

117TH CONGRESS
2D SESSION

S. _____

To ensure the right to provide reproductive health care services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. MURRAY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To ensure the right to provide reproductive health care services, and for other purposes.

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 “Let Doctors Provide
5 Reproductive Health Care Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **HEALTH CARE PROVIDER.**—The term
9 “health care provider” means any entity, employee
10 of such entity, or individual (including any physi-

1 cian, certified nurse-midwife, nurse practitioner, and
2 physician assistant) that—

3 (A) is engaged or seeks to engage in the
4 delivery of reproductive health care services;
5 and

6 (B) if required by State law to be licensed,
7 certified, or otherwise authorized to engage in
8 the delivery of such services—

9 (i) is so licensed, certified, or other-
10 wise authorized; or

11 (ii) would be so licensed, certified, or
12 otherwise authorized, but for their past,
13 present, or potential provision of abortion
14 services.

15 (2) REPRODUCTIVE HEALTH CARE SERVICES.—

16 The term “reproductive health care services” means
17 abortion services, contraception services, in vitro fer-
18 tilization, or other reproductive care, education, and
19 counseling that—

20 (A) is provided in a hospital, clinic, physi-
21 cian’s office, or other service site, or provided
22 via telehealth, intended to provide medical, sur-
23 gical, counseling, or referral services;

24 (B) is provided in a medically accurate
25 manner; and

1 (C) in any way affects commerce over
2 which the United States has jurisdiction.

3 (3) STATE.—The term “State” means each of
4 the 50 States, the District of Columbia, Puerto Rico,
5 each territory and possession of the United States,
6 and any subdivision of a State, including any unit
7 of local government, such as a county, city, town,
8 village, or other general purpose political subdivision
9 of a State.

10 **SEC. 3. RIGHT TO PROVIDE REPRODUCTIVE HEALTH CARE**
11 **SERVICES.**

12 (a) PROHIBITION.—No individual, entity, or State
13 may prevent, restrict, impede, or disadvantage—

14 (1) a health care provider from providing or as-
15 sisting with reproductive health care services lawful
16 in the State in which the services are to be provided;

17 (2) any individual or entity from assisting a
18 health care provider in providing or assisting with
19 reproductive health care services lawful in the State
20 in which services are to be provided; or

21 (3) a health care provider or any individual or
22 entity from providing or assisting a health care pro-
23 vider with reproductive health care services for an
24 individual who does not reside in the State in which
25 the services are to be provided.

1 (b) ENFORCEMENT.—

2 (1) ATTORNEY GENERAL.—The Attorney Gen-
3 eral may commence a civil action on behalf of the
4 United States against any State, or against any gov-
5 ernment official, individual, or entity that enacts,
6 implements, or enforces a limitation or requirement
7 that violates subsection (a). The court shall hold un-
8 lawful and set aside the limitation or requirement if
9 it is in violation of subsection (a).

10 (2) PRIVATE RIGHT OF ACTION.—Any indi-
11 vidual or entity adversely affected by an alleged vio-
12 lation of subsection (a) may commence a civil action
13 against any State that violates this section or
14 against any government official that enacts, imple-
15 ments, or enforces a limitation or requirement that
16 violates subsection (a). The court shall hold unlawful
17 and enjoin the limitation or requirement if it is in
18 violation of subsection (a).

19 (3) HEALTH CARE PROVIDER.—A health care
20 provider may commence an action for relief on its
21 own behalf, on behalf of the provider's staff, and on
22 behalf of the provider's patients who are or may be
23 adversely affected by an alleged violation of sub-
24 section (a).

1 (4) **EQUITABLE RELIEF.**—In any action under
2 this section, the court may award appropriate equi-
3 table relief, including temporary, preliminary, or per-
4 manent injunctive relief.

5 (5) **COSTS.**—In any action under this section,
6 the court shall award costs of litigation, as well as
7 reasonable attorney’s fees, to any prevailing plain-
8 tiff. A plaintiff shall not be liable to a defendant for
9 costs or attorney’s fees in any non-frivolous action
10 under this section.

11 (6) **JURISDICTION.**—The district courts of the
12 United States shall have jurisdiction over pro-
13 ceedings under this section and shall exercise the
14 same without regard to whether the party aggrieved
15 shall have exhausted any administrative or other
16 remedies that may be provided for by law.

17 (7) **ABROGATION OF STATE IMMUNITY.**—Nei-
18 ther a State that enforces or maintains, nor a gov-
19 ernment official who is permitted to implement or
20 enforce, any limitation or requirement that violates
21 subsection (a) shall be immune under the Tenth
22 Amendment to the Constitution of the United
23 States, the Eleventh Amendment to the Constitution
24 of the United States, or any other source of law,
25 from an action in a Federal or State court of com-

1 petent jurisdiction challenging that limitation or re-
2 quirement.

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

11 (c) RULES OF CONSTRUCTION.—

12 (1) IN GENERAL.—Nothing in this section shall
13 be construed to modify, supersede, or otherwise af-
14 fect the authority of any Executive branch agency to
15 promulgate regulations or otherwise implement laws.

16 (2) OTHER INDIVIDUALS CONSIDERED AS GOV-
17 ERNMENT OFFICIALS.—Any person who, by oper-
18 ation of a provision of Federal or State law, is per-
19 mitted to implement or enforce a limitation or re-
20 quirement that violates this section shall be consid-
21 ered a government official for purposes of this Act.

22 **SEC. 4. PROHIBITION ON THE USE OF FEDERAL FUNDS.**

23 Notwithstanding any other provision of law, no Fed-
24 eral funds may be used by a State, including through a
25 grant, contract, or cooperative agreement, to pursue legal

1 cases against residents or other individuals or entities, or
2 to take any other enforcement, disciplinary, or adverse li-
3 censing proceeding on the basis of such residents or other
4 individuals or entities providing or assisting with repro-
5 ductive health care services that are lawful in the State
6 in which the services are provided.

7 **SEC. 5. REPRODUCTIVE HEALTH CARE LEGAL SERVICES**
8 **DEFENSE FUND GRANTS.**

9 (a) **DEFINITIONS.**—In this section:

10 (1) **ELIGIBLE ENTITY.**—The term “eligible enti-
11 ty” means an individual, partnership, firm, corpora-
12 tion, or nonprofit organization that has a specific ex-
13 pertise in providing legal assistance and is licensed
14 to practice law.

15 (2) **ELIGIBLE PROVIDER.**—The term “eligible
16 provider” means a health care provider that—

17 (A) provides or refers for abortion care
18 services; and

19 (B) faces legal issues relating to providing
20 or assisting with reproductive health care serv-
21 ices.

22 (b) **FUNDING.**—There is appropriated to the Attor-
23 ney General, out of amounts in the Treasury not otherwise
24 appropriated, \$40,000,000, to remain available until ex-
25 pended, for purposes of awarding grants to eligible entities

1 or consortia of eligible entities to provide legal assistance
2 to eligible providers.

3 (c) APPLICATION.—

4 (1) IN GENERAL.—An eligible entity desiring a
5 grant under this section shall submit an application
6 to the Attorney General at such time, in such man-
7 ner, and containing such information as the Attor-
8 ney General may require.

9 (2) JOINT APPLICATIONS.—Multiple eligible en-
10 tities may submit a joint application that designates
11 a single eligible entity as the lead entity for the pur-
12 poses of receiving and disbursing funds received
13 through a grant under this section.

14 (d) USE OF FUNDS.—An eligible entity may use
15 amounts received under a grant under this section—

16 (1) to provide advice, legal services, or rep-
17 resentation to eligible providers, related to providing
18 or assisting with reproductive health care services
19 under Federal, State, and local law;

20 (2) to educate eligible providers about the
21 rights and obligations of the eligible provider related
22 to providing or assisting with reproductive health
23 care services under Federal, State, and local law;

1 (3) to monitor compliance by a State with Fed-
2 eral, State, and local laws related to providing or as-
3 sisting with reproductive health care services; and

4 (4) for any other activity the Attorney General
5 may reasonably prescribe that is related to providing
6 or assisting with reproductive health care services
7 under Federal, State, and local law.

8 **SEC. 6. REPRODUCTIVE HEALTH CARE SERVICES SECU-**
9 **RITY GRANTS.**

10 (a) IN GENERAL.—There is appropriated to the Sec-
11 retary of Health and Human Services (referred to in this
12 section as the “Secretary”), out of amounts in the Treas-
13 ury not otherwise appropriated, \$40,000,000, for purposes
14 of awarding grants to eligible providers (as defined in sec-
15 tion 5(a)(2)(A)) for enhanced security for staff and pa-
16 tients of such providers.

17 (b) APPLICATION.—An eligible provider (as defined
18 in section 5(a)) desiring a grant under this section shall
19 submit an application to the Secretary at such time, in
20 such manner, and containing such information as the Sec-
21 retary may require.

22 (c) USE OF FUNDS.—A recipient of a grant under
23 this section may use such grant funds for any of the fol-
24 lowing purposes:

1 (1) Providing physical upgrades to health care
2 facilities to improve security.

3 (2) Providing training in security to health care
4 staff.

5 (3) Improving capabilities to defend against
6 cyberattacks.

7 (4) Ensuring patient and provider data secu-
8 rity.

9 (5) Providing protective services to staff and
10 patients.

11 (6) Any other activity, as the Secretary deter-
12 mines appropriate.

13 **SEC. 7. FAIR LIABILITY INSURANCE.**

14 An issuer of professional liability coverage for health
15 care providers shall not—

16 (1) deny a health care provider professional li-
17 ability coverage because that provider offers, sup-
18 ports, provides, or prescribes lawful reproductive
19 health care services; or

20 (2) sue a health care provider because that pro-
21 vider provides lawful reproductive health care serv-
22 ices.

23 **SEC. 8. SEVERABILITY.**

24 If any provision of this Act, or the application of such
25 provision to any person, entity, government, or cir-

1 cumstance, is held to be unconstitutional, the remainder
2 of this Act, or the application of such provision to all other
3 persons, entities, governments, or circumstances, shall not
4 be affected thereby.