

103^D CONGRESS
1ST SESSION

S. 636

AN ACT

To amend the Public Health Service Act to permit individuals to have freedom of access to certain medical clinics and facilities, and for other purposes.

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To amend the Public Health Service Act to permit individuals to have freedom of access to certain medical clinics and facilities, 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 “Freedom of Access
5 to Clinic Entrances Act of 1993”.

1 **SEC. 2. CONGRESSIONAL STATEMENT OF FINDINGS AND**
2 **PURPOSE.**

3 (a) FINDINGS.—Congress finds that—

4 (1) medical clinics and other facilities through-
5 out the Nation offering abortion-related services
6 have been targeted in recent years by an interstate
7 campaign of violence and obstruction aimed at clos-
8 ing the facilities or physically blocking ingress to
9 them, and intimidating those seeking to obtain or
10 provide abortion-related services;

11 (2) as a result of such conduct, women are
12 being denied access to, and health care providers are
13 being prevented from delivering, vital reproductive
14 health services;

15 (3) such conduct subjects women to increased
16 medical risks and thereby jeopardizes the public
17 health and safety;

18 (4) the methods used to deny women access to
19 these services include blockades of facility entrances;
20 invasions and occupations of the premises; vandalism
21 and destruction of property in and around the facil-
22 ity; bombings, arson, and murder; and other acts of
23 force and threats of force;

24 (5) those engaging in such tactics frequently
25 trample police lines and barricades and overwhelm
26 State and local law enforcement authorities and

1 courts and their ability to restrain and enjoin unlaw-
2 ful conduct and prosecute those who have violated
3 the law;

4 (6) this problem is national in scope, and be-
5 cause of its magnitude and interstate nature exceeds
6 the ability of any single State or local jurisdiction to
7 solve it;

8 (7) such conduct operates to infringe upon
9 women's ability to exercise full enjoyment of rights
10 secured to them by Federal and State law, both stat-
11 utory and constitutional, and burdens interstate
12 commerce, including by interfering with business ac-
13 tivities of medical clinics involved in interstate com-
14 merce and by forcing women to travel from States
15 where their access to reproductive health services is
16 obstructed to other States;

17 (8) the entities that provide pregnancy or abor-
18 tion-related services engage in commerce by purchas-
19 ing and leasing facilities and equipment, selling
20 goods and services, employing people, and generating
21 income;

22 (9) such entities purchase medicine, medical
23 supplies, surgical instruments, and other supplies
24 produced in other States;

1 (10) violence, threats of violence, obstruction,
2 and property damage directed at abortion providers
3 and medical facilities have had the effect of restrict-
4 ing the interstate movement of goods and people;

5 (11) prior to the Supreme Court's decision in
6 Bray v. Alexandria Women's Health Clinic (113 S.
7 Ct. 753 (1993)), such conduct was frequently re-
8 strained and enjoined by Federal courts in actions
9 brought under section 1980(3) of the Revised Stat-
10 utes (42 U.S.C. 1985(3));

11 (12) in the Bray decision, the Court denied a
12 remedy under such section to persons injured by the
13 obstruction of access to abortion-related services;

14 (13) legislation is necessary to prohibit the ob-
15 struction of access by women to pregnancy or abor-
16 tion-related services and to ensure that persons in-
17 jured by such conduct, as well as the Attorney Gen-
18 eral of the United States and State Attorneys Gen-
19 eral, can seek redress in the Federal courts;

20 (14) the obstruction of access to pregnancy or
21 abortion-related services can be prohibited, and the
22 right of injured parties to seek redress in the courts
23 can be established, without abridging the exercise of
24 any rights guaranteed under the First Amendment
25 to the Constitution or other law; and

1 (15) Congress has the affirmative power under
2 section 8 of article I of the Constitution as well as
3 under section 5 of the Fourteenth Amendment to
4 the Constitution to enact such legislation.

5 (b) PURPOSE.—It is the purpose of this Act to pro-
6 tect and promote the public health and safety and activi-
7 ties affecting interstate commerce by prohibiting the use
8 of force, threat of force or physical obstruction to injure,
9 intimidate or interfere with a person seeking to obtain or
10 provide pregnancy or abortion-related services, and the de-
11 struction of property of facilities providing pregnancy or
12 abortion-related services, and by establishing the right of
13 private parties injured by such conduct, as well as the At-
14 torney General of the United States and State Attorneys
15 General in appropriate cases, to bring actions for appro-
16 priate relief.

17 **SEC. 3. FREEDOM OF ACCESS TO CLINIC ENTRANCES.**

18 Title XXVII of the Public Health Service Act (42
19 U.S.C. 300aaa et seq.) is amended by adding at the end
20 thereof the following new section:

21 **“SEC. 2715. FREEDOM OF ACCESS TO CLINIC ENTRANCES.**

22 **“(a) PROHIBITED ACTIVITIES.—Whoever—**

23 **“(1) by force or threat of force or by physical**
24 obstruction, intentionally injures, intimidates or
25 interferes with or attempts to injure, intimidate or

1 interfere with any person because that person is or
2 has been, or in order to intimidate such person or
3 any other person or any class of persons from, ob-
4 taining or providing pregnancy or abortion-related
5 services: *Provided, however,* That nothing in this sec-
6 tion shall be construed as expanding or limiting the
7 authority of States to regulate the performance of
8 abortions or the availability of pregnancy or abor-
9 tion-related services;

10 “(2) by force or threat of force or by physical
11 obstruction, intentionally injures, intimidates or
12 interferes with or attempts to injure, intimidate or
13 interfere with any person lawfully exercising or seek-
14 ing to exercise the First Amendment right of reli-
15 gious freedom at a place of worship; or

16 “(3) intentionally damages or destroys the
17 property of a medical facility or in which a medical
18 facility is located, or attempts to do so, because such
19 facility provides pregnancy or abortion-related serv-
20 ices, or intentionally damages or destroys the prop-
21 erty of a place of religious worship,

22 shall be subject to the penalties provided in subsection (b)
23 and the civil remedies provided in subsection (c), except
24 that a parent or legal guardian of a minor shall not be
25 subject to any penalties or civil remedies under this section

1 for such activities insofar as they are directed exclusively
2 at that minor.

3 “(b) PENALTIES.—Whoever violates this section
4 shall—

5 “(1) in the case of a first offense, be fined in
6 accordance with title 18, United States Code (which
7 fines shall be paid into the general fund of the
8 Treasury, miscellaneous receipts (pursuant to sec-
9 tion 3302 of title 31, United States Code), notwith-
10 standing any other law), or imprisoned not more
11 than 1 year, or both; and

12 “(2) in the case of a second or subsequent of-
13 fense after a prior conviction under this section, be
14 fined in accordance with title 18, United States
15 Code (which fines shall be paid into the general fund
16 of the Treasury, miscellaneous receipts (pursuant to
17 section 3302 of title 31, United States Code), not-
18 withstanding any other law), or imprisoned not more
19 than 3 years, or both;

20 except that for an offense involving exclusively a non-
21 violent physical obstruction, the fine shall be not more
22 than \$10,000 and the length of imprisonment shall be not
23 more than six months, or both, for the first offense; and
24 the fine shall be not more than \$25,000 and the length
25 of imprisonment shall be not more than 18 months, or

1 both, for a subsequent offense; and except that if bodily
2 injury results, the length of imprisonment shall be not
3 more than 10 years, and if death results, it shall be for
4 any term of years or for life.

5 “(C) CIVIL REMEDIES.—

6 “(1) RIGHT OF ACTION.—

7 “(A) IN GENERAL.—Any person aggrieved
8 by reason of the conduct prohibited by sub-
9 section (a) may commence a civil action for the
10 relief set forth in subparagraph (B), except that
11 such an action may be brought under sub-
12 section (a)(1) only by a person involved in pro-
13 viding or seeking to provide, or obtaining or
14 seeking to obtain, services in a medical facility
15 that provides pregnancy or abortion-related
16 services.

17 “(B) RELIEF.—In any action under sub-
18 paragraph (A), the court may award appro-
19 priate relief, including temporary, preliminary
20 or permanent injunctive relief and compen-
21 satory and punitive damages, as well as the
22 costs of suit and reasonable fees for attorneys
23 and expert witnesses. With respect to compen-
24 satory damages, the plaintiff may elect, at any
25 time prior to the rendering of final judgment,

1 to recover, in lieu of actual damages, an award
2 of statutory damages in the amount of \$5,000
3 per violation.

4 “(2) ACTION BY ATTORNEY GENERAL OF THE
5 UNITED STATES.—

6 “(A) IN GENERAL.—If the Attorney Gen-
7 eral of the United States has reasonable cause
8 to believe that any person or group of persons
9 is being, has been, or may be injured by con-
10 duct constituting a violation of this section, and
11 such conduct raises an issue of general public
12 importance, the Attorney General may com-
13 mence a civil action in any appropriate United
14 States District Court.

15 “(B) RELIEF.—In any action under sub-
16 paragraph (A), the court may award appro-
17 priate relief, including temporary, preliminary
18 or permanent injunctive relief and compen-
19 satory damages to persons aggrieved as de-
20 scribed in paragraph (1)(B). The court, to vin-
21 dicate the public interest, may also assess a
22 civil penalty against each respondent—

23 “(i) in an amount not exceeding
24 \$10,000 for a nonviolent physical obstruc-

tion and \$15,000 for other first violations;
and

“(ii) in an amount not exceeding
\$15,000 for a nonviolent physical obstruction and \$25,000, for any other subsequent violation.

“(3) ACTIONS BY STATE ATTORNEYS GENERAL.—

“(A) IN GENERAL.—If the Attorney General of a State has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, and such conduct raises an issue of general public importance, such Attorney General may commence a civil action in the name of such State, as *parens patriae* on behalf of natural persons residing in such State, in any appropriate United States District Court.

“(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, compensatory damages, and civil penalties as described in paragraph (2)(B).

1 “(d) RULES OF CONSTRUCTION.—Nothing in this
2 section shall be construed or interpreted to—

3 “(1) prevent any State from exercising jurisdic-
4 tion over any offense over which it would have juris-
5 diction in the absence of this section;

6 “(2) deprive State and local law enforcement
7 authorities of responsibility for prosecuting acts that
8 may be violations of this section and that are viola-
9 tions of State or local law;

10 “(3) provide exclusive authority to prosecute, or
11 exclusive penalties for, acts that may be violations of
12 this section and that are violations of other Federal
13 laws;

14 “(4) limit or otherwise affect the right of a per-
15 son aggrieved by acts that may be violations of this
16 section to seek other available civil remedies;

17 “(5) prohibit expression protected by the First
18 Amendment to the Constitution; or

19 “(6) create new remedies for interference with
20 expressive activities protected by the First Amend-
21 ment to the Constitution, occurring outside a medi-
22 cal facility, regardless of the point of view expressed.

23 “(e) DEFINITIONS.—As used in this section:

1 “(1) INTERFERE WITH.—The term ‘interfere
2 with’ means to restrict a person’s freedom of move-
3 ment.

4 “(2) INTIMIDATE.—The term ‘intimidate’
5 means to place a person in reasonable apprehension
6 of bodily harm to him- or herself or to another.

7 “(3) MEDICAL FACILITY.—The term ‘medical
8 facility’ includes a hospital, clinic, physician’s office,
9 or other facility that provides health or surgical serv-
10 ices or counselling or referral related to health or
11 surgical services.

12 “(4) PHYSICAL OBSTRUCTION.—The term
13 ‘physical obstruction’ means rendering impassable
14 ingress to or egress from a medical facility that pro-
15 vides pregnancy or abortion-related services or to or
16 from a place of religious worship, or rendering pas-
17 sage to or from such a facility or place of religious
18 worship unreasonably difficult or hazardous.

19 “(5) PREGNANCY OR ABORTION-RELATED SERV-
20 ICES.—The term ‘pregnancy or abortion-related
21 services’ includes medical, surgical, counselling or re-
22 ferral services, provided in a medical facility, relat-
23 ing to pregnancy or the termination of a pregnancy.

24 “(6) STATE.—The term ‘State’ includes a State
25 of the United States, the District of Columbia, and

1 any commonwealth, territory, or possession of the
2 United States.”.

3 **SEC. 4. RULE OF CONSTRUCTION.**

4 Notwithstanding any other provision of this Act,
5 nothing in this Act shall be construed to interfere with
6 the rights guaranteed to an individual under the First
7 Amendment to the Constitution, or limit any existing legal
8 remedies against forceful interference with any person’s
9 lawful participation in speech or peaceful assembly.

10 **SEC. 5. EFFECTIVE DATE.**

11 This Act shall take effect with respect to conduct oc-
12 curring on or after the date of enactment of this Act.

 Passed the Senate November 16 (legislative day, No-
 vember 2), 1993.

 Attest:

Secretary.

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