

117TH CONGRESS
1ST SESSION

S. 1864

To amend the Foreign Assistance Act of 1961 to require a section on reproductive rights in the Annual Country Reports on Human Rights Practices, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2021

Mr. MENENDEZ (for himself, Mrs. SHAHEEN, Mr. BLUMENTHAL, Mr. BOOKER, Mr. VAN HOLLEN, Ms. KLOBUCHAR, Mr. SCHATZ, Mr. KAINE, Ms. HIRONO, Mr. COONS, Mrs. GILLIBRAND, Mr. MARKEY, Mr. LEAHY, Mr. CARDIN, Mr. DURBIN, Mr. BROWN, Mr. WYDEN, Ms. ROSEN, Ms. DUCKWORTH, Mrs. MURRAY, Mr. BENNET, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To amend the Foreign Assistance Act of 1961 to require a section on reproductive rights in the Annual Country Reports on Human Rights Practices, 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 “Reproductive Rights
5 are Human Rights Act of 2021”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The United States has joined the inter-
4 national community in identifying reproductive
5 rights as human rights, including in connection with
6 the 1994 International Conference on Population
7 and Development, the 1995 Beijing World Con-
8 ference on Women, and through its ratification of
9 the International Covenant on Civil and Political
10 Rights, done at New York December 19, 1966 (re-
11 ferred to in this Act as “ICCPR”), the International
12 Convention on the Elimination of All Forms of Ra-
13 cial Discrimination, done at New York December 21,
14 1965, and the Convention against Torture and
15 Other Cruel, Inhuman or Degrading Treatment or
16 Punishment, done at New York December 10, 1984.

17 (2) General comment No. 36 (2018) on article
18 6 of the ICCPR, which was adopted by the Human
19 Rights Committee on October 30, 2018, asserts that
20 States parties—

21 (A) should ensure access for all persons to
22 “quality and evidence-based information and
23 education about sexual and reproductive health
24 and to a wide range of affordable contraceptive
25 methods”;

1 (B) “must provide safe, legal, and effective
 2 access to abortion where the life and health of
 3 the pregnant woman or girl is at risk, or where
 4 carrying a pregnancy to term would cause the
 5 pregnant woman or girl substantial pain or suf-
 6 fering, most notably where pregnancy is the re-
 7 sult of rape or incest or is not viable”;

8 (C) “ensure the availability of, and effec-
 9 tive access to, quality prenatal and post-abor-
 10 tion health care for women and girls”; and

11 (D) must not impose restrictions on the
 12 ability of women or girls to seek abortion in a
 13 manner that jeopardizes their lives, subjects
 14 them to physical or mental pain or suffering,
 15 discriminates against them, arbitrarily inter-
 16 feres with their privacy, or places them at risk
 17 of undertaking unsafe abortions.

18 (3) Reproductive coercion, which is any behav-
 19 ior that interferes with autonomous decision making
 20 about reproductive health outcomes, is a violation of
 21 human rights.

22 (4) Lesbian, gay, bisexual, transgender, queer,
 23 and intersex persons (LGBTQI+) face stigma and
 24 discrimination in accessing reproductive health serv-
 25 ices, and barriers, including anti-LGBTQI+ laws,

1 policies, and gender norms in countries. The denial
 2 of access to sexual and reproductive health care and
 3 associated human rights violations due to these bar-
 4 riers should be reported in relevant Department of
 5 State Annual Country Reports on Human Rights
 6 Practices.

7 (5) Human rights are grounded in international
 8 standards. The Department of State's deletion of
 9 the reproductive rights subsection from its 2017,
 10 2018, and 2019 Country Reports on Human Rights
 11 Practices inappropriately politicized human rights of
 12 people around the world.

13 (6) Limiting reproductive rights also limits
 14 pathways to economic, social, and political empower-
 15 ment. Sexual and reproductive health and rights are
 16 essential for sustainable economic development, are
 17 intrinsically linked to gender equality and women's
 18 well-being, and are critical to community health.

19 (7) The global COVID-19 pandemic has placed
 20 at risk the fulfillment of reproductive rights. The
 21 United Nations Office of the High Commissioner for
 22 Human Rights has raised concerns that overloaded
 23 health systems, shortages of medical supplies, and
 24 disruptions of global supply chains have undermined

1 the sexual and reproductive health and rights of in-
2 dividuals.

3 **SEC. 3. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS**
4 **PRACTICES.**

5 (a) IN GENERAL.—The Foreign Assistance Act of
6 1961 (22 U.S.C. 2151 et seq.) is amended—

7 (1) in section 116(d) (22 U.S.C. 2151n(d)), by
8 amending paragraph (2) to read as follows:

9 “(2) the status of reproductive rights in each
10 country, including—

11 “(A) whether such country has adopted
12 and enforced policies—

13 “(i) to promote access to safe, effec-
14 tive, and affordable methods of contracep-
15 tion and comprehensive, accurate, non-
16 discriminatory family planning and sexual
17 health information;

18 “(ii) to promote access to a full range
19 of quality health care services to ensure
20 safe and healthy pregnancy and childbirth
21 free from violence and discrimination;

22 “(iii) to promote the equitable preven-
23 tion, detection, and treatment of sexually
24 transmitted infections, including HIV and

1 HPV, and of reproductive tract infections
2 and reproductive cancers; and

3 “(iv) to expand or restrict access to
4 safe abortion services or post-abortion
5 care, or to criminalize pregnancy-related
6 outcomes, including spontaneous mis-
7 carriages or pregnancies outside of mar-
8 riage;

9 “(B) a description of the rates and causes
10 of pregnancy-related injuries and deaths, in-
11 cluding deaths due to unsafe abortions;

12 “(C) a description of—

13 “(i) the nature and extent of in-
14 stances of discrimination, coercion, and vi-
15 olence against women, girls, and
16 LGBTQI+ individuals in all settings
17 where health care is provided, including in
18 detention;

19 “(ii) instances of obstetric violence,
20 involuntary or coerced abortion, involun-
21 tary or coerced pregnancy, coerced steri-
22 lization, use of incentives or disincentives
23 to lower or raise fertility, withholding of
24 information on reproductive health options,

and other forms of reproductive and sexual coercion; and

“(iii) the actions, if any, taken by the government of such country to respond to such discrimination, coercion, and violence, if applicable;

“(D) a description of—

“(i) the proportion of individuals of reproductive age (15 through 49 years of age) whose need for family planning is satisfied with modern methods;

“(ii) the barriers such individuals face in accessing such services;

“(iii) the nature and extent of instances of denial of comprehensive and accurate family planning information and services in such country; and

“(iv) the actions, if any, taken by the government of such country to address such denials; and

“(E) a description of—

“(i) disparities in access to family planning and reproductive health services and pregnancy-related health outcomes, including pregnancy-related injuries and

deaths, based on race, ethnicity, indigenous status, language, religious affiliation, or other marginalized identity; and

“(ii) any measures taken by the government of such country to hold health systems accountable for addressing such disparities;” and

(2) in section 502B (22 U.S.C. 2304)—

(A) by redesignating the second subsection

(i) (relating to child marriage status) as subsection (j); and

(B) by adding at the end the following:

“(k) INCLUSION OF STATUS OF REPRODUCTIVE RIGHTS IN ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.—The report required under subsection (b) shall include a description of the status of reproductive rights in each country, including—

“(1) whether such country has adopted and enforced policies—

“(A) to promote access to safe, effective, and affordable methods of contraception and comprehensive, accurate, non-discriminatory family planning and sexual health information;

“(B) to promote access to a full range of quality health care services to ensure safe and

1 healthy pregnancy and childbirth, free from vio-
 2 lence and discrimination;

3 “(C) to promote the equitable prevention,
 4 detection, and treatment of sexually transmitted
 5 infections, including HIV and HPV, and of re-
 6 productive tract infections and reproductive
 7 cancers; and

8 “(D) to expand or restrict access to safe
 9 abortion services or post-abortion care, or crim-
 10 inalize pregnancy-related outcomes, including
 11 spontaneous miscarriages and pregnancies out-
 12 side of marriage;

13 “(2) a description of the rates and causes of
 14 pregnancy-related injuries and deaths, including
 15 deaths due to unsafe abortions;

16 “(3) a description of—

17 “(A) the nature and extent of instances of
 18 discrimination, coercion, and violence against
 19 women, girls and LGBTQI+ individuals in all
 20 settings where health care is provided, including
 21 in detention;

22 “(B) instances of coerced abortion, coerced
 23 pregnancy, coerced sterilization, use of incen-
 24 tives or disincentives to lower or raise fertility,
 25 withholding of information on reproductive

1 health options, and other forms of reproductive
2 and sexual coercion; and

3 “(C) the actions, if any, taken by the gov-
4 ernment of such country to respond to such dis-
5 crimination, coercion, and violence, if applica-
6 ble;

7 “(4) a description of—

8 “(A) the proportion of individuals of repro-
9 ductive age (15 through 49 years of age) whose
10 need for family planning is satisfied with mod-
11 ern methods;

12 “(B) the barriers such individuals face in
13 accessing such services;

14 “(C) the nature and extent of instances of
15 denial of comprehensive and accurate family
16 planning information and services in such coun-
17 try; and

18 “(D) the actions, if any, taken by the gov-
19 ernment of such country to respond to such de-
20 nials; and

21 “(5) a description of—

22 “(A) disparities in access to family plan-
23 ning and reproductive health services and preg-
24 nancy-related health outcomes, including preg-
25 nancy-related injuries and deaths, based on

1 race, ethnicity, indigenous status, language, re-
2 ligious affiliation, or other marginalized iden-
3 tity; and

4 “(B) any measures taken by the govern-
5 ment of such country to hold health systems ac-
6 countable for addressing such disparities.”.

7 (b) CONSULTATION REQUIRED.—In preparing the
8 Annual Country Reports on Human Rights Practices re-
9 quired under sections 116(d) and 502B of the Foreign As-
10 sistance Act of 1961, as amended by subsection (a)), the
11 Secretary of State, the Assistant Secretary of State for
12 Democracy, Human Rights, and Labor, and other relevant
13 officials, including human rights officers at United States
14 diplomatic and consular posts, shall consult with—

15 (1) representatives of United States civil society
16 and multilateral organizations with demonstrated ex-
17 perience and expertise in sexual and reproductive
18 health and rights or promoting the human rights of
19 women, girls, and LGBTQI+ persons;

20 (2) relevant local nongovernmental organiza-
21 tions in all countries included in such reports, in-
22 cluding organizations serving women, girls, and
23 LGBTQI+ persons that are focused on sexual and
24 reproductive health and rights; and

1 (3) relevant agencies and offices of the United
2 States Government that track or are otherwise in-
3 volved in the monitoring of reproductive and sexual
4 health around the world.

○