

**AMENDMENT TO H.R. 6192, AS REPORTED
OFFERED BY MS. LEGER FERNANDEZ OF NEW
MEXICO**

Strike section 1 and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Hands off Our Bodies
3 Act”.

Strike sections 2 and 3 and insert the following:

4 SEC. 2. FINDINGS.

5 Congress finds the following:

6 (1) Abortion services are essential health care,
7 and access to those services is central to people’s
8 ability to participate equally in the economic and so-
9 cial life of the United States. Abortion access allows
10 people who are pregnant to make their own decisions
11 about their pregnancies, their families, and their
12 lives.

13 (2) Reproductive justice requires every indi-
14 vidual to have the right to make their own decisions
15 about having children regardless of their cir-
16 cumstances and without interference and discrimina-
17 tion. Reproductive justice is a human right that can

1 and will be achieved when all people, regardless of
2 actual or perceived race, color, national origin, immi-
3 gration status, sex (including gender identity, sex
4 stereotyping, or sexual orientation), age, or disability
5 status have the economic, social, and political power
6 and resources to define and make decisions about
7 their bodies, health, sexuality, families, and commu-
8 nities in all areas of their lives, with dignity and
9 self-determination.

10 (3) Abortion care, like all health care, is a
11 human right that should not depend on one's ZIP
12 Code or region, age, actual or perceived race, na-
13 tional origin, immigration status, sex, or disability
14 status. Unfortunately, this is the current reality for
15 millions, creating a patchwork of abortion access
16 across the United States. Protecting the right to de-
17 termine whether to continue or end a pregnancy,
18 and the right of health care providers to provide
19 abortion care, is necessary and essential to achieving
20 this human right, and ultimately reproductive jus-
21 tice.

22 (4) On June 24, 2022, in its decision in *Dobbs*
23 *v. Jackson Women's Health Organization*, the Su-
24 preme Court overruled *Roe v. Wade*, reversing dec-

1 ades of precedent recognizing a constitutional right
2 to terminate a pregnancy before fetal viability.

3 (5) The effects of the Dobbs decision were im-
4 mediate and disastrous. In the aftermath of the
5 Dobbs decision, many States imposed near-total
6 bans on abortion. As of March 2023, abortion is un-
7 available in 14 States, leaving 17.8 million women of
8 reproductive age (15–49) and transgender and gen-
9 der nonconforming individuals with the capacity to
10 become pregnant without abortion access in their
11 home State. Within 100 days of the ruling, 66 clin-
12 ics across 15 States were forced to stop offering
13 abortions.

14 (6) Travel time to an abortion clinic, already a
15 burden for abortion seekers under Roe, has more
16 than tripled since Dobbs. As distance to an abortion
17 facility increases, so do the accompanying (and po-
18 tentially prohibitive) burdens of time off work or
19 school, lost wages, transportation costs, lodging,
20 child care costs, and other ancillary costs.

21 (7) Even before the Dobbs decision, access to
22 abortion services had long been obstructed across
23 the United States in various ways, including: prohi-
24 bitions of, and restrictions on, insurance coverage;
25 mandatory parental involvement laws; restrictions

1 that shame and stigmatize people seeking abortion
2 services; and medically unnecessary regulations that
3 fail to further the safety of abortion services, but in-
4 stead cause harm people by delaying, complicating
5 access to, and reducing the availability of, abortion
6 services.

7 (8) Being denied an abortion can have serious
8 consequences for people's physical, mental, and eco-
9 nomic health and well-being, and that of their fami-
10 lies. According to the Turnaway Study, a longitu-
11 dinal study published by Advancing New Standards
12 In Reproductive Health (ANSIRH) in 2019, individ-
13 uals who are denied a wanted abortion are more
14 likely to experience economic insecurity than individ-
15 uals who receive a wanted abortion. After following
16 participants for five years, the study found that peo-
17 ple who were denied abortion care were more likely
18 to live in poverty, experience debt, and have lower
19 credit scores for several years after the denial. These
20 findings demonstrate that when people have control
21 over when to have children and how many children
22 to have, their children benefit through increased eco-
23 nomic security and better maternal bonding.

24 (9) Abortion bans and restrictions have reper-
25 cussions for a broad range of health care beyond

1 pregnancy termination, including exacerbating the
2 existing maternal health crisis facing the United
3 States. The United States has the highest maternal
4 mortality rate of any industrialized nations, and
5 Black women and birthing people face three times
6 the risk of dying from pregnancy related causes as
7 their white counterparts. Even prior to Dobbs, re-
8 search found that States that enacted abortion re-
9 strictions based on gestation increased their mater-
10 nal mortality rate by 38 percent. Research has
11 found that a nationwide ban would increase the
12 United States maternal mortality rate by an addi-
13 tional 24 percent. Furthermore, States that have
14 banned, are planning to ban, or have severely re-
15 stricted abortion care have fewer maternal health
16 providers, more maternity care deserts, higher rates
17 of both maternal and infant mortality, and greater
18 racial inequity in health care.

19 (10) Abortion bans and restrictions additionally
20 harm people’s health by reducing access to other es-
21 sential health care services offered by many of the
22 providers targeted by the restrictions, including—

23 (A) screenings and preventive services, in-
24 cluding contraceptive services;

1 (B) testing and treatment for sexually
2 transmitted infections;

3 (C) LGBTQ health services; and

4 (D) referrals for primary care, intimate
5 partner violence prevention, prenatal care, and
6 adoption services.

7 (11) This ripple effect has only worsened since
8 the Dobbs decision. Clinicians and pharmacists have
9 denied access to essential medication for conditions
10 including gastric ulcers and autoimmune diseases be-
11 cause those drugs are also used for medication abor-
12 tion care. Patients are reporting being denied or de-
13 layed in their receipt of necessary and potentially
14 lifesaving treatment for ectopic pregnancies and mis-
15 carriage management because of the newfound legal
16 risks facing providers.

17 (12) Reproductive justice seeks to address re-
18 strictions on reproductive health, including abortion,
19 that perpetuate systems of oppression, lack of bodily
20 autonomy, white supremacy, and anti-Black racism.
21 This violent legacy has manifested in policies includ-
22 ing enslavement, rape, and experimentation on Black
23 women; forced sterilizations, medical experimen-
24 tation on low-income women's reproductive systems;
25 and the forcible removal of Indigenous children. Ac-

1 cess to equitable reproductive health care, including
2 abortion services, has always been deficient in the
3 United States for Black, Indigenous, Latina/x, Asian
4 American and Pacific Islander, and People of Color
5 (BIPOC) and their families.

6 (13) The legacy of restrictions on reproductive
7 health, rights, and justice is not a dated vestige of
8 a dark history. Data show the harms of abortion-
9 specific restrictions fall especially heavily on people
10 with low incomes, people of color, immigrants, young
11 people, people with disabilities, and those living in
12 rural and other medically underserved areas. Abor-
13 tion bans and restrictions are compounded further
14 by the ongoing criminalization of people who are
15 pregnant, including those who are incarcerated, liv-
16 ing with HIV, or with substance-use disorders.
17 These populations already experience health dispari-
18 ties due to social, political, and environmental in-
19 equities, and restrictions on abortion services exacer-
20 bate these harms. Removing bans and restrictions on
21 abortion services would constitute one important
22 step on the path toward realizing reproductive jus-
23 tice by ensuring that the full range of reproductive
24 health care is accessible to all who need it.

1 (14) Abortion bans and restrictions are tools of
2 gender oppression, as they target health care serv-
3 ices that are used primarily by women. These pater-
4 nalistic bans and restrictions rely on and reinforce
5 harmful stereotypes about gender roles and women’s
6 decisionmaking, undermining their ability to control
7 their own lives and well-being. These restrictions
8 harm the basic autonomy, dignity, and equality of
9 women.

10 (15) The terms “woman” and “women” are
11 used in this bill to reflect the identity of the majority
12 of people targeted and most directly affected by bans
13 and restrictions on abortion services, which are root-
14 ed in misogyny. However, access to abortion services
15 is critical to the health of every person capable of
16 becoming pregnant. This Act is intended to protect
17 all people with the capacity for pregnancy—
18 cisgender women, transgender men, nonbinary indi-
19 viduals, those who identify with a different gender,
20 and others—who are unjustly harmed by restrictions
21 on abortion services.

22 (16) Pregnant individuals will continue to experi-
23 ence a range of pregnancy outcomes, including
24 abortion, miscarriage, stillbirths, and infant losses
25 regardless of how the State attempts to exert power

1 over their reproductive decisionmaking, and will con-
2 tinue to need support for their health and well-being
3 through their reproductive lifespans.

4 (17) Evidence from the United States and
5 around the globe bears out that criminalizing abor-
6 tion invariably leads to arrests, investigations, and
7 imprisonment of people who end their pregnancies or
8 experience pregnancy loss, leading to violations of
9 fundamental rights to liberty, dignity, bodily auton-
10 omy, equality, due process, privacy, health, and free-
11 dom from cruel and inhumane treatment.

12 (18) All major experts in public health and
13 medicine such as the American Medical Association,
14 American Public Health Association, American
15 Academy of Pediatrics, American Society of Addic-
16 tion Medicine, and the American College of Obstetri-
17 cians and Gynecologists, oppose the criminalization
18 of pregnancy outcomes because the threat of being
19 subject to investigation or punishment through the
20 criminal legal system when seeking health care
21 threatens pregnant people's lives and undermines
22 public health by deterring people from seeking care
23 for obstetrical emergencies.

24 (19) Antiabortion stigma that is compounded
25 by abortion bans and restrictions also contributes to

1 violence and harassment that put both people seek-
2 ing and people providing abortion care at risk. From
3 1977 to 2021, there were 11 murders, 42 bombings,
4 196 acts of arson, 491 assaults, and thousands of
5 other incidents of criminal activity directed at abor-
6 tion seekers, providers, volunteers, and clinic staff.
7 This violence existed under Roe and has been stead-
8 ily escalating for years. The presence of dangerous
9 protestors and organized extremists acts as yet an-
10 other barrier to abortion care, and this threat has
11 become even more urgent as abortion bans pro-
12 liferate and stigma around abortion care increases.

13 (20) Abortion is one of the safest medical pro-
14 cedures in the United States. An independent, com-
15 prehensive review of the state of science on the safe-
16 ty and quality of abortion services, published by the
17 National Academies of Sciences, Engineering, and
18 Medicine in 2018, found that abortion in the United
19 States is safe and effective and that the biggest
20 threats to the quality of abortion services in the
21 United States are State regulations that create bar-
22 riers to care. Such abortion-specific restrictions, as
23 well as broader State bans, conflict with medical
24 standards and are not supported by the rec-
25 ommendations and guidelines issued by leading re-

1 productive health care professional organizations in-
2 cluding the American College of Obstetricians and
3 Gynecologists, the Society of Family Planning, the
4 National Abortion Federation, the World Health Or-
5 ganization, and others.

6 (21) For over 20 years, medication abortion
7 care has been available in the United States as a
8 safe, effective, Food and Drug Administration
9 (FDA)-approved treatment to end an early preg-
10 nancy. Today, medication abortion care accounts for
11 more than half of all pregnancy terminations in the
12 United States; however, significant barriers to access
13 remain in place, particularly in States that have im-
14 posed onerous restrictions that conflict with FDA's
15 regulation of medication abortion. Additionally, op-
16 ponents of abortion are now deploying new tactics to
17 limit access to this FDA-approved medication that
18 would set a dangerous precedent for the Federal
19 regulation of medication products and have national
20 repercussions.

21 (22) Health care providers are subject to licens-
22 ing laws in various jurisdictions, which are not af-
23 fected by this Act except as expressly provided in
24 this Act.

1 (23) International human rights law recognizes
2 that access to abortion is intrinsically linked to the
3 rights to life, health, equality and nondiscrimination,
4 privacy, and freedom from ill treatment. United Na-
5 tions (UN) human rights treaty monitoring bodies
6 have found that legal abortion services, like other re-
7 productive health care services, must be available,
8 accessible, affordable, acceptable, and of good qual-
9 ity. UN human rights treaty bodies have condemned
10 criminalization of abortion and medically unneces-
11 sary barriers to abortion services, including manda-
12 tory waiting periods, biased counseling requirements,
13 and third-party authorization requirements.

14 (24) Core human rights treaties ratified by the
15 United States protect access to abortion. For exam-
16 ple, in 2018, the UN Human Rights Committee,
17 which oversees implementation of the International
18 Covenant on Civil and Political Rights (ICCPR),
19 made clear that the right to life, enshrined in Article
20 6 of the ICCPR, at a minimum requires govern-
21 ments to provide safe, legal, and effective access to
22 abortion where a person's life and health are at risk,
23 or when carrying a pregnancy to term would other-
24 wise cause substantial pain or suffering. The Com-
25 mittee stated that governments must not impose re-

1 strictions on abortion which subject women and girls
2 to physical or mental pain or suffering, discriminate
3 against them, arbitrarily interfere with their privacy,
4 or place them at risk of undertaking unsafe abor-
5 tions. The Committee stated that governments
6 should not apply criminal sanctions to women and
7 girls who undergo abortion or to medical service pro-
8 viders who assist them in doing so. Furthermore, the
9 Committee stated that governments should remove
10 existing barriers that deny effective access to safe
11 and legal abortion, refrain from introducing new
12 barriers to abortion, and prevent the stigmatization
13 of those seeking abortion.

14 (25) International human rights experts have
15 condemned the Dobbs decision and regression on
16 abortion rights in the United States more generally
17 as a violation of human rights. Immediately upon re-
18 lease of the decision, then-UN High Commissioner
19 for Human Rights Michelle Bachelet reiterated
20 human rights protections for abortion and the im-
21 pact that the decision will have on the fundamental
22 rights of millions within the United States, particu-
23 larly people with low incomes and people belonging
24 to racial and ethnic minorities. UN independent
25 human rights experts, including the UN Working

1 Group on discrimination against women and girls,
2 the UN Special Rapporteur on the right to health,
3 and the UN Special Rapporteur on violence against
4 women and girls, similarly denounced the decision.
5 At the conclusion of a human rights review of the
6 United States in August 2022, the UN Committee
7 on the Elimination of Racial Discrimination noted
8 deep concerns with the Dobbs decision and rec-
9 ommended that the United States address the dis-
10 parate impact that it will have on racial and ethnic
11 minorities, Indigenous women, and those with low
12 incomes.

13 (26) Abortion bans and restrictions affect the
14 cost and availability of abortion services, and the
15 settings in which abortion services are delivered.
16 People travel across State lines and otherwise en-
17 gage in interstate commerce to access this essential
18 medical care. Likewise, health care providers travel
19 across State lines and otherwise engage in interstate
20 commerce in order to provide abortion services to
21 patients, and more would be forced to do so absent
22 this Act.

23 (27) Legal limitations and requirements im-
24 posed upon health care providers or their patients
25 invariably affect commerce over which the United

1 States has jurisdiction. Health care providers engage
2 in a form of economic and commercial activity when
3 they provide abortion services, and there is an inter-
4 state market for abortion services.

5 (28) Abortion bans and restrictions substan-
6 tially affect interstate commerce in numerous ways.
7 For example, to provide abortion services, health
8 care providers engage in interstate commerce to pur-
9 chase medicine, medical equipment, and other nec-
10 essary goods and services. To provide and assist oth-
11 ers in providing abortion services, health care pro-
12 viders engage in interstate commerce to obtain and
13 provide training. To provide abortion services, health
14 care providers employ and obtain commercial serv-
15 ices from doctors, nurses, and other personnel who
16 engage in interstate commerce, including by and
17 traveling across State lines.

18 (29) Congress has the authority to enact this
19 Act to protect access to abortion services pursuant
20 to—

21 (A) its powers under the commerce clause
22 of section 8 of article I of the Constitution of
23 the United States;

24 (B) its powers under section 5 of the Four-
25 teenth Amendment to the Constitution of the

1 United States to enforce the provisions of sec-
2 tion 1 of the Fourteenth Amendment; and

3 (C) its powers under the necessary and
4 proper clause of section 8 of article I of the
5 Constitution of the United States.

6 (30) Congress has used its authority in the past
7 to protect access to abortion services and health care
8 providers' ability to provide abortion services. In the
9 early 1990s, protests and blockades at health care
10 facilities where abortion services were provided, and
11 associated violence, increased dramatically and
12 reached crisis level, requiring congressional action.
13 Congress passed the Freedom of Access to Clinic
14 Entrances Act (Public Law 103–259; 108 Stat. 694)
15 to address that situation and protect physical access
16 to abortion services.

17 (31) Congressional action is necessary to put an
18 end to harmful restrictions, to protect access to
19 abortion services for everyone regardless of where
20 they live, to protect the ability of health care pro-
21 viders to provide these services in a safe and acces-
22 sible manner, and to eliminate unwarranted burdens
23 on commerce and the right to travel.

24 **SEC. 3. PURPOSE.**

25 The purposes of this Act are as follows:

1 (1) To permit people to seek and obtain abor-
2 tion services, and to permit health care providers to
3 provide abortion services, without harmful or unwar-
4 ranted limitations or requirements that single out
5 the provision of abortion services for restrictions
6 that are more burdensome than those restrictions
7 imposed on medically comparable procedures, do not
8 significantly advance reproductive health or the safe-
9 ty of abortion services, or make abortion services
10 more difficult to access.

11 (2) To promote access to abortion services and
12 thereby protect women's ability to participate equally
13 in the economic and social life of the United States.

14 (3) To protect people's ability to make decisions
15 about their bodies, medical care, family, and life's
16 course.

17 (4) To eliminate unwarranted burdens on com-
18 merce and the right to travel. Abortion bans and re-
19 strictions invariably affect commerce over which the
20 United States has jurisdiction. Health care providers
21 engage in economic and commercial activity when
22 they provide abortion services. Moreover, there is an
23 interstate market for abortion services and, in order
24 to provide such services, health care providers en-
25 gage in interstate commerce to purchase medicine,

1 medical equipment, and other necessary goods and
2 services; to obtain and provide training; and to em-
3 ploy and obtain commercial services from health care
4 personnel, many of whom themselves engage in
5 interstate commerce, including by traveling across
6 State lines. Congress has the authority to enact this
7 Act to protect access to abortion services pursuant
8 to—

9 (A) its powers under the commerce clause
10 of section 8 of article I of the Constitution of
11 the United States;

12 (B) its powers under section 5 of the Four-
13 teenth Amendment to the Constitution of the
14 United States to enforce the provisions of sec-
15 tion 1 of the Fourteenth Amendment; and

16 (C) its powers under the necessary and
17 proper clause of section 8 of article I of the
18 Constitution of the United States.

19 **SEC. 4. DEFINITIONS.**

20 In this Act:

21 (1) **ABORTION SERVICES.**—The term “abortion
22 services” means an abortion and any medical or
23 non-medical services related to and provided in con-
24 junction with an abortion (whether or not provided

1 at the same time or on the same day as the abor-
2 tion).

3 (2) GOVERNMENT.—The term “government”
4 includes each branch, department, agency, instru-
5 mentality, and official of the United States or a
6 State.

7 (3) HEALTH CARE PROVIDER.—The term
8 “health care provider” means any entity (including
9 any hospital, clinic, or pharmacy) or individual (in-
10 cluding any physician, certified nurse-midwife, nurse
11 practitioner, pharmacist, or physician assistant)
12 that—

13 (A) is engaged or seeks to engage in the
14 delivery of health care services, including abor-
15 tion services; and

16 (B) if required by law or regulation to be
17 licensed or certified to engage in the delivery of
18 such services—

19 (i) is so licensed or certified; or

20 (ii) would be so licensed or certified
21 but for their past, present, or potential
22 provision of abortion services protected by
23 section 4.

24 (4) MEDICALLY COMPARABLE PROCEDURES.—
25 The term “medically comparable procedures” means

1 medical procedures that are similar in terms of
2 health and safety risks to the patient, complexity, or
3 the clinical setting that is indicated.

4 (5) PREGNANCY.—The term “pregnancy” refers
5 to the period of the human reproductive process be-
6 ginning with the implantation of a fertilized egg.

7 (6) STATE.—The term “State” includes the
8 District of Columbia, the Commonwealth of Puerto
9 Rico, and each territory and possession of the
10 United States, and any subdivision of any of the
11 foregoing, including any unit of local government,
12 such as a county, city, town, village, or other general
13 purpose political subdivision of a State.

14 (7) VIABILITY.—The term “viability” means
15 the point in a pregnancy at which, in the good-faith
16 medical judgment of the treating health care pro-
17 vider, and based on the particular facts of the case
18 before the health care provider, there is a reasonable
19 likelihood of sustained fetal survival outside the
20 uterus with or without artificial support.

21 **SEC. 5. PROTECTED ACTIVITIES AND SERVICES.**

22 (a) GENERAL RULES.—

23 (1) PRE-VIABILITY.—A health care provider has
24 a right under this Act to provide abortion services,
25 and a patient has a corresponding right under this

1 Act to terminate a pregnancy prior to viability with-
2 out being subject to any of the following limitations
3 or requirements:

4 (A) A prohibition on abortion prior to via-
5 bility, including a prohibition or restriction on
6 a particular abortion procedure or method, or a
7 prohibition on providing or obtaining such abor-
8 tions.

9 (B) A limitation on a health care pro-
10 vider's ability to prescribe or dispense drugs
11 that could be used for reproductive health pur-
12 poses based on current evidence-based regimens
13 or the provider's good-faith medical judgment,
14 or a limitation on a patient's ability to receive
15 or use such drugs, other than a limitation gen-
16 erally applicable to the prescription, dispensing,
17 or distribution of drugs.

18 (C) A limitation on a health care provider's
19 ability to provide, or a patient's ability to re-
20 ceive, abortion services via telemedicine, other
21 than a limitation generally applicable to the
22 provision of medically comparable services via
23 telemedicine.

24 (D) A limitation or prohibition on a pa-
25 tient's ability to receive, or a provider's ability

1 to provide, abortion services in a State based on
2 the State of residency of the patient, or a prohi-
3 bition or limitation on the ability of any indi-
4 vidual to assist or support a patient seeking
5 abortion.

6 (E) A requirement that a health care pro-
7 vider perform specific tests or medical proce-
8 dures in connection with the provision of abor-
9 tion services (including prior to or subsequent
10 to the abortion), unless generally required for
11 the provision of medically comparable proce-
12 dures.

13 (F) A requirement that a health care pro-
14 vider offer or provide a patient seeking abortion
15 services medically inaccurate information.

16 (G) A limitation or requirement concerning
17 the physical plant, equipment, staffing, or hos-
18 pital transfer arrangements of facilities where
19 abortion services are provided, or the creden-
20 tials or hospital privileges or status of personnel
21 at such facilities, that is not imposed on facili-
22 ties or the personnel of facilities where medi-
23 cally comparable procedures are performed.

24 (H) A requirement that, prior to obtaining
25 an abortion, a patient make one or more medi-

1 cally unnecessary in-person visits to the pro-
2 vider of abortion services or to any individual or
3 entity that does not provide abortion services.

4 (I) A limitation on a health care provider's
5 ability to provide immediate abortion services
6 when that health care provider believes, based
7 on the good-faith medical judgment of the pro-
8 vider, that delay would pose a risk to the pa-
9 tient's life or health.

10 (J) A requirement that a patient seeking
11 abortion services at any point or points in time
12 prior to viability disclose the patient's reason or
13 reasons for seeking abortion services, or a limi-
14 tation on providing or obtaining abortion serv-
15 ices at any point or points in time prior to via-
16 bility based on any actual, perceived, or poten-
17 tial reason or reasons of the patient for obtain-
18 ing abortion services, regardless of whether the
19 limitation is based on a health care provider's
20 actual or constructive knowledge of such reason
21 or reasons.

22 (2) POST-VIABILITY.—

23 (A) IN GENERAL.—A health care provider
24 has a right under this Act to provide abortion
25 services and a patient has a corresponding right

1 under this Act to terminate a pregnancy after
2 viability when, in the good-faith medical judge-
3 ment of the treating health care provider, it is
4 necessary to protect the life or health of the pa-
5 tient. This subparagraph shall not otherwise
6 apply after viability.

7 (B) ADDITIONAL CIRCUMSTANCES.—A
8 State may provide additional circumstances
9 under which post viability abortions are per-
10 mitted under this paragraph.

11 (C) LIMITATION.—In the case where a ter-
12 mination of a pregnancy after viability, in the
13 good-faith medical judgement of the treating
14 health care provider, is necessary to protect the
15 life or health of the patient, a State shall not
16 impose any of the limitations or requirements
17 described in paragraph (1).

18 (b) OTHER LIMITATIONS OR REQUIREMENTS.—The
19 rights described in subsection (a) shall not be limited or
20 otherwise infringed through any other limitation or re-
21 quirement that—

22 (1) expressly, effectively, implicitly, or as imple-
23 mented, singles out abortion, the provision of abor-
24 tion services, individuals who seek abortion services
25 or who provide assistance and support to those seek-

1 ing abortion services, health care providers who pro-
2 vide abortion services, or facilities in which abortion
3 services are provided; and

4 (2) impedes access to abortion services.

5 (c) FACTORS FOR CONSIDERATION.—A court may
6 consider the following factors, among others, in deter-
7 mining whether a limitation or requirement impedes ac-
8 cess to abortion services for purposes of subsection (b)(2):

9 (1) Whether the limitation or requirement, in a
10 provider’s good-faith medical judgment, interferes
11 with a health care provider’s ability to provide care
12 and render services, or poses a risk to the patient’s
13 health or safety.

14 (2) Whether the limitation or requirement is
15 reasonably likely to delay or deter a patient in ac-
16 cessing abortion services.

17 (3) Whether the limitation or requirement is
18 reasonably likely to directly or indirectly increase the
19 cost of providing abortion services or the cost for ob-
20 taining abortion services such as costs associated
21 with travel, childcare, or time off work.

22 (4) Whether the limitation or requirement is
23 reasonably likely to have the effect of necessitating
24 patient travel that would not otherwise have been re-

1 required, including by making it necessary for a pa-
2 tient to travel out of State to obtain services.

3 (5) Whether the limitation or requirement is
4 reasonably likely to result in a decrease in the avail-
5 ability of abortion services in a given State or geo-
6 graphic region.

7 (6) Whether the limitation or requirement im-
8 poses penalties that are not imposed on other health
9 care providers for comparable conduct or failure to
10 act, or that are more severe than penalties imposed
11 on other health care providers for comparable con-
12 duct or failure to act.

13 (7) The cumulative impact of the limitation or
14 requirement combined with other limitations or re-
15 quirements.

16 (d) EXCEPTION.—To defend against a claim that a
17 limitation or requirement violates a health care provider’s
18 or patient’s rights under subsection (b) a party must es-
19 tablish, by clear and convincing evidence, that the limita-
20 tion or requirement is essential to significantly advance
21 the safety of abortion services or the health of patients
22 and that the safety or health objective cannot be accom-
23 plished by a different means that does not interfere with
24 the right protected under subsection (b).

1 **SEC. 6. PROTECTION OF THE RIGHT TO TRAVEL.**

2 A person has a fundamental right under the Con-
3 stitution of the United States and this Act to travel to
4 a State other than the person's State of residence, includ-
5 ing to obtain reproductive health services such as prenatal,
6 childbirth, fertility, and abortion services, and a person
7 has a right under this Act to assist another person to ob-
8 tain such services or otherwise exercise the right described
9 in this section.

10 **SEC. 7. APPLICABILITY AND PREEMPTION.**

11 (a) IN GENERAL.—

12 (1) SUPERSEDING INCONSISTENT LAWS.—Ex-
13 cept as provided under subsection (b), this Act shall
14 supersede any inconsistent Federal or State law, and
15 the implementation of such law, whether statutory,
16 common law, or otherwise, and whether adopted
17 prior to or after the date of enactment of this Act.
18 A Federal or State government official shall not ad-
19 minister, implement, or enforce any law, rule, regu-
20 lation, standard, or other provision having the force
21 and effect of law that conflicts with any provision of
22 this Act, notwithstanding any other provision of
23 Federal law, including the Religious Freedom Res-
24 toration Act of 1993 (42 U.S.C. 2000bb et seq.).

25 (2) LAWS AFTER DATE OF ENACTMENT.—Fed-
26 eral law enacted after the date of the enactment of

1 this Act shall be subject to this Act unless such law
2 explicitly excludes such application by reference to
3 this Act.

4 (b) LIMITATIONS.—The provisions of this Act shall
5 not supersede or apply to—

6 (1) laws regulating physical access to clinic en-
7 trances;

8 (2) laws regulating insurance or medical assist-
9 ance coverage of abortion services;

10 (3) the procedure described in section
11 1531(b)(1) of title 18, United States Code; or

12 (4) generally applicable State contract law.

13 (c) PREEMPTION DEFENSE.—In any legal or admin-
14 istrative action against a person or entity who has exer-
15 cised or attempted to exercise a right protected by section
16 4 or section 5 or against any person or entity who has
17 taken any step to assist any such person or entity in exer-
18 cising such right, this Act shall also apply to, and may
19 be raised as a defense by, such person or entity, in addi-
20 tion to the remedies specified in section 8.

21 **SEC. 8. RULES OF CONSTRUCTION.**

22 (a) LIBERAL CONSTRUCTION BY COURTS.—In any
23 action before a court under this Act, the court shall lib-
24 erally construe the provisions of this Act to effectuate the
25 purposes of the Act.

1 (b) PROTECTION OF LIFE AND HEALTH.—Nothing
2 in this Act shall be construed to authorize any government
3 official to interfere with, diminish, or negatively affect a
4 person’s ability to obtain or provide abortion services prior
5 to viability, or after viability when, in the good-faith med-
6 ical judgment of the treating health care provider, continu-
7 ation of the pregnancy would pose a risk to the pregnant
8 patient’s life or health.

9 (c) GOVERNMENT OFFICIALS.—Any person who, by
10 operation of a provision of Federal or State law, is per-
11 mitted to implement or enforce a limitation or requirement
12 that violates section 4 or 5 shall be considered a govern-
13 ment official for purposes of this Act.

14 **SEC. 9. ENFORCEMENT.**

15 (a) ATTORNEY GENERAL.—The Attorney General
16 may commence a civil action on behalf of the United
17 States in any district court of the United States against
18 any State that violates, or against any government official
19 (including a person described in section 7(c)) who imple-
20 ments or enforces a limitation or requirement that vio-
21 lates, section 4 or 5. The court shall declare unlawful the
22 limitation or requirement if it is determined to be in viola-
23 tion of this Act.

24 (b) PRIVATE RIGHT OF ACTION.—

1 (1) IN GENERAL.—Any individual or entity ad-
2 versely affected by an alleged violation of this Act,
3 including any person or health care provider, may
4 commence a civil action against any government offi-
5 cial (including a person described in section 7(e))
6 that implements or enforces a limitation or require-
7 ment that violates, section 4 or 5. The court shall
8 declare unlawful the limitation or requirement if it
9 is determined to be in violation of this Act.

10 (2) HEALTH CARE PROVIDER.—A health care
11 provider may commence an action for relief on its
12 own behalf, on behalf of the provider’s staff, and on
13 behalf of the provider’s patients who are or may be
14 adversely affected by an alleged violation of this Act.

15 (c) PRE-ENFORCEMENT CHALLENGES.—A suit
16 under subsection (a) or (b) may be brought to prevent en-
17 forcement or implementation by any government of a
18 State limitation or requirement that is inconsistent with
19 section 4 or 5.

20 (d) DECLARATORY AND EQUITABLE RELIEF.—In
21 any action under this section, the court may award appro-
22 priate declaratory and equitable relief, including tem-
23 porary, preliminary, or permanent injunctive relief.

24 (e) COSTS.—In any action under this section, the
25 court shall award costs of litigation, as well as reasonable

1 attorney's fees, to any prevailing plaintiff. A plaintiff shall
2 not be liable to a defendant for costs or attorney's fees
3 in any non-frivolous action under this section.

4 (f) JURISDICTION.—The district courts of the United
5 States shall have jurisdiction over proceedings under this
6 Act and shall exercise the same without regard to whether
7 the party aggrieved shall have exhausted any administra-
8 tive or other remedies that may be provided for by law.

9 (g) ABROGATION OF STATE IMMUNITY.—Neither a
10 State that enforces or maintains, nor a government official
11 (including a person described in section 7(c)) who is per-
12 mitted to implement or enforce any limitation or require-
13 ment that violates section 4 or 5 shall be immune under
14 the Tenth Amendment to the Constitution of the United
15 States, the Eleventh Amendment to the Constitution of
16 the United States, or any other source of law, from an
17 action in a Federal or State court of competent jurisdic-
18 tion challenging that limitation or requirement, unless
19 such immunity is required by clearly established Federal
20 law, as determined by the Supreme Court of the United
21 States.

22 **SEC. 10. EFFECTIVE DATE.**

23 This Act shall take effect upon the date of enactment
24 of this Act.

1 **SEC. 11. SEVERABILITY.**

2 If any provision of this Act, or the application of such
3 provision to any person, entity, government, or cir-
4 cumstance, is held to be unconstitutional, the remainder
5 of this Act, or the application of such provision to all other
6 persons, entities, governments, or circumstances, shall not
7 be affected thereby.

