

118TH CONGRESS
1ST SESSION

H. R. 561

To ensure affordable abortion coverage and care for every person, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 2023

Ms. LEE of California (for herself, Ms. DEGETTE, Ms. SCHAKOWSKY, Ms. PRESSLEY, Mr. SCHIFF, Mr. SMITH of Washington, Mr. ESPAILLAT, Mr. GREEN of Texas, Ms. ADAMS, Mr. BERA, Mr. CARSON, Ms. SALINAS, Mr. KIM of New Jersey, Ms. CRAIG, Ms. KUSTER, Ms. BALINT, Ms. MCCOLLUM, Mr. FOSTER, Mrs. WATSON COLEMAN, Mr. SCHNEIDER, Mr. SHERMAN, Mr. HIGGINS of New York, Ms. PETTERSEN, Mr. RUPPERSBERGER, Ms. PINGREE, Mr. DELUZIO, Mr. PAPPAS, Mr. ALLRED, Ms. BUSH, Mr. GOLDMAN of New York, Mr. KILDEE, Mr. DAVIS of Illinois, Mr. SOTO, Mr. CICILLINE, Mr. TRONE, Mr. PHILLIPS, Mrs. DINGELL, Ms. WASSERMAN SCHULTZ, Ms. ROSS, Mr. KILMER, Ms. TITUS, Mr. PAYNE, Mr. BEYER, Ms. MATSUI, Mr. EVANS, Mr. BLUMENAUER, Mr. CASE, Ms. NORTON, Mr. CLEAVER, Mr. SWALWELL, Mr. PALLONE, Ms. WILSON of Florida, Mr. CONNOLLY, Mrs. NAPOLITANO, Ms. MENG, Mr. CASAR, Mr. STANTON, Mr. MEEKS, Ms. MOORE of Wisconsin, Ms. STEVENS, Mr. JOHNSON of Georgia, Ms. SCHOLTEN, Ms. OMAR, Mr. CORREA, Mrs. HAYES, Mr. AUCHINCLOSS, Mr. BOWMAN, Mr. MCGOVERN, Mr. HUFFMAN, Mr. MOSKOWITZ, Ms. CROCKETT, Mr. CROW, Mr. JACKSON of North Carolina, Ms. WEXTON, Mr. NADLER, Mr. GARCÍA of Illinois, Ms. TOKUDA, Mr. HIMES, Mr. GOMEZ, Mr. PANETTA, Mr. CASTRO of Texas, Mr. NEGUSE, Mr. LARSON of Connecticut, Mr. GARAMENDI, Mr. SARBANES, Mr. MORELLE, Mr. GOTTHEIMER, Mrs. BEATTY, Mr. VARGAS, Ms. CHU, Ms. BROWNLEY, Ms. CASTOR of Florida, Ms. MANNING, Ms. PORTER, Mr. MULLIN, Ms. SCHRIER, Mr. MFUME, Ms. UNDERWOOD, Ms. SÁNCHEZ, Ms. BLUNT ROCHESTER, Mrs. FLETCHER, Mr. DOGGETT, Ms. LOIS FRANKEL of Florida, Mrs. TRAHAN, Mrs. MCBATH, Ms. DEAN of Pennsylvania, Mr. VEASEY, Ms. KAPTUR, Ms. STRICKLAND, Mr. DESAULNIER, Mr. POCAN, Mr. TAKANO, Ms. SCANLON, Mr. CARTWRIGHT, Ms. STANSBURY, Mr. LEVIN, Mr. QUIGLEY, Mr. THOMPSON of California, Ms. SHERRILL, Ms. BARRAGÁN, Ms. WILLIAMS of Georgia, Ms. BUDZINSKI, Mrs. TORRES of California, Ms. VELÁZQUEZ, Mr. RYAN, Mr. TONKO, Mr. AGUILAR, Ms. JAYAPAL, Mr. KRISHNAMOORTHY, Ms. TLAIB, Mr. GRIJALVA, Mr. RUIZ, Mr. LARSEN of Washington, Mr. TORRES of New York, Mr. KHANNA, Mr. MENENDEZ,

Mr. SCOTT of Virginia, Mr. ROBERT GARCIA of California, Ms. KELLY of Illinois, Ms. DELAURO, Mr. GALLEGO, Mr. CARBAJAL, Ms. JACOBS, Mr. PETERS, Mr. CASTEN, Mr. MOULTON, Ms. DAVIDS of Kansas, Mrs. CHERFILUS-McCORMICK, Ms. JACKSON LEE, Ms. BROWN, Mr. COHEN, Ms. WILD, Mrs. LEE of Nevada, Ms. DELBENE, Ms. BONAMICI, Ms. KAMLAGER-DOVE, Ms. GARCIA of Texas, Mr. LIEU, Ms. LEGER FERNANDEZ, Mr. CÁRDENAS, Mr. CARTER of Louisiana, Ms. HOYLE of Oregon, Mrs. FOUSHEE, Ms. ESCOBAR, Mr. KEATING, Ms. CLARKE of New York, Ms. OCASIO-CORTEZ, Ms. PELOSI, and Ms. LOFGREN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Natural Resources, Armed Services, Veterans' Affairs, the Judiciary, Oversight and Accountability, and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure affordable abortion coverage and care for every person, 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 “Equal Access to Abor-

5 tion Coverage in Health Insurance Act of 2023” or the

6 “EACH Act of 2023”.

7 **SEC. 2. FINDINGS.**

8 Congress makes the following findings:

9 (1) All people should have access to abortion

10 services regardless of actual or perceived race, color,

11 ethnicity, language, ancestry, citizenship, immigra-

12 tion status, sex (including a sex stereotype; preg-

13 nancy, childbirth, or a related medical condition;

1 sexual orientation or gender identity; and sex char-
2 acteristics), age, disability, or sex work status or be-
3 havior.

4 (2) A person's income level, wealth, or type of
5 insurance should not prevent them from having ac-
6 cess to a full range of pregnancy-related health care,
7 including abortion services.

8 (3) No person should have the decision to have,
9 or not to have, an abortion made for them based on
10 the ability or inability to afford the health care serv-
11 ice.

12 (4) Since 1976, the Federal Government has
13 banned the use of Federal funds to pay for abortion
14 services and allows for exceptions only in very nar-
15 row circumstances. This ban affects people of repro-
16 ductive age in the United States who are insured
17 through the Medicaid program, as well as individuals
18 who receive insurance or care through other feder-
19 ally funded health programs and plans.

20 (5) Women make up the majority of Medicaid
21 enrollees (54 percent) and, in 2019, approximately
22 14 million women of reproductive age relied on the
23 program for care. Due to systematic barriers and
24 discrimination, a disproportionately higher number
25 of women of color and Lesbian, Gay, Bisexual,

1 Transgender, or Queer (LGBTQ) individuals are en-
2 rolled in the program.

3 (6) Women of color are more likely to be in-
4 sured by the Medicaid program. Nationwide, 29 per-
5 cent of Black women and 25 percent of Hispanic
6 women aged 15–49 were enrolled in Medicaid in
7 2018, compared with 15 percent of White women.

8 (7) In the aggregate, nearly one-fifth (19 per-
9 cent) of Asian American and Pacific Islander women
10 are enrolled in the Medicaid program, while enroll-
11 ment rates for certain Asian ethnic subgroups are
12 much higher (at 62 percent of Bhutanese women, 43
13 percent of Hmong women and 32 percent of Paki-
14 stani women).

15 (8) Medicaid also provides coverage to more
16 than one in four (27 percent) nonelderly American
17 Indian and Alaska Native (AIAN) adults and half of
18 AIAN children.

19 (9) In a 2014 nationwide survey of LGBT peo-
20 ple with incomes less than 400 percent Federal Pov-
21 erty Level (FPL), 61 percent of all respondents had
22 incomes in the Medicaid expansion range—up to
23 138 percent of the FPL—including 73 percent of
24 African-American respondents, 67 percent of Latino
25 respondents, and 53 percent of White respondents.

1 Another survey found that 32 percent of Asian and
2 Native Hawaiian/Pacific Islander transgender people
3 were living in poverty.

4 (10) Of women aged 15–44 enrolled in Med-
5 icaid in 2018, 55 percent lived in the 34 States and
6 the District of Columbia where Medicaid does not
7 cover abortion services except in limited cir-
8 cumstances. This amounted to 7.2 million women of
9 reproductive age, including 3 million women living
10 below the FPL. Of this population, Black, Indige-
11 nous, and other People of Color (BIPOC) women ac-
12 counted for 51 percent of those enrolled.

13 (11) The Indian Health Service (IHS) is the
14 federally funded health program for American Indi-
15 ans and Alaska Natives. The IHS serves a popu-
16 lation of approximately 2.56 million and as a feder-
17 ally funded system, since 1988, it has been barred
18 from providing abortion services except for very lim-
19 ited cases. American Indians and Alaska Natives
20 often face higher levels of poverty and limited access
21 to health care for a number of intersecting oppres-
22 sions thus leaving them without recourse for the
23 Federal ban on abortion services.

24 (12) Moreover, 26 States also prohibit coverage
25 of abortion services in the marketplaces and 11 pro-

1 hibit coverage in private health insurance plans
2 under the Patient Protection and Affordable Care
3 Act of 2010 (Public Law 111–148).

4 (13) A recent report details how restrictions on
5 abortion services coverage interfere with a person’s
6 individual decisionmaking, with their health and
7 well-being, with their economic security, with their
8 vulnerability to intimate partner violence, and with
9 their constitutionally protected right to a safe and
10 normal health care service.

11 (14) About 25 percent of women covered by
12 Medicaid seeking abortion services must carry their
13 pregnancies to term because they are unable to ob-
14 tain funds for their care. Government-imposed bar-
15 riers to abortion services restrict people’s decisions
16 on if, when, and how to parent, and have long-last-
17 ing and life-altering harmful effects on the pregnant
18 person, their families and their communities. Those
19 who seek and are denied abortion services are more
20 likely to remain in or fall into poverty than those
21 who access the care they need.

22 (15) Restrictions on abortion service coverage
23 have a disproportionately harmful impact on women
24 with low incomes, women of color, immigrant
25 women, LGBTQ people, and young women. Addi-

1 tionally, numerous state-imposed barriers make it
2 disparately difficult for low-income people, people of
3 color, immigrants, LGBTQ people, and young people
4 to access the health care and resources necessary to
5 prevent unintended pregnancy or to assure that they
6 are able to carry healthy pregnancies to term. Fur-
7 thermore, young people of reproductive age (15–24)
8 are more likely to have a lower income than those
9 older than that, and this income gap is greater for
10 young BIPOC. More than 40 percent of youth and
11 children under age 19 and almost a quarter of
12 young people age 19 to 25 have health insurance
13 through government programs. Without insurance
14 coverage for abortion services, young people are at
15 greater risk of not having the economic means to af-
16 ford care outside of insurance. Young people face
17 disproportionate access barriers to abortion includ-
18 ing parental involvement requirement (notification
19 and consent) and cost, in addition to barriers to con-
20 traception and inadequate and incomplete sexual(ity)
21 education. These challenges, which are magnified for
22 BIPOC and queer, trans, and nonbinary youth, can
23 cause significant delays in access to needed care,
24 and could ultimately harm the life of the young per-
25 son seeking abortion services. These institutionalized

1 barriers deny young people’s right to bodily auton-
2 omy and can force young people to encounter an
3 abusive parent or guardian, ignores trusted relation-
4 ships young people may have with adults other than
5 a parent or legal guardian, and in the case of the
6 judicial bypass process, may force young BIPOC to
7 interact with a legal system that has historically tar-
8 geted and caused harm to communities of color.

9 (16) These and other government-created and
10 government-institutionalized barriers—including the
11 restriction on funding for abortion services in Fed-
12 eral programs—exacerbate and create poverty and
13 racial inequality in income, wealth-generation, and
14 access to services.

15 (17) Access to health care, including abortion
16 services, promotes the general welfare of people liv-
17 ing in the United States. Singling out abortion serv-
18 ices for funding restrictions in health care programs
19 otherwise designed to promote the health and well-
20 being of people in the United States has cost preg-
21 nant people their lives, their livelihoods, their ability
22 to obtain or maintain economic security for them-
23 selves and their families, their ability to meet their
24 family’s basic needs, their ability to continue their

1 education without disruption, and their ability to
2 break free of abusive relationships.

3 (18) Like other health care and health insur-
4 ance markets in the United States, abortion services
5 and public insurance programs are commercial ac-
6 tivities that affect interstate commerce. Providers
7 and patients travel across State lines, and otherwise
8 engage in interstate commerce, to provide and access
9 abortion services. Material goods, services, and fed-
10 erally regulated medications used in abortion serv-
11 ices circulate in interstate commerce.

12 (19) Congress has the authority to enact this
13 Act to ensure affordable coverage of abortion and
14 other services pursuant to—

15 (A) its powers under the necessary and
16 proper clause of section 8, article I of the Con-
17 stitution of the United States;

18 (B) its powers under the commerce clause
19 of section 8, article 1 of the Constitution of the
20 United States;

21 (C) its powers to tax and spend for the
22 general welfare under section 8, article 1 of the
23 Constitution of the United States; and

24 (D) its powers to enforce section 1 of the
25 Fourteenth Amendment under section 5 of the

1 Fourteenth Amendment to the Constitution of
2 the United States.

3 (20) Congress has exercised these constitutional
4 powers to create, expand, and insure health care ac-
5 cess for people in the United States for decades.
6 Pursuant to this constitutional authority, Congress
7 has enacted, and subsequently reauthorized, numer-
8 ous health care programs including but not limited
9 to title XVIII of the Social Security Act of 1965
10 (Medicare); title XIX of the Social Security Act of
11 1965 (Medicaid); and title XXI of the Social Secu-
12 rity Act (Children’s Health Insurance Program, en-
13 acted in 1997).

14 **SEC. 3. DEFINITIONS.**

15 For purposes of this Act:

16 (1) **ABORTION SERVICES.**—The term “abortion
17 services” means an abortion and any services related
18 to and provided in conjunction with an abortion,
19 whether or not provided at the same time or on the
20 same day as the abortion.

21 (2) **HEALTH PROGRAM OR PLAN.**—The term
22 “health program or plan” means the following
23 health programs or plans that pay the cost of, or
24 provide, health care:

1 (A) The Medicaid program under title XIX
2 of the Social Security Act (42 U.S.C. 1396 et
3 seq.).

4 (B) The Children's Health Insurance Pro-
5 gram under title XXI of the Social Security Act
6 (42 U.S.C. 1397 et seq.).

7 (C) The Medicare program under title
8 XVIII of the Social Security Act (42 U.S.C.
9 1395 et seq.).

10 (D) A Medicare supplemental policy as de-
11 fined in section 1882(g)(1) of the Social Secu-
12 rity Act (42 U.S.C. 1395ss(g)(1)).

13 (E) The Indian Health Service program
14 under the Indian Health Care Improvement Act
15 (25 U.S.C. 1601 et seq.).

16 (F) Medical care and health benefits under
17 the TRICARE program (10 U.S.C. 1071 et
18 seq.).

19 (G) Benefits for veterans under chapter 17
20 of title 38, United States Code, and medical
21 care for survivors and dependents of veterans
22 (38 U.S.C. 1781 et seq.).

23 (H) Benefits under the uniform health
24 benefits program for employees of the Depart-
25 ment of Defense assigned to a nonappropriated

1 fund instrumentality of the Department estab-
2 lished under section 349 of the National De-
3 fense Authorization Act for Fiscal Year 1995
4 (Public Law 103–337; 10 U.S.C. 1587 note).

5 (I) Medical care for individuals in the care
6 or custody of the Department of Homeland Se-
7 curity pursuant to any of sections 235, 236, or
8 241 of the Immigration and Nationality Act (8
9 U.S.C. 1225, 1226, 1231).

10 (J) Medical care for individuals in the care
11 or custody of the Department of Health and
12 Human Services, Office of Refugee Resettle-
13 ment under section 235 of the William Wilber-
14 force Trafficking Victims Protection Reauthor-
15 ization Act of 2008 (8 U.S.C. 1232) or section
16 462 of the Homeland Security Act of 2002 (6
17 U.S.C. 279).

18 (K) Medical assistance to refugees under
19 section 412 of the Immigration and Nationality
20 Act (8 U.S.C. 1522).

21 (L) Other coverage, such as a State health
22 benefits risk pool, as the Secretary of Health
23 and Human Services, in coordination with the
24 Secretary of the Treasury, recognizes for pur-
25 poses of section 5000A(f)(1)(E) of the Internal

1 Revenue Code of 1986 (26 U.S.C.
2 5000A(f)(1)(E)).

3 (M) The Federal Employees Health Ben-
4 efit Plan under chapter 89 of title 5, United
5 States Code.

6 (N) Medical care for individuals under the
7 care or custody of the Department of Justice
8 pursuant to chapter 301 of title 18 (18 U.S.C.
9 4001 et seq.).

10 (O) Medical care for Peace Corps volun-
11 teers under section 5(e) of the Peace Corps Act
12 (22 U.S.C. 2504(e)).

13 (P) Other government-sponsored programs
14 established after the date of the enactment of
15 this Act.

16 **SEC. 4. ABORTION COVERAGE AND CARE REGARDLESS OF**
17 **INCOME OR SOURCE OF INSURANCE.**

18 (a) ENSURING ABORTION COVERAGE AND CARE
19 THROUGH THE FEDERAL GOVERNMENT IN ITS ROLE AS
20 AN INSURER AND EMPLOYER.—Each person insured by,
21 enrolled in, or otherwise receiving medical care from
22 health programs or plans described in section 3(2) shall
23 receive coverage of abortion services. Health programs or
24 plans described in section 3(2) shall provide coverage of
25 abortion services.

1 (b) ENSURING ABORTION COVERAGE AND CARE
 2 THROUGH THE FEDERAL GOVERNMENT IN ITS ROLE AS
 3 A HEALTH CARE PROVIDER.—In its role as a provider
 4 of health services including in health programs and plans
 5 described in section 3(2), the Federal Government shall
 6 ensure access to abortion services for individuals who are
 7 eligible to receive medical care in its own facilities or in
 8 facilities with which it contracts to provide medical care.

9 (c) PROHIBITING RESTRICTIONS ON PRIVATE INSUR-
 10 ANCE COVERAGE OF ABORTION SERVICES.—The Federal
 11 Government shall not prohibit, restrict, or otherwise in-
 12 hibit insurance coverage of abortion services by State or
 13 local government or by private health plans.

14 **SEC. 5. REPEAL OF SECTION 1303.**

15 (a) IN GENERAL.—Section 1303 of the Patient Pro-
 16 tection and Affordable Care Act (42 U.S.C. 18023) is re-
 17 pealed.

18 (b) CONFORMING AMENDMENTS.—

19 (1) BASIC HEALTH PLANS.—Section 1331(d) of
 20 the Patient Protection and Affordable Care Act (42
 21 U.S.C. 18051(d)) is amended by striking paragraph
 22 (4).

23 (2) MULTI-STATE PLANS.—Section 1334(a) of
 24 the Patient Protection and Affordable Care Act
 25 (Public Law 111–148) is amended—

1 (A) by striking paragraph (6); and

2 (B) by redesignating paragraph (7) as
3 paragraph (6).

4 **SEC. 6. SENSE OF CONGRESS.**

5 It is the sense of Congress that—

- 6 (1) the Federal Government, acting in its ca-
7 pacity as an insurer, employer, or health care pro-
8 vider, should serve as a model for the Nation to en-
9 sure coverage of abortion services; and
10 (2) restrictions on coverage of abortion services
11 in the private insurance market must end.

12 **SEC. 7. RULE OF CONSTRUCTION.**

13 Nothing in this Act shall be construed to have any
14 effect on any Federal, State, or local law that includes
15 more protections for abortion coverage or services than
16 those set forth in this Act.

17 **SEC. 8. RELATIONSHIP TO FEDERAL LAW.**

18 This Act supersedes and applies to all Federal law,
19 and the implementation of that law, whether statutory or
20 otherwise, and whether adopted before or after the date
21 of enactment of this Act and is not subject to the Religious
22 Freedom Restoration Act of 1993 (42 U.S.C. 2000bb et
23 seq.).

1 **SEC. 9. SEVERABILITY.**

2 If any portion of this Act or the application thereof
3 to any person, entity, government, or circumstances is
4 held invalid, such invalidity shall not affect the portions
5 or applications of this Act which can be given effect with-
6 out the invalid portion or application.

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