II

115TH CONGRESS
1ST SESSION

S. 957

To amend title 10, United States Code, to ensure that women members of the Armed Forces and their families have access to the contraception they need in order to promote the health and readiness of all members of the Armed Forces, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2017

Mrs. SHAHEEN (for herself, Ms. BALDWIN, Mr. BENNET, Mr. BLUMENTHAL, Mr. BOOKER, Mr. BROWN, Ms. CANTWELL, Mr. CARDIN, Mr. COONS, Ms. CORTEZ MASTO, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Ms. HARRIS, Ms. HASSAN, Mr. HEINRICH, Ms. HIRONO, Ms. KLOBUCHAR, Mr. MARKEY, Mr. MENENDEZ, Mr. MERKLEY, Mr. MURPHY, Mrs. MURRAY, Mr. REED, Mr. SANDERS, Ms. STABENOW, Mr. TESTER, Mr. VAN HOLLEN, Ms. WARREN, Mr. WHITEHOUSE, Mr. WYDEN, Mr. KAINE, and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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A BILL

To amend title 10, United States Code, to ensure that women members of the Armed Forces and their families have access to the contraception they need in order to promote the health and readiness of all members of the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Access to Contraception for Women Servicemembers and Dependents Act of 2017''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Women are serving in the Armed Forces at increasing rates, playing a critical role in the national security of the United States. Women comprise just over 15 percent of military service members and more than 200,000 women serve on active duty in the Armed Forces or in the Selected Reserve.

(2) More than 95 percent of women serving in the military are of reproductive age. And approximately 1,100,000 female spouses and dependents of active duty military personnel are of reproductive age.

(3) TRICARE covered approximately 1,400,000 women of reproductive age in 2015, including female spouses and dependents of active duty military personnel. For approximately 900,000 of these women, TRICARE was their only source of coverage.

(4) Contraception is critical for women's health and is highly effective at reducing unintended pregnancy. The Centers for Disease Control and Preven-

tion describe contraception as one of the 10 greatest public health achievements of the twentieth century.

(5) Contraceptive access is strongly connected to women's greater educational and professional opportunities and increased lifetime earnings. Increased wages and increased control over reproductive decisions provide women with educational and professional opportunities that have increased gender equality over the decades since contraception was introduced.

(6) Studies have shown that when cost barriers to the full range of methods of contraception are eliminated, and women receive comprehensive counseling on the various methods of contraception (including highly effective and more expensive Long-Acting Reversible Contraceptives (LARCs)), rates of unintended pregnancy decline. Costs can be prohibitive, particularly for LARCs which can have high upfront costs.

(7) Research has also shown that investments in effective contraception save public and private dollars.

(8) In order to fill gaps in coverage and access to preventive care critical for women's health, the Affordable Care Act (ACA) requires all non-grand-

fathered individual and group health plans to cover without cost-sharing preventive services, including a set of evidence-based preventive services for women supported by the Health Resources and Services Administration (HRSA). These women's preventive services include the full range of female-controlled U.S. Food and Drug Administration-approved contraceptive methods, effective family planning practices, and sterilization procedures. HRSA has affirmed that contraceptive care includes contraceptive counseling, initiation of contraceptive use, and follow-up care (e.g., management, and evaluation as well as changes to and removal or discontinuation of the contraceptive method).

(9) Under the TRICARE program, servicewomen on active duty have full coverage of all prescription drugs, including contraception, without cost-sharing requirements. However, servicewomen not on active duty and female dependents of members of the Armed Forces do not have similar coverage of all prescription methods of contraception approved by the Food and Drug Administration without cost-sharing.

(10) Studies indicate that servicewomen need comprehensive counseling for pregnancy prevention,

particularly in their predeployment preparations, and the lack thereof is contributing to unintended pregnancies among servicewomen.

(11) Research studies based on the Department of Defense Survey of Health Related Behaviors Among Active Duty Military Personnel found a high unintended rate of pregnancy among servicewomen. Adjusting for the difference between age distributions in the Armed Forces and the general population, the rate of unintended pregnancy among servicewomen is higher than among the general population.

(12) The Defense Advisory Committee on Women in the Services (DACOWITS) has recommended that all the Armed Forces, to the extent that they have not already, implement initiatives that inform servicemembers of the importance of family planning, educate them on methods of contraception, and make various methods of contraception available, based on the finding that family planning can increase the overall readiness and quality of life of all members of the Armed Forces.

(13) Health care, including family planning for survivors of sexual assault in the Armed Forces is a critical issue, particularly given the prevalence of

sexual assault in the military. Recent data show that women in the military are five times more likely to be victims of sexual assault than men. Servicewomen who are survivors of sexual assault should not be treated differently from civilian survivors. The Department of Defense reported that there were more than 3,000 reported sexual assaults involving service members in fiscal year 2011.

(14) Servicewomen on active duty report rates of unwanted sexual contact at approximately 16 times those of the comparable general population of women in the United States. Through regulations, the Department of Defense already supports a policy of ensuring that servicewomen who are sexually assaulted have access to emergency contraception.

SEC. 3. CONTRACEPTION COVERAGE PARITY UNDER THE TRICARE PROGRAM.

(a) IN GENERAL.—Section 1074d of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in the subsection heading, by inserting ''FOR MEMBERS AND FORMER MEMBERS'' after ''SERVICES AVAILABLE''; and

(B) in paragraph (1), by striking ''subsection (b)'' and inserting ''subsection (d)'';

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following new subsections:

''(b) CARE RELATED TO PREVENTION OF PREGNANCY.—Female covered beneficiaries shall be entitled to care related to the prevention of pregnancy described in subsection (d)(3).

''(c) PROHIBITION ON COST-SHARING FOR CERTAIN SERVICES.—Notwithstanding section 1074g(a)(6), section 1075, or section 1075a of this title or any other provision of law, cost-sharing may not be imposed or collected for care related to the prevention of pregnancy provided pursuant to subsection (a) or (b), including for any method of contraception provided, whether provided through a facility of the uniformed services, the TRICARE retail pharmacy program, or the national mail-order pharmacy program.''.

(b) CARE RELATED TO PREVENTION OF PREGNANCY.—Subsection (d)(3) of such section, as redesignated by subsection (a)(2), is further amended by inserting before the period at the end the following: ''(including all methods of contraception approved by the Food and Drug Administration, contraceptive care (including with respect to insertion, removal, and follow up), sterilization

procedures, and patient education and counseling in connection therewith)''.

(c) CONFORMING AMENDMENT.—Section 1077(a)(13) of such title is amended by striking ''section 1074d(b)'' and inserting ''section 1074d(d)''.

SEC. 4. EDUCATION ON FAMILY PLANNING FOR MEMBERS OF THE ARMED FORCES.

(a) EDUCATION PROGRAMS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall establish a uniform standard curriculum that will be used in education programs on family planning for all members of the Armed Forces, including both men and women members.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the education programs described in paragraph (1) should use the latest technology available to efficiently and effectively deliver information to members of the Armed Forces.

(b) ELEMENTS.—The uniform standard curriculum established under subsection (a) shall include the following:

(1) Information for members of the Armed Forces on active duty to make informed decisions regarding family planning.

(2) Information about the prevention of unintended pregnancy and sexually transmitted infections, including human immunodeficiency virus.

(3) Information on the importance of providing comprehensive family planning for members of the Armed Forces and their commanding officers and on the positive impact family planning can have on the health and readiness of the Armed Forces.

(4) Current, medically accurate information.

(5) Clear, user-friendly information on the full range of methods of contraception and where members of the Armed Forces can access their chosen method of contraception.

(6) Information on all applicable laws and policies so that members of the Armed Forces are informed of their rights and obligations.

(7) Information on patients' rights to confidentiality.

(8) Information on the unique circumstances encountered by members of the Armed Forces, and the effects of such circumstances on the use of contraception.

SEC. 5. PREGNANCY PREVENTION ASSISTANCE AT MILITARY TREATMENT FACILITIES FOR WOMEN WHO ARE SEXUAL ASSAULT SURVIVORS.

(a) PURPOSE.—The purpose of this section is to provide in statute, and to enhance, existing regulations that require health care providers at military treatment facilities to consult with survivors of sexual assault once clinically stable regarding options for emergency contraception and any necessary follow-up care, including the provision of emergency contraception.

(b) IN GENERAL.—The assistance specified in subsection (c) shall be provided at every military treatment facility to the following:

(1) Any woman who presents at a military treatment facility and states to personnel of the facility that she is a victim of sexual assault or is accompanied by another individual who states that the woman is a victim of sexual assault.

(2) Any woman who presents at a military treatment facility and is reasonably believed by personnel of such facility to be a survivor of sexual assault.

(c) ASSISTANCE.—

(1) IN GENERAL.—The assistance specified in this subsection shall include the following:

(A) The prompt provision by appropriate staff of the military treatment facility of comprehensive, medically and factually accurate, and unbiased written and oral information about all methods of emergency contraception approved by the Food and Drug Administration.

(B) The prompt provision by such staff of emergency contraception to a woman upon her request.

(C) Notification to the woman of her right to confidentiality in the receipt of care and services pursuant to this section.

(2) NATURE OF INFORMATION.—The information provided pursuant to paragraph (1)(A) shall be provided in language that is clear and concise, is readily comprehensible, and meets such conditions (including conditions regarding the provision of information in languages other than English) as the Secretary may provide in regulations prescribed pursuant to this section.

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