

116TH CONGRESS
1ST SESSION

S. 1049

To amend title 10, United States Code, to ensure that 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 4, 2019

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

A BILL

To amend title 10, United States Code, to ensure that 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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Access to Contracep-
3 tion for Servicemembers and Dependents Act of 2019”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Women are serving in the Armed Forces at
7 increasing rates, playing a critical role in the na-
8 tional security of the United States. Women com-
9 prise more than 17 percent of members of the
10 Armed Forces and as of 2018, nearly 350,000
11 women serve on active duty in the Armed Forces or
12 in the Selected Reserve of the Ready Reserve of the
13 reserve components of the Armed Forces.

14 (2) Ninety-five percent of women serving in the
15 Armed Forces are of reproductive age and as of
16 2017, more than 700,000 female spouses and de-
17 pendents of members of the Armed Forces on active
18 duty are of reproductive age.

19 (3) The TRICARE program covered 1,563,727
20 women of reproductive age in 2017, including female
21 spouses and dependents of members of the Armed
22 Forces on active duty.

23 (4) The benefits of contraception are widely rec-
24 ognized and include improved health and well-being,
25 reduced global maternal mortality, health benefits of
26 pregnancy spacing for maternal and child health,

1 and greater educational and professional opportuni-
2 ties and increased lifetime earnings for women.

3 (5) Studies have shown that when cost barriers
4 to the full range of methods of contraception are
5 eliminated, and women receive comprehensive coun-
6 seling on the various methods of contraception (in-
7 cluding highly effective and more expensive long-act-
8 ing reversible contraceptives), rates of unintended
9 pregnancy decline.

10 (6) Research has also shown that investments
11 in effective contraception save public and private
12 dollars.

13 (7) In order to fill gaps in coverage and access
14 to preventive care critical for women's health, the
15 Patient Protection and Affordable Care Act (Public
16 Law 111–148) requires all non-grandfathered indi-
17 vidual and group health plans to cover without cost-
18 sharing preventive services, including a set of evi-
19 dence-based preventive services for women supported
20 by the Health Resources and Services Administra-
21 tion of the Department of Health and Human Serv-
22 ices. These women's preventive services include the
23 full range of female-controlled contraceptive meth-
24 ods, effective family planning practices, and steriliza-
25 tion procedures approved by the Food and Drug Ad-

1 ministration. The Health Resources and Services
2 Administration has affirmed that contraceptive care
3 includes contraceptive counseling, initiation of con-
4 traceptive use, and follow-up care (such as manage-
5 ment, evaluation, and changes to and removal or dis-
6 continuation of the contraceptive method).

7 (8) Under the TRICARE program, women
8 members of the Armed Forces on active duty have
9 full coverage of all prescription drugs, including con-
10 traception, without cost-sharing requirements, which
11 is consistent with requirements under the Patient
12 Protection and Affordable Care Act (Public Law
13 111–148), which requires coverage of all contracep-
14 tive methods approved by the Food and Drug Ad-
15 ministration for women and related services and
16 education and counseling. However, women members
17 not on active duty and female dependents of mem-
18 bers do not have similar coverage of all prescription
19 methods of contraception approved by the Food and
20 Drug Administration without cost-sharing when fill-
21 ing a prescription outside of a military medical
22 treatment facility.

23 (9) Studies indicate that women members of
24 the Armed Forces need comprehensive counseling for
25 pregnancy prevention and the lack thereof is contrib-

1 uting to unintended pregnancies among such women
2 members. Additionally, they need counseling on and
3 availability of contraception for non-contraceptive
4 benefits (for example, menstrual suppression and
5 predictable menstrual patterns), which is important
6 in ensuring readiness for deployment to remote or
7 operational theaters.

8 (10) Research studies based on the Department
9 of Defense Survey of Health Related Behaviors
10 Among Active Duty Military Personnel found a high
11 rate of unintended pregnancy among women mem-
12 bers of the Armed Forces. Adjusting for the dif-
13 ference between age distributions in the Armed
14 Forces and the general population, the rate of unin-
15 tended pregnancy among women members of the
16 Armed Forces is higher than among the general
17 population.

18 (11) The Defense Advisory Committee on
19 Women in the Services has recommended that all
20 the Armed Forces, to the extent that they have not
21 already, implement initiatives that inform members
22 of the Armed Forces of the importance of family
23 planning, educate them on methods of contraception,
24 and make various methods of contraception avail-
25 able, based on the finding that family planning can

1 increase the overall readiness and quality of life of
2 all members of the Armed Forces.

3 (12) The military departments received more
4 than 6,700 reports of sexual assaults involving mem-
5 bers of the Armed Forces as victims or subjects dur-
6 ing fiscal year 2017. Through regulations, the De-
7 partment of Defense already supports a policy of en-
8 suring that women members of the Armed Forces
9 who are sexually assaulted have access to emergency
10 contraception, and the initiation of contraception if
11 desired and medically appropriate.

12 **SEC. 3. CONTRACEPTION COVERAGE PARITY UNDER THE**
13 **TRICARE PROGRAM.**

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

16 (1) in the header for subsection (a), by insert-
17 ing “FOR MEMBERS AND FORMER MEMBERS” after
18 “SERVICES AVAILABLE”;

19 (2) by redesignating subsection (b) as sub-
20 section (d); and

21 (3) by inserting after subsection (a) the fol-
22 lowing new subsections:

23 “(b) CARE RELATED TO PREVENTION OF PREG-
24 NANCY.—Female covered beneficiaries shall be entitled to

1 care related to the prevention of pregnancy described by
2 subsection (d)(3).

3 “(c) PROHIBITION ON COST-SHARING FOR CERTAIN
4 SERVICES.—Notwithstanding section 1074g(a)(6), section
5 1075, or section 1075a of this title or any other provision
6 of law, cost-sharing may not be imposed or collected for
7 care related to the prevention of pregnancy provided pur-
8 suant to subsection (a) or (b), including for any method
9 of contraception provided, whether provided through a fa-
10 cility of the uniformed services, the TRICARE retail phar-
11 macy program, or the national mail-order pharmacy pro-
12 gram.”.

13 (b) CARE RELATED TO PREVENTION OF PREG-
14 NANCY.—Subsection (d)(3) of such section, as redesi-
15 gnated by subsection (a)(2) of this section, is further
16 amended by inserting before the period at the end the fol-
17 lowing: “(including all methods of contraception approved
18 by the Food and Drug Administration, contraceptive care
19 (including with respect to insertion, removal, and follow
20 up), sterilization procedures, and patient education and
21 counseling in connection therewith)”.

22 (c) CONFORMING AMENDMENT.—Section
23 1077(a)(13) of such title is amended by striking “section
24 1074d(b)” and inserting “section 1074d(d)”.

1 **SEC. 4. PREGNANCY PREVENTION ASSISTANCE AT MILI-**
 2 **TARY MEDICAL TREATMENT FACILITIES FOR**
 3 **SEXUAL ASSAULT SURVIVORS.**

4 (a) IN GENERAL.—Chapter 55 of title 10, United
 5 States Code, is amended by inserting after section 1074o
 6 the following new section:

7 **“§ 1074p. Provision of pregnancy prevention assist-**
 8 **ance at military medical treatment facili-**
 9 **ties**

10 “(a) INFORMATION AND ASSISTANCE.—The Sec-
 11 retary of Defense shall promptly furnish to sexual assault
 12 survivors at each military medical treatment facility the
 13 following:

14 “(1) Comprehensive, medically and factually ac-
 15 curate, and unbiased written and oral information
 16 about all methods of emergency contraception ap-
 17 proved by the Food and Drug Administration.

18 “(2) Notification of the right of the sexual as-
 19 sault survivor to confidentiality with respect to the
 20 information and care and services furnished under
 21 this section.

22 “(3) Upon request by the sexual assault sur-
 23 vivor, emergency contraception or, if applicable, a
 24 prescription for emergency contraception.

1 “(b) INFORMATION.—The Secretary shall ensure that
2 information provided pursuant to subsection (a) is pro-
3 vided in language that—

4 “(1) is clear and concise;

5 “(2) is readily comprehensible; and

6 “(3) meets such conditions (including condi-
7 tions regarding the provision of information in lan-
8 guages other than English) as the Secretary may
9 prescribe in regulations to carry out this section.

10 “(c) DEFINITIONS.—In this section:

11 “(1) The term ‘sexual assault’ means the con-
12 duct described in section 1565b(c)(1) of this title
13 that may result in pregnancy.

14 “(2) The term ‘sexual assault survivor’ means
15 any individual who presents at a military medical
16 treatment facility and—

17 “(A) states to personnel of the facility that
18 the individual experienced a sexual assault;

19 “(B) is accompanied by another person
20 who states that the individual experienced a
21 sexual assault; or

22 “(C) whom the personnel of the facility
23 reasonably believes to be a survivor of sexual
24 assault.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 at the beginning of such chapter is amended by inserting
 3 after the item relating to section 1074o the following new
 4 item:

“1074p. Provision of pregnancy prevention assistance at military medical treatment facilities.”.

5 **SEC. 5. EDUCATION ON FAMILY PLANNING FOR MEMBERS**
 6 **OF THE ARMED FORCES.**

7 (a) EDUCATION PROGRAMS.—

8 (1) IN GENERAL.—Not later than one year
 9 after the date of the enactment of this Act, the Sec-
 10 retary of Defense shall establish a uniform standard
 11 curriculum to be used in education programs on
 12 family planning for all members of the Armed
 13 Forces, including both men and women members,
 14 during the following periods:

15 (A) The first year of service.

16 (B) When a member is in training to as-
 17 sume command.

18 (C) When an enlisted member becomes a
 19 senior enlisted member.

20 (2) SENSE OF CONGRESS.—It is the sense of
 21 Congress that the education programs under para-
 22 graph (1) should be evidence-informed and use the
 23 latest technology available to efficiently and effec-

1 tively deliver information to members of the Armed
2 Forces.

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

5 (1) Information for members of the Armed
6 Forces on active duty to make informed decisions re-
7 garding family planning.

8 (2) Information about the prevention of unin-
9 tended pregnancy and sexually transmitted infec-
10 tions, including human immunodeficiency virus
11 (commonly known as “HIV”).

12 (3) Information on—

13 (A) the importance of providing com-
14 prehensive family planning for members of the
15 Armed Forces, including commanding officers;
16 and

17 (B) the positive impact family planning
18 can have on the health and readiness of the
19 Armed Forces.

20 (4) Current, medically accurate information.

21 (5) Clear, user-friendly information on—

22 (A) the full range of methods of contracep-
23 tion approved by the Food and Drug Adminis-
24 tration; and

1 (B) where members of the Armed Forces
2 can access their chosen method of contracep-
3 tion.

4 (6) Information on all applicable laws and poli-
5 cies so that members of the Armed Forces are in-
6 formed of their rights and obligations.

7 (7) Information on the rights of patients to
8 confidentiality.

9 (8) Information on the unique circumstances
10 encountered by members of the Armed Forces and
11 the effects of such circumstances on the use of con-
12 traception.

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