

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 524

To prohibit insurers from denying health insurance coverage, benefits, or varying premiums based on the status of an individual as a victim of domestic violence, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 9 (legislative day, MARCH 6), 1995

Mr. WELLSTONE (for himself, Mr. KENNEDY, Mr. REID, Mr. BRADLEY, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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## A BILL

To prohibit insurers from denying health insurance coverage, benefits, or varying premiums based on the status of an individual as a victim of domestic violence, 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 “Victims of Abuse Ac-  
5 cess to Health Insurance Act”.

1 **SEC. 2. PROHIBITION OF HEALTH INSURANCE DISCRIMINA-**  
2 **TION RELATING TO VICTIMS OF CERTAIN**  
3 **CRIMES.**

4 (a) IN GENERAL.—No insurer may engage in a prac-  
5 tice that has the effect of denying, canceling, or limiting  
6 health insurance coverage or health benefits, or establish-  
7 ing, increasing, or varying the premium charged for the  
8 coverage or benefits—

9 (1) to or for an individual on the basis that the  
10 individual is, has been, or may be the victim of do-  
11 mestic violence; or

12 (2) to or for a group or employer on the basis  
13 that the group includes or the employer employs, or  
14 provides or subsidizes insurance for, an individual  
15 described in paragraph (1).

16 (b) PREEXISTING CONDITIONS.—

17 (1) IN GENERAL.—A health benefit plan may  
18 not consider a condition or injury that occurred as  
19 a result of domestic violence as a preexisting condi-  
20 tion.

21 (2) PREEXISTING CONDITION.—As used in  
22 paragraph (1), the term “preexisting condition”  
23 means, with respect to coverage under a health bene-  
24 fit plan, a condition which was diagnosed, or which  
25 was treated, prior to the first date of such coverage  
26 (without regard to any waiting period).

1 **SEC. 3. CIVIL AND CRIMINAL REMEDIES AND PENALTIES.**

2 (a) IN GENERAL.—Whoever violates the provisions of  
3 this Act shall be—

4 (1) subject to a fine in an amount provided for  
5 under title 18, United States Code, for a class A  
6 misdemeanor not resulting in death;

7 (2) subject to the imposition of a civil monetary  
8 penalty; and

9 (3) subject to the commencement by the ag-  
10 grievied party of a civil action under subsection (b).

11 (b) CIVIL REMEDIES.—

12 (1) IN GENERAL.—Any individual aggrieved by  
13 reason of the conduct prohibited in this Act may  
14 commence a civil action for the relief set forth in  
15 paragraph (2).

16 (2) RELIEF.—In any action under paragraph  
17 (1), the court may award appropriate relief, includ-  
18 ing temporary, preliminary, or permanent injunctive  
19 relief and compensatory and punitive damages, as  
20 well as the costs of suit and reasonable fees for  
21 plaintiff's attorneys and expert witnesses. With re-  
22 spect to compensatory damages, the plaintiff may  
23 elect, at any time prior to the rendering of final  
24 judgment, to recover, in lieu of actual damages, an  
25 award of statutory damages in the amount of \$5,000  
26 per violation.

1           (3) CONCURRENT JURISDICTION.—Both Fed-  
2           eral and State courts shall have concurrent jurisdic-  
3           tion over actions brought pursuant to this section.

4 **SEC. 4. DEFINITIONS.**

5           For purposes of this Act:

6           (1) DOMESTIC VIOLENCE.—The term “domestic  
7           violence” means the occurrence of one or more of  
8           the following acts between household or family (in-  
9           cluding in-laws or extended family) members,  
10          spouses or former spouses, or individuals engaged in  
11          or formerly engaged in a sexually intimate relation-  
12          ship:

13                   (A) Attempting to cause or intentionally,  
14                   knowingly, or recklessly causing bodily injury,  
15                   rape, assault, sexual assault, or involuntary sex-  
16                   ual intercourse.

17                   (B) Knowingly engaging in a course of  
18                   conduct or repeatedly committing acts toward  
19                   another individual, including following the indi-  
20                   vidual, without proper authority, under cir-  
21                   cumstances that place the individual in reason-  
22                   able fear of bodily injury.

23                   (C) Subjecting another to false imprison-  
24                   ment.

25          (2) INSURER.—

1 (A) IN GENERAL.—The term “insurer”  
2 means a health benefit plan, a health care pro-  
3 vider, an entity that self-insures, or a Federal  
4 or State agency or entity that conducts activi-  
5 ties related to the protection of public health.

6 (B) HEALTH BENEFIT PLAN.—The term  
7 “health benefit plan” means any public or pri-  
8 vate entity or program that provides for pay-  
9 ments for health care, including—

10 (i) a group health plan (as defined in  
11 section 607 of the Employee Retirement  
12 Income Security Act of 1974) or a multiple  
13 employer welfare arrangement (as defined  
14 in section 3(40) of such Act) that provides  
15 health benefits;

16 (ii) any other health insurance ar-  
17 rangement, including any arrangement  
18 consisting of a hospital or medical expense  
19 incurred policy or certificate, hospital or  
20 medical service plan contract, or health  
21 maintenance organization subscriber con-  
22 tract;

23 (iii) workers’ compensation or similar  
24 insurance to the extent that it relates to  
25 workers’ compensation medical benefits (as

1 defined by the Secretary of Health and  
2 Human Services); and

3 (iv) automobile medical insurance to  
4 the extent that it relates to medical bene-  
5 fits (as defined by the Secretary of Health  
6 and Human Services).

7 **SEC. 5. INAPPLICABILITY OF MCCARRAN-FERGUSON ACT.**

8 For purposes of section 2(b) of the Act of March 9,  
9 1945 (15 U.S.C. 1012(b)); commonly known as the  
10 McCarran-Ferguson Act), this Act shall be considered to  
11 specifically relate to the business of insurance.

12 **SEC. 6. REGULATIONS.**

13 The Secretary of Health and Human Services shall  
14 issue regulations to carry out this Act.

15 **SEC. 7. EFFECTIVE DATE.**

16 This Act shall take effect 90 days after the date of  
17 the enactment of this Act.

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