abortion serv-  
2           ices medically-accurate, culturally- and linguistically-  
3           appropriate services and resources.

4           “(2) Coordinating financing resources for trav-  
5           el-related costs, including transportation, childcare,  
6           and lodging.

7           “(3) Coordinating abortion services, including  
8           identifying available abortion providers and sched-  
9           uling appointments.

10          “(4) Providing emotional wellness and doula  
11          support to individuals accessing abortion services.

12          “(5) Providing individuals seeking abortion  
13          services with unbiased and medically and factually  
14          accurate reproductive health information to support  
15          individuals’ informed decision making.

16          “(6) Developing partnerships with local commu-  
17          nity organizations providing services for which eligi-  
18          ble entity provides assistance, abortion service pro-  
19          viders, and other patient navigators, such as patient  
20          navigators receiving grants under section 340A.

21          “(7) Assisting with understanding reimburse-  
22          ment and health insurance coverage options, includ-  
23          ing completing eligibility and enrollment forms.

1           “(8) Assisting with understanding where abor-  
2           tion services are legal and the ways in which abor-  
3           tion services may be restricted.

4           “(d) PATIENT NAVIGATOR PROTECTIONS.—

5           “(1) IN GENERAL.—No individual, entity, or  
6           State may prevent, restrict, impede, or disadvantage  
7           an entity eligible to receive a grant under this sec-  
8           tion by nature of delivering services described in  
9           subsection (c), or any affiliate of such an entity or  
10          individual or other entity collaborating with such an  
11          entity, from—

12                   “(A) providing or assisting a health care  
13                   provider, or any other person, with eligible serv-  
14                   ices described in subsection (c) related to repro-  
15                   ductive health care services—

16                           “(i) lawful in the State in which serv-  
17                           ices are to be provided; or

18                           “(ii) provided for an individual who  
19                           does not reside in the State in which the  
20                           services are to be provided; or

21                   “(B) carrying out the activities described  
22                   in this section in any State, including any State  
23                   in which abortion services are not lawful.

24           “(2) ENFORCEMENT.—

1           “(A) ATTORNEY GENERAL.—The Attorney  
2           General may commence a civil action on behalf  
3           of the United States against any State, or  
4           against any government official, individual, or  
5           entity that enacts, implements, or enforces a  
6           limitation or requirement that violates para-  
7           graph (1). The court shall hold unlawful and  
8           set aside the limitation or requirement if it is  
9           in violation of paragraph (1).

10           “(B) PRIVATE RIGHT OF ACTION.—Any re-  
11           productive health patient navigator adversely  
12           affected by an alleged violation of paragraph  
13           (1) may commence a civil action against any  
14           State that violates this subsection, against any  
15           government official that enacts, implements, or  
16           enforces a limitation or requirement that vio-  
17           lates paragraph (1), or against any individual  
18           who, pursuant to State law, prevents, restricts,  
19           impedes, or disadvantages the entity from car-  
20           rying out activities in violation of paragraph  
21           (1). The court shall hold unlawful and enjoin  
22           the limitation or requirement if it is in violation  
23           of paragraph (1).

24           “(C) EQUITABLE RELIEF.—In any action  
25           under this subsection, the court may award ap-

1           appropriate equitable relief, including temporary,  
2           preliminary, or permanent injunctive relief.

3           “(D) COSTS.—In any action under this  
4           subsection, the court shall award costs of litiga-  
5           tion, as well as reasonable attorney’s fees, to  
6           any prevailing plaintiff. A plaintiff shall not be  
7           liable to a defendant for costs or attorney’s fees  
8           in any nonfrivolous action under this sub-  
9           section.

10          “(E) JURISDICTION.—The district courts  
11          of the United States shall have jurisdiction over  
12          proceedings under this subsection and shall ex-  
13          ercise the same without regard to whether the  
14          party aggrieved shall have exhausted any ad-  
15          ministrative or other remedies that may be pro-  
16          vided for by law.

17          “(F) ABROGATION OF STATE IMMUNITY.—  
18          Neither a State that enforces or maintains, nor  
19          a government official who is permitted to imple-  
20          ment or enforce, any limitation or requirement  
21          that violates paragraph (1) shall be immune  
22          under the Tenth Amendment to the Constitu-  
23          tion of the United States, the Eleventh Amend-  
24          ment to the Constitution of the United States,  
25          or any other source of law, from an action in

1 a Federal or State court of competent jurisdic-  
2 tion challenging that limitation or requirement.

3 “(G) RIGHT TO REMOVE.—Any party shall  
4 have a right to remove an action brought under  
5 this subsection to the district court of the  
6 United States for the district and division em-  
7 bracing the place where such action is pending.  
8 An order remanding the case to the State court  
9 from which it was removed under this para-  
10 graph may be immediately reviewable by appeal  
11 or otherwise.

12 “(e) FUNDING.—There are appropriated, for fiscal  
13 years 2023 through 2027, out of amounts in the Treasury  
14 not otherwise appropriated, such sums as may be nec-  
15 essary for purposes of carrying out this section.”.

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