

104TH CONGRESS
1ST SESSION

S. 979

To protect women's reproductive health and constitutional right to choice,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 28 (legislative date, JUNE 19), 1995

Mrs. BOXER (for herself, Mr. KENNEDY, Ms. MIKULSKI, Mrs. MURRAY, Mrs. FEINSTEIN, Ms. SNOWE, Mr. LAUTENBERG, Mr. INOUE, Mr. GLENN, Mr. PACKWOOD, Mr. DODD, and Mr. SPECTER) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To protect women's reproductive health and constitutional
right to choice, 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 "Women's Choice and
5 Reproductive Health Protection Act of 1995".

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) reproductive rights are central to the ability
2 of women to exercise full enjoyment of rights se-
3 cured to women by Federal and State law;

4 (2) abortion has been a legal and constitu-
5 tionally protected medical procedure throughout the
6 United States since 1973 and has become part of
7 mainstream medical practice as is evidenced by the
8 positions of medical institutions including the Amer-
9 ican Medical Association, the American College of
10 Obstetricians and Gynecologists, and the American
11 Medical Women's Association;

12 (3) the availability of abortion services is dimin-
13 ishing throughout the United States, as evidenced
14 by—

15 (A) the fact that 84 percent of counties in
16 the United States have no abortion provider;
17 and

18 (B) the fact that between 1982 and 1992
19 the number of abortion providers decreased in
20 45 States; and

21 (4) at a minimum, Congress must retain the
22 following policies, which currently preserve the
23 choice and reproductive health of women:

24 (A) Funding through the medicaid pro-
25 gram under title XIX of the Social Security Act

1 (42 U.S.C. 1396 et seq.) for abortion services
2 for victims of rape or incest.

3 (B) Protection from clinic violence.

4 (C) Full implementation of contraceptive
5 and infertility research programs.

6 (D) Authorization of family planning pro-
7 grams.

8 (E) the prohibition of any gag rule on in-
9 formation pertaining to reproductive medical
10 services.

11 (F) The evaluation of the drug called
12 Mifepristone or RU-486.

13 (G) The establishment of breast cancer,
14 cervical cancer, and chlamydia screening pro-
15 grams in all 50 States.

16 (H) The fundamental right to choose, as
17 stated in the Supreme Court decision in *Roe v.*
18 *Wade*, 410 U.S. 113 (1973).

19 (I) Fairness in insurance.

20 (J) The ability of military personnel over-
21 seas to purchase abortion services at military
22 facilities with private funds.

1 **SEC. 3. SENSE OF CONGRESS WITH RESPECT TO CERTAIN**
2 **REPRODUCTIVE HEALTH ISSUES.**

3 (a) RAPE AND INCEST VICTIM PROTECTION.—It is
4 the sense of Congress that current provisions of law (in
5 effect as of October 1, 1993) requiring Federal and State
6 governments to provide funding for abortion services in
7 cases of life endangerment, and for victims of rape or in-
8 cest, to women eligible for assistance through the medicaid
9 program under title XIX of the Social Security Act (42
10 U.S.C. 1396 et seq.) are essential to the health and well-
11 being of the women and must not be repealed.

12 (b) CLINIC VIOLENCE.—It is the sense of Congress
13 that—

14 (1) Federal resources are necessary to ensure
15 that women have safe access to reproductive health
16 facilities and that health professionals can deliver
17 services in a secure environment free from violence
18 and threats of force; and

19 (2) it is necessary and appropriate to use Fed-
20 eral resources to combat the nationwide campaign of
21 violence and harassment against reproductive health
22 centers.

23 (c) PREVENTIVE HEALTH MEASURES REGARDING
24 BREAST AND CERVICAL CANCER.—It is the sense of Con-
25 gress that the program of grants under title XV of the
26 Public Health Service Act should receive a level of funding

1 that is adequate for all States to receive grants under such
2 title.

3 (d) PROGRAMS REGARDING CONTRACEPTION AND
4 INFERTILITY.—

5 (1) RESEARCH CENTERS.—It is the sense of
6 Congress that the program of research centers under
7 section 452A of the Public Health Service Act
8 should receive a level of funding that is adequate for
9 a reasonable number of research centers to be oper-
10 ated under the program.

11 (2) LOAN REPAYMENT PROGRAM REGARDING
12 CONDUCT OF RESEARCH.—It is the sense of Con-
13 gress that the program of loan-repayment contracts
14 under section 487B of the Public Health Service Act
15 should receive a level of funding that is adequate for
16 a reasonable number of individuals to conduct re-
17 search under the program.

18 **SEC. 4. FAMILY PLANNING AMENDMENTS.**

19 Section 1001(d) of the Public Health Service Act (42
20 U.S.C. 300(d)) is amended to read as follows:

21 “(d) For the purpose of grants and contracts under
22 this section, there are authorized to be appropriated
23 \$220,000,000 for fiscal year 1996, \$250,000,000 for fis-
24 cal year 1997, and such sums as may be necessary for
25 each of fiscal years 1998 through 2000.”.

1 **SEC. 5. FREEDOM OF FULL DISCLOSURE.**

2 Title XI of the Civil Rights Act of 1964 (42 U.S.C.
3 2000h et seq.) is amended by adding at the end the follow-
4 ing:

5 **“SEC. 1107. INFORMATION ABOUT AVAILABILITY OF REPRO-**
6 **DUCTIVE HEALTH CARE SERVICES.**

7 “(a) IN GENERAL.—Notwithstanding any other pro-
8 vision of law, no governmental authority shall, in or
9 through any program or activity that is administered or
10 assisted by such authority and that provides health care
11 services or information, limit the right of any person to
12 provide, or the right of any person to receive,
13 nonfraudulent information about the availability of repro-
14 ductive health care services, including family planning,
15 prenatal care, adoption, and abortion services.

16 “(b) DEFINITION.—As used in this section the term
17 ‘governmental authority’ means any authority of the Unit-
18 ed States.”.

19 **SEC. 6. FAIRNESS IN EVALUATION OF RU-486.**

20 The Secretary of Health and Human Services shall—

21 (1) assure that the Food and Drug Administra-
22 tion evaluates the drug called Mifepristone or RU-
23 486 only on the basis provided by law; and

24 (2) assess initiatives by which the Department
25 of Health and Human Services can promote the

1 testing, licensing, and manufacturing in the United
2 States of the drug or other antiprogestins.

3 **SEC. 7. FREEDOM OF CHOICE.**

4 (a) FINDINGS.—Congress finds the following:

5 (1) The 1973 Supreme Court decision in *Roe v.*
6 *Wade*, 410 U.S. 113 (1973) established constitu-
7 tionally based limits on the power of States to re-
8 strict the right of a woman to choose to terminate
9 a pregnancy. Under the strict scrutiny standard
10 enunciated in the *Roe v. Wade* decision, States were
11 required to demonstrate that laws restricting the
12 right of a woman to choose to terminate a pregnancy
13 were the least restrictive means available to achieve
14 a compelling State interest. Since 1989, the Su-
15 preme Court has no longer applied the strict scru-
16 tiny standard in reviewing challenges to the constitu-
17 tionality of State laws restricting such rights.

18 (2) As a result of the recent modification by the
19 Supreme Court of the strict scrutiny standard enun-
20 ciated in the *Roe v. Wade* decision, certain States
21 have restricted the right of women to choose to ter-
22 minate a pregnancy or to utilize some forms of con-
23 traception, and the restrictions operate cumulatively
24 to—

1 (A)(i) increase the number of illegal or
2 medically less safe abortions, often resulting in
3 physical impairment, loss of reproductive capac-
4 ity, or death to the women involved;

5 (ii) burden interstate and international
6 commerce by forcing women to travel from
7 States in which legal barriers render contracep-
8 tion or abortion unavailable or unsafe to other
9 States or foreign nations;

10 (iii) interfere with freedom of travel be-
11 tween and among the various States;

12 (iv) burden the medical and economic re-
13 sources of States that continue to provide
14 women with access to safe and legal abortion;
15 and

16 (v) interfere with the ability of medical
17 professionals to provide health services;

18 (B) obstruct access to and use of contra-
19 ceptive and other medical techniques that are
20 part of interstate and international commerce;

21 (C) discriminate between women who are
22 able to afford interstate and international travel
23 and women who are not, a disproportionate
24 number of whom belong to racial or ethnic mi-
25 norities; and

1 (D) infringe on the ability of women to ex-
2 ercise full enjoyment of rights secured to the
3 women by Federal and State law, both statu-
4 tory and constitutional.

5 (3) Although Congress may not by legislation
6 create constitutional rights, Congress may, where
7 authorized by the enumerated powers of Congress
8 and not prohibited by a constitutional provision,
9 enact legislation to create and secure statutory
10 rights in areas of legitimate national concern.

11 (4) Congress has the affirmative power under
12 section 8 of article I of the Constitution and under
13 section 5 of the 14th amendment to the Constitution
14 to enact legislation to prohibit State interference
15 with interstate commerce, liberty, or equal protection
16 of the laws.

17 (b) PURPOSE.—The purpose of this section is to es-
18 tablish, as a statutory matter, limitations on the power
19 of a State to restrict the freedom of a woman to terminate
20 a pregnancy in order to achieve the same limitations as
21 were provided, as a constitutional matter, under the strict
22 scrutiny standard of review enunciated in the *Roe v. Wade*
23 decision and applied in subsequent cases from 1973
24 through 1988.

25 (c) IN GENERAL.—A State—

1 (1) may not restrict the freedom of a woman to
2 choose whether or not to terminate a pregnancy be-
3 fore fetal viability;

4 (2) may restrict the freedom of a woman to
5 choose whether or not to terminate a pregnancy
6 after fetal viability unless such a termination is nec-
7 essary to preserve the life or health of the woman;
8 and

9 (3) may impose requirements on the perform-
10 ance of abortion procedures if such requirements are
11 medically necessary to protect the health of women
12 undergoing such procedures.

13 (d) RULES OF CONSTRUCTION.—Nothing in this sec-
14 tion shall be construed to—

15 (1) prevent a State from protecting unwilling
16 individuals or private health care institutions from
17 being required to participate in the performance of
18 abortions to which the individuals or institutions are
19 conscientiously opposed;

20 (2) prevent a State from declining to pay for
21 the performance of abortions; or

22 (3) prevent a State from requiring a minor to
23 involve a parent, guardian, or other responsible
24 adult before terminating a pregnancy.

1 (e) DEFINITION.—As used in this section, the term
2 “State” includes the District of Columbia, the Common-
3 wealth of Puerto Rico, and each other territory or posses-
4 sion of the United States.

5 **SEC. 8. FAIRNESS IN INSURANCE.**

6 Notwithstanding any other provision of law, no Fed-
7 eral law shall be construed to prohibit a provider of health
8 insurance from offering coverage for the full range of re-
9 productive health care services, including abortion serv-
10 ices.

11 **SEC. 9. ABORTIONS IN FACILITIES OF THE UNIFORMED**
12 **SERVICES NOT PROHIBITED IF NOT FEDER-**
13 **ALLY FUNDED.**

14 Section 1093 of title 10, United States Code, is
15 amended—

16 (1) by inserting “(a) LIMITATION.—” before
17 “Funds”; and

18 (2) by adding at the end the following:

19 “(b) ABORTIONS IN FACILITIES OVERSEAS.—Sub-
20 section (a) does not limit the performing of an abortion
21 in a facility of the uniformed services located outside the
22 48 contiguous States of the United States if—

23 “(1) the cost of performing the abortion is fully
24 paid from a source or sources other than funds
25 available to the Department of Defense;

1 “(2) abortions are not prohibited by the laws of
2 the jurisdiction where the facility is located; and

3 “(3) the abortion would otherwise be permitted
4 under the laws applicable to the provision of health
5 care to members and former members of the uni-
6 formed services and their dependents in such
7 facility.”.

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