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 (for herself, Mr. Luján, Mr. Padilla, Ms. Rosen, Mr. Bennet, Mr. Markey, Ms. Stabenow, Mr. Heinrich, Mr. Blumenthal, Mr. Wyden, Ms. Warren, Mr. Merkley, Ms. Smith, Mr. Van Hollen, Mr. Cardin, Mr. Menendez, Ms. Klobuchar, Mr. Murphy, Mr. Reed, Ms. Cortez Masto, Mr. Whitehouse, Mr. Sanders, and Ms. Hirono) 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,
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4 SECTION 1. SHORT TITLE.
5 This Act may be cited as the “Let Doctors Provide
6 Reproductive Health Care Act”.
7 SEC. 2. DEFINITIONS.
8 In this Act:
(1) HEALTH CARE PROVIDER.—The term “health care provider” means any entity, employee of such entity, or individual (including any physician, certified nurse-midwife, nurse practitioner, and physician assistant) that—

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

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

(i) is so licensed, certified, or otherwise authorized; or

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

(2) REPRODUCTIVE HEALTH CARE SERVICES.—The term “reproductive health care services” means abortion services, contraception services, in vitro fertilization, or other reproductive care, education, and counseling that—

(A) is provided in a hospital, clinic, physician’s office, or other service site, or provided
via telehealth, intended to provide medical, procedural, counseling, or referral services;

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

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

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

SEC. 3. RIGHT TO PROVIDE REPRODUCTIVE HEALTH CARE SERVICES.

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

(1) a health care provider from providing or assisting with reproductive health care services lawful in the State in which the services are to be provided;

(2) any individual or entity from assisting a health care provider in providing or assisting with reproductive health care services lawful in the State in which services are to be provided; or
(3) a health care provider or any individual or entity from providing or assisting a health care provider with reproductive health care services for an individual who does not reside in the State in which the services are to be provided.

(b) Enforcement.—

(1) Attorney General.—The Attorney General may commence a civil action on behalf of the United States against any State, or against any government official, individual, or entity that enacts, implements, or enforces a limitation or requirement that violates subsection (a). The court shall hold unlawful and set aside the limitation or requirement if it is in violation of subsection (a).

(2) Private Right of Action.—Any individual or entity adversely affected by an alleged violation of subsection (a) may commence a civil action against any State that violates this section or against any government official that enacts, implements, or enforces a limitation or requirement that violates subsection (a). The court shall hold unlawful and enjoin the limitation or requirement if it is in violation of subsection (a).

(3) Health Care Provider.—A health care provider may commence an action for relief on its
own behalf, on behalf of the provider’s staff, and on behalf of the provider’s patients who are or may be adversely affected by an alleged violation of subsection (a).

(4) EQUITABLE RELIEF.—In any action under this section, the court may award appropriate equitable relief, including temporary, preliminary, or permanent injunctive relief.

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

(6) JURISDICTION.—The district courts of the United States shall have jurisdiction over proceedings under this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided for by law.

(7) ABROGATION OF STATE IMMUNITY.—Neither a State that enforces or maintains, nor a government official who is permitted to implement or enforce, any limitation or requirement that violates subsection (a) shall be immune under the Tenth
Amendment to the Constitution of the United States, the Eleventh Amendment to the Constitution of the United States, or any other source of law, from an action in a Federal or State court of competent jurisdiction challenging that limitation or requirement.

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

(c) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify, supersede, or otherwise affect the authority of any Executive branch agency to promulgate regulations or otherwise implement laws.

(2) OTHER INDIVIDUALS CONSIDERED AS GOVERNMENT OFFICIALS.—Any person who, by operation of a provision of Federal or State law, is permitted to implement or enforce a limitation or requirement that violates this section shall be considered a government official for purposes of this Act.
SEC. 4. PROHIBITION ON THE USE OF FEDERAL FUNDS.

Notwithstanding any other provision of law, no Federal funds may be used by a State, including through a grant, contract, or cooperative agreement, to pursue legal cases against residents or other individuals or entities, or to take any other enforcement, disciplinary, or adverse licensing proceeding on the basis of such residents or other individuals or entities providing or assisting with reproductive health care services that are lawful in the State in which the services are provided.

SEC. 5. REPRODUCTIVE HEALTH CARE LEGAL SERVICES DEFENSE FUND GRANTS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term “eligible entity” means an individual, partnership, firm, corporation, or nonprofit organization that has a specific expertise in providing legal assistance and is licensed to practice law.

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

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

(B) faces legal issues relating to providing or assisting with reproductive health care services.
(b) FUNDING.—There is appropriated to the Attorney General, out of amounts in the Treasury not otherwise appropriated, $40,000,000, to remain available until expended, for purposes of awarding grants to eligible entities or consortia of eligible entities to provide legal assistance to eligible providers.

(c) APPLICATION.—

(1) IN GENERAL.—An eligible entity desiring a grant under this section shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require.

(2) JOINT APPLICATIONS.—Multiple eligible entities may submit a joint application that designates a single eligible entity as the lead entity for the purposes of receiving and disbursing funds received through a grant under this section.

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

(1) to provide advice, legal services, or representation to eligible providers, related to providing or assisting with reproductive health care services under Federal, State, and local law;

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

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

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

SEC. 6. REPRODUCTIVE HEALTH CARE SERVICES SECU-
RITY GRANTS.

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

(b) APPLICATION.—An eligible provider (as defined
in section 5(a)) desiring a grant under this section shall
submit an application to the Secretary at such time, in
such manner, and containing such information as the Sec-
retary may require.
(c) Use of Funds.—A recipient of a grant under this section may use such grant funds for any of the following purposes:

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

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

   (3) Improving capabilities to defend against cyberattacks.

   (4) Ensuring patient and provider data security.

   (5) Providing protective services to staff and patients.

   (6) Any other activity, as the Secretary determines appropriate.

SEC. 7. FAIR LIABILITY INSURANCE.

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

   (1) deny a health care provider professional liability coverage because that provider offers, supports, provides, or prescribes lawful reproductive health care services; or

   (2) sue a health care provider because that provider provides lawful reproductive health care services.
SEC. 8. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person, entity, government, or circumstance, is held to be unconstitutional, the remainder of this Act, or the application of such provision to all other persons, entities, governments, or circumstances, shall not be affected thereby.