S. 636

AN ACT

To amend the Public Health Service Act to permit individuals to have freedom of access to certain medical clinics and facilities, and for other purposes.
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To amend the Public Health Service Act to permit individuals to have freedom of access to certain medical clinics and facilities, 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 "Freedom of Access to Clinic Entrances Act of 1993".
SEC. 2. CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) medical clinics and other facilities throughout the Nation offering abortion-related services have been targeted in recent years by an interstate campaign of violence and obstruction aimed at closing the facilities or physically blocking ingress to them, and intimidating those seeking to obtain or provide abortion-related services;

(2) as a result of such conduct, women are being denied access to, and health care providers are being prevented from delivering, vital reproductive health services;

(3) such conduct subjects women to increased medical risks and thereby jeopardizes the public health and safety;

(4) the methods used to deny women access to these services include blockades of facility entrances; invasions and occupations of the premises; vandalism and destruction of property in and around the facility; bombings, arson, and murder; and other acts of force and threats of force;

(5) those engaging in such tactics frequently trample police lines and barricades and overwhelm State and local law enforcement authorities and
courts and their ability to restrain and enjoin unlawful conduct and prosecute those who have violated the law;

(6) this problem is national in scope, and because of its magnitude and interstate nature exceeds the ability of any single State or local jurisdiction to solve it;

(7) such conduct operates to infringe upon women’s ability to exercise full enjoyment of rights secured to them by Federal and State law, both statutory and constitutional, and burdens interstate commerce, including by interfering with business activities of medical clinics involved in interstate commerce and by forcing women to travel from States where their access to reproductive health services is obstructed to other States;

(8) the entities that provide pregnancy or abortion-related services engage in commerce by purchasing and leasing facilities and equipment, selling goods and services, employing people, and generating income;

(9) such entities purchase medicine, medical supplies, surgical instruments, and other supplies produced in other States;
(10) violence, threats of violence, obstruction, and property damage directed at abortion providers and medical facilities have had the effect of restricting the interstate movement of goods and people;

(11) prior to the Supreme Court’s decision in Bray v. Alexandria Women’s Health Clinic (113 S. Ct. 753 (1993)), such conduct was frequently restrained and enjoined by Federal courts in actions brought under section 1980(3) of the Revised Statutes (42 U.S.C. 1985(3));

(12) in the Bray decision, the Court denied a remedy under such section to persons injured by the obstruction of access to abortion-related services;

(13) legislation is necessary to prohibit the obstruction of access by women to pregnancy or abortion-related services and to ensure that persons injured by such conduct, as well as the Attorney General of the United States and State Attorneys General, can seek redress in the Federal courts;

(14) the obstruction of access to pregnancy or abortion-related services can be prohibited, and the right of injured parties to seek redress in the courts can be established, without abridging the exercise of any rights guaranteed under the First Amendment to the Constitution or other law; and
(15) Congress has the affirmative power under section 8 of article I of the Constitution as well as under section 5 of the Fourteenth Amendment to the Constitution to enact such legislation.

(b) PURPOSE.—It is the purpose of this Act to protect and promote the public health and safety and activities affecting interstate commerce by prohibiting the use of force, threat of force or physical obstruction to injure, intimidate or interfere with a person seeking to obtain or provide pregnancy or abortion-related services, and the destruction of property of facilities providing pregnancy or abortion-related services, and by establishing the right of private parties injured by such conduct, as well as the Attorney General of the United States and State Attorneys General in appropriate cases, to bring actions for appropriate relief.

SEC. 3. FREEDOM OF ACCESS TO CLINIC ENTRANCES.

Title XXVII of the Public Health Service Act (42 U.S.C. 300aaa et seq.) is amended by adding at the end thereof the following new section:

“SEC. 2715. FREEDOM OF ACCESS TO CLINIC ENTRANCES.

“(a) PROHIBITED ACTIVITIES.—Whoever—

“(1) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or
interfere with any person because that person is or has been, or in order to intimidate such person or any other person or any class of persons from, obtaining or providing pregnancy or abortion-related services: Provided, however, That nothing in this section shall be construed as expanding or limiting the authority of States to regulate the performance of abortions or the availability of pregnancy or abortion-related services;

“(2) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of worship; or

“(3) intentionally damages or destroys the property of a medical facility or in which a medical facility is located, or attempts to do so, because such facility provides pregnancy or abortion-related services, or intentionally damages or destroys the property of a place of religious worship, shall be subject to the penalties provided in subsection (b) and the civil remedies provided in subsection (c), except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section
for such activities insofar as they are directed exclusively
at that minor.

“(b) Penalties.—Whoever violates this section
shall—

“(1) in the case of a first offense, be fined in
accordance with title 18, United States Code (which
fines shall be paid into the general fund of the
Treasury, miscellaneous receipts (pursuant to sec-
tion 3302 of title 31, United States Code), notwith-
standing any other law), or imprisoned not more
than 1 year, or both; and

“(2) in the case of a second or subsequent of-
fense after a prior conviction under this section, be
fined in accordance with title 18, United States
Code (which fines shall be paid into the general fund
of the Treasury, miscellaneous receipts (pursuant to
section 3302 of title 31, United States Code), not-
withstanding any other law), or imprisoned not more
than 3 years, or both;

except that for an offense involving exclusively a non-
vviolent physical obstruction, the fine shall be not more
than $10,000 and the length of imprisonment shall be not
more than six months, or both, for the first offense; and
the fine shall be not more than $25,000 and the length
of imprisonment shall be not more than 18 months, or
both, for a subsequent offense; and except that if bodily injury results, the length of imprisonment shall be not more than 10 years, and if death results, it shall be for any term of years or for life.

“(c) Civil Remedies.—

“(1) Right of Action.—

“(A) In general.—Any person aggrieved by reason of the conduct prohibited by subsection (a) may commence a civil action for the relief set forth in subparagraph (B), except that such an action may be brought under subsection (a)(1) only by a person involved in providing or seeking to provide, or obtaining or seeking to obtain, services in a medical facility that provides pregnancy or abortion-related services.

“(B) Relief.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for attorneys and expert witnesses. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of final judgment,
to recover, in lieu of actual damages, an award of statutory damages in the amount of $5,000 per violation.

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(2) Action by attorney general of the United States.—
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(A) In general.—If the Attorney General of the United States has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, and such conduct raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States District Court.
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(B) Relief.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief and compensatory damages to persons aggrieved as described in paragraph (1)(B). The court, to vindicate the public interest, may also assess a civil penalty against each respondent—
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(i) in an amount not exceeding $10,000 for a nonviolent physical obstruc-
tion and $15,000 for other first violations;
and

“(ii) in an amount not exceeding $15,000 for a nonviolent physical obstruction and $25,000, for any other subsequent violation.

“(3) Actions by state attorneys general.—

“(A) In general.—If the Attorney General of a State has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, and such conduct raises an issue of general public importance, such Attorney General may commence a civil action in the name of such State, as parens patriae on behalf of natural persons residing in such State, in any appropriate United States District Court.

“(B) Relief.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, compensatory damages, and civil penalties as described in paragraph (2)(B).
‘‘(d) Rules of Construction.—Nothing in this section shall be construed or interpreted to—

‘‘(1) prevent any State from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section;

‘‘(2) deprive State and local law enforcement authorities of responsibility for prosecuting acts that may be violations of this section and that are violations of State or local law;

‘‘(3) provide exclusive authority to prosecute, or exclusive penalties for, acts that may be violations of this section and that are violations of other Federal laws;

‘‘(4) limit or otherwise affect the right of a person aggrieved by acts that may be violations of this section to seek other available civil remedies;

‘‘(5) prohibit expression protected by the First Amendment to the Constitution; or

‘‘(6) create new remedies for interference with expressive activities protected by the First Amendment to the Constitution, occurring outside a medical facility, regardless of the point of view expressed.

‘‘(e) Definitions.—As used in this section:
“(1) INTERFERE WITH.—The term ‘interfere with’ means to restrict a person’s freedom of movement.

“(2) INTIMIDATE.—The term ‘intimidate’ means to place a person in reasonable apprehension of bodily harm to him- or herself or to another.

“(3) MEDICAL FACILITY.—The term ‘medical facility’ includes a hospital, clinic, physician’s office, or other facility that provides health or surgical services or counselling or referral related to health or surgical services.

“(4) PHYSICAL OBSTRUCTION.—The term ‘physical obstruction’ means rendering impassable ingress to or egress from a medical facility that provides pregnancy or abortion-related services or to or from a place of religious worship, or rendering passage to or from such a facility or place of religious worship unreasonably difficult or hazardous.

“(5) PREGNANCY OR ABORTION-RELATED SERVICES.—The term ‘pregnancy or abortion-related services’ includes medical, surgical, counselling or referral services, provided in a medical facility, relating to pregnancy or the termination of a pregnancy.

“(6) STATE.—The term ‘State’ includes a State of the United States, the District of Columbia, and
any commonwealth, territory, or possession of the United States.”

SEC. 4. RULE OF CONSTRUCTION.

Notwithstanding any other provision of this Act, nothing in this Act shall be construed to interfere with the rights guaranteed to an individual under the First Amendment to the Constitution, or limit any existing legal remedies against forceful interference with any person’s lawful participation in speech or peaceful assembly.

SEC. 5. EFFECTIVE DATE.

This Act shall take effect with respect to conduct occurring on or after the date of enactment of this Act.

Passed the Senate November 16 (legislative day, November 2), 1993.

Attest:

Secretary.
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