

Union Calendar No. 133

112TH CONGRESS
1ST SESSION

H. R. 358

[Report No. 112–40, Part I]

To amend the Patient Protection and Affordable Care Act to modify special rules relating to coverage of abortion services under such Act.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 20, 2011

Mr. PITTS (for himself, Mr. LIPINSKI, Mrs. SCHMIDT, Mr. ROSS of Arkansas, Mr. SMITH of New Jersey, Mr. UPTON, Mrs. BLACK, Mr. PENCE, Mr. FLEMING, Mrs. MCMORRIS RODGERS, Mr. ADERHOLT, Mr. AKIN, Mr. AUSTRIA, Mrs. BACHMANN, Mr. BACHUS, Mr. BARTON of Texas, Mr. BILIRAKIS, Mrs. BLACKBURN, Mr. BRADY of Texas, Mr. BROUN of Georgia, Mr. BUCHANAN, Mr. BURGESS, Mr. CANSECO, Mrs. MILLER of Michigan, Ms. JENKINS, Mr. CARTER, Mr. CHAFFETZ, Mr. COFFMAN of Colorado, Mr. CONAWAY, Mr. COSTELLO, Mr. CRAWFORD, Mr. CRITZ, Mrs. ELLMERS, Mr. FORTENBERRY, Mr. GARRETT, Mr. GIBBS, Mr. GINGREY of Georgia, Mr. GOHMERT, Mr. GRAVES of Missouri, Mr. GUTHRIE, Mr. HALL, Mr. HARRIS, Mrs. HARTZLER, Mr. JOHNSON of Illinois, Mr. JONES, Mr. JORDAN, Mr. KINGSTON, Mr. KINZINGER of Illinois, Mr. KLINE, Mr. LAMBORN, Mr. LANCE, Mr. LATTA, Mr. LEE of New York, Mr. DANIEL E. LUNGREN of California, Mr. MANZULLO, Mr. MARCHANT, Mr. McCAUL, Mr. McCLINTOCK, Mr. McCOTTER, Mr. MCKINLEY, Mr. MURPHY of Pennsylvania, Mr. NEUGEBAUER, Mr. OLSON, Mr. PAUL, Mr. POE of Texas, Mr. ROE of Tennessee, Mr. ROGERS of Michigan, Mr. ROGERS of Kentucky, Mr. ROSS of Florida, Mr. RYAN of Wisconsin, Mr. SCALISE, Mr. SESSIONS, Mr. SHIMKUS, Mr. SHULER, Mr. SMITH of Texas, Mr. STUTZMAN, Mr. SULLIVAN, Mr. TERRY, Mr. THOMPSON of Pennsylvania, Mr. WHITFIELD, Mr. FLAKE, Mr. POMPEO, Mr. KELLY, Mr. LONG, Mr. ROSKAM, Mr. MILLER of Florida, Mr. HUIZENGA of Michigan, Mr. DAVIS of Kentucky, and Mr. SHUSTER) introduced the following bill; which was referred to the Committee on Energy and Commerce

MARCH 17, 2011

Reported with an amendment and referred to the Committee on Ways and

Means for a period ending not later than April 15, 2011, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(t), rule X

[Strike out all after the enacting clause and insert the part printed in *italic*]

APRIL 15, 2011

Referral to the Committee on Ways and Means extended for a period ending not later than May 20, 2011

MAY 20, 2011

Referral to the Committee on Ways and Means extended for a period ending not later than September 9, 2011

SEPTEMBER 9, 2011

Referral to the Committee on Ways and Means extended for a period ending not later than September 12, 2011

SEPTEMBER 12, 2011

Additional sponsors: Mr. WALBERG, Mr. ROGERS of Alabama, Mr. YOUNG of Florida, Mr. CASSIDY, Mr. LUETKEMEYER, Mr. NUNNELEE, Mr. PETRI, Mr. FLORES, Mr. HARPER, Mr. HUELSKAMP, Mr. LATHAM, Mrs. MYRICK, Ms. FOXX, Mr. MARINO, Mr. TURNER, Mr. RIBBLE, Mr. CALVERT, Mr. YODER, Mr. BARTLETT, Mr. FINCHER, Mr. GARY G. MILLER of California, Mr. LATOURETTE, Mr. TIBERI, Mr. PLATTS, Mr. BERG, Mr. LANKFORD, Mr. ALEXANDER, Mr. RAHALL, Mr. STEARNS, Mr. PAULSEN, Mr. CHABOT, Mr. FORBES, Mr. CAMP, Mr. HUNTER, Mr. PEARCE, Mr. MULVANEY, Mr. WILSON of South Carolina, Mr. DUNCAN of South Carolina, Mr. HERGER, Mr. SCOTT of South Carolina, Mr. JOHNSON of Ohio, Mr. BISHOP of Utah, Mr. FRANKS of Arizona, Mr. ROONEY, Mr. POSEY, Mr. GOWDY, Mr. LANDRY, Mr. REHBERG, Mr. SAM JOHNSON of Texas, Mr. RIGELL, Mr. LEWIS of California, Mr. DUFFY, Mr. AMASH, Mr. ROKITA, Mr. GOSAR, and Mr. ROYCE

SEPTEMBER 12, 2011

The Committee on Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on January 20, 2011]

A BILL

To amend the Patient Protection and Affordable Care Act to modify special rules relating to coverage of abortion services under such Act.

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 “Protect Life Act”.*

5 **SEC. 2. MODIFYING SPECIAL RULES RELATING TO COV-**
6 **ERAGE OF ABORTION SERVICES UNDER THE**
7 **PATIENT PROTECTION AND AFFORDABLE**
8 **CARE ACT TO CONFORM TO LONG-STANDING**
9 **FEDERAL POLICY.**

10 *(a) IN GENERAL.—Section 1303 of the Patient Protec-*
11 *tion and Affordable Care Act (Public Law 111–148), as*
12 *amended by section 10104(c) of such Act, is amended—*

13 *(1) by redesignating subsections (c) and (d) as*
14 *subsections (e) and (f), respectively;*

15 *(2) by redesignating paragraph (4) of subsection*
16 *(b) as subsection (d) and transferring such subsection*
17 *(d) after the subsection (c) inserted by paragraph (4)*
18 *of this subsection with appropriate indentation (and*
19 *conforming the style of the heading to a subsection*
20 *heading);*

21 *(3) by amending subsection (b) to read as fol-*
22 *lows:*

23 *“(b) SPECIAL RULES RELATING TO TRAINING IN AND*
24 *COVERAGE OF ABORTION SERVICES.—Nothing in this Act*
25 *(or any amendment made by this Act) shall be construed*

1 *to require any health plan to provide coverage of or access*
2 *to abortion services or to allow the Secretary or any other*
3 *Federal or non-Federal person or entity in implementing*
4 *this Act (or amendment) to require coverage of, access to,*
5 *or training in abortion services.”;*

6 *(4) by inserting after subsection (b) the following*
7 *new subsection:*

8 *“(c) LIMITATION ON ABORTION FUNDING.—*

9 *“(1) IN GENERAL.—No funds authorized or ap-*
10 *propriated by this Act (or an amendment made by*
11 *this Act), including credits applied toward qualified*
12 *health plans under section 36B of the Internal Rev-*
13 *enue Code of 1986 or cost-sharing reductions under*
14 *section 1402 of this Act, may be used to pay for any*
15 *abortion or to cover any part of the costs of any*
16 *health plan that includes coverage of abortion, ex-*
17 *cept—*

18 *“(A) if the pregnancy is the result of an act*
19 *of rape or incest; or*

20 *“(B) in the case where a pregnant female*
21 *suffers from a physical disorder, physical injury,*
22 *or physical illness that would, as certified by a*
23 *physician, place the female in danger of death*
24 *unless an abortion is performed, including a life-*

1 *endangering physical condition caused by or*
2 *arising from the pregnancy itself.*

3 “(2) *OPTION TO PURCHASE SEPARATE COVERAGE*
4 *OR PLAN.—Nothing in this subsection shall be con-*
5 *strued as prohibiting any non-Federal entity (includ-*
6 *ing an individual or a State or local government)*
7 *from purchasing separate coverage for abortions for*
8 *which funding is prohibited under this subsection, or*
9 *a qualified health plan that includes such abortions,*
10 *so long as—*

11 “(A) *such coverage or plan is paid for en-*
12 *tirely using only funds not authorized or appro-*
13 *priated by this Act; and*

14 “(B) *such coverage or plan is not purchased*
15 *using—*

16 “(i) *individual premium payments re-*
17 *quired for a qualified health plan offered*
18 *through an Exchange towards which a cred-*
19 *it is applied under section 36B of the Inter-*
20 *nal Revenue Code of 1986; or*

21 “(ii) *other non-Federal funds required*
22 *to receive a Federal payment, including a*
23 *State’s or locality’s contribution of Med-*
24 *icaid matching funds.*

1 “(3) *OPTION TO OFFER COVERAGE OR PLAN.*—
2 *Nothing in this subsection or section 1311(d)(2)(B)(i)*
3 *shall restrict any non-Federal health insurance issuer*
4 *offering a qualified health plan from offering separate*
5 *coverage for abortions for which funding is prohibited*
6 *under this subsection, or a qualified health plan that*
7 *includes such abortions, so long as—*

8 “(A) *premiums for such separate coverage*
9 *or plan are paid for entirely with funds not au-*
10 *thorized or appropriated by this Act;*

11 “(B) *administrative costs and all services*
12 *offered through such coverage or plan are paid*
13 *for using only premiums collected for such cov-*
14 *erage or plan; and*

15 “(C) *any such non-Federal health insurance*
16 *issuer that offers a qualified health plan through*
17 *an Exchange that includes coverage for abortions*
18 *for which funding is prohibited under this sub-*
19 *section also offers a qualified health plan through*
20 *the Exchange that is identical in every respect*
21 *except that it does not cover abortions for which*
22 *funding is prohibited under this subsection.”;*

23 (5) *in subsection (e), as redesignated by para-*
24 *graph (1)—*

1 (A) in the heading, by striking “REGARD-
2 ING ABORTION”;

3 (B) in the heading of each of paragraphs
4 (1) and (2), by striking each place it appears
5 “REGARDING ABORTION”;

6 (C) in paragraph (1), by striking “regard-
7 ing the prohibition of (or requirement of) cov-
8 erage, funding, or” and inserting “protecting
9 conscience rights, restricting or prohibiting abor-
10 tion or coverage or funding of abortion, or estab-
11 lishing”; and

12 (D) in paragraph (2)(A), by striking “Noth-
13 ing” and inserting “Subject to subsection (g),
14 nothing”;

15 (6) in subsection (f), as redesignated by para-
16 graph (1), by striking “Nothing” and inserting “Sub-
17 ject to subsection (g), nothing”; and

18 (7) by adding at the end the following new sub-
19 section:

20 “(g) NONDISCRIMINATION ON ABORTION.—

21 “(1) NONDISCRIMINATION.—A Federal agency or
22 program, and any State or local government that re-
23 ceives Federal financial assistance under this Act (or
24 an amendment made by this Act), may not subject
25 any institutional or individual health care entity to

1 *discrimination, or require any health plan created or*
2 *regulated under this Act (or an amendment made by*
3 *this Act) to subject any institutional or individual*
4 *health care entity to discrimination, on the basis that*
5 *the health care entity refuses to—*

6 *“(A) undergo training in the performance*
7 *of induced abortions;*

8 *“(B) require or provide such training;*

9 *“(C) perform, participate in, provide cov-*
10 *erage of, or pay for induced abortions; or*

11 *“(D) provide referrals for such training or*
12 *such abortions.*

13 *“(2) DEFINITION.—In this subsection, the term*
14 *‘health care entity’ includes an individual physician*
15 *or other health care professional, a hospital, a pro-*
16 *vider-sponsored organization, a health maintenance*
17 *organization, a health insurance plan, or any other*
18 *kind of health care facility, organization, or plan.*

19 *“(3) REMEDIES.—*

20 *“(A) IN GENERAL.—The courts of the*
21 *United States shall have jurisdiction to prevent*
22 *and redress actual or threatened violations of*
23 *this section by issuing any form of legal or equi-*
24 *table relief, including—*

1 “(i) injunctions prohibiting conduct
2 that violates this subsection; and

3 “(ii) orders preventing the disburse-
4 ment of all or a portion of Federal financial
5 assistance to a State or local government, or
6 to a specific offending agency or program of
7 a State or local government, until such time
8 as the conduct prohibited by this subsection
9 has ceased.

10 “(B) COMMENCEMENT OF ACTION.—An ac-
11 tion under this subsection may be instituted
12 by—

13 “(i) any health care entity that has
14 standing to complain of an actual or threat-
15 ened violation of this subsection; or

16 “(ii) the Attorney General of the
17 United States.

18 “(4) ADMINISTRATION.—The Secretary shall des-
19 ignate the Director of the Office for Civil Rights of the
20 Department of Health and Human Services—

21 “(A) to receive complaints alleging a viola-
22 tion of this subsection; and

23 “(B) to pursue investigation of such com-
24 plaints in coordination with the Attorney Gen-
25 eral.”.

1 **(b) CONFORMING AMENDMENT.**—*Section 1334(a)(6) of*
2 *such Act is amended to read as follows:*

3 “(6) **COVERAGE CONSISTENT WITH FEDERAL**
4 **POLICY.**—*In entering into contracts under this sub-*
5 *section, the Director shall ensure that no multi-State*
6 *qualified health plan offered in an Exchange provides*
7 *coverage for abortions for which funding is prohibited*
8 *under section 1303(c) of this Act.”.*

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