

**MOTION TO RECOMMIT H.R. 26 WITH
INSTRUCTIONS
OFFERED BY M . _____**

M _____ moves to recommit H.R. 26 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Strike all that follows after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Women’s Health Pro-
3 tection Act of 2023”.

4 SEC. 2. FINDINGS AND PURPOSE.

5 (a) FINDINGS.—Congress finds the following:

6 (1) On June 24, 2022, in its decision in *Dobbs*
7 *v. Jackson Women’s Health Organization*, the Su-
8 preme Court overruled *Roe v. Wade*, reversing dec-
9 ades of precedent recognizing the constitutional
10 right to terminate a pregnancy before fetal viability,
11 and to terminate a pregnancy after fetal viability
12 where it is necessary, in the good-faith medical judg-
13 ment of the treating health care professional, for the

1 preservation of the life or health of the person who
2 is pregnant.

3 (2) In their joint dissent, Justices Breyer,
4 Sotomayor, and Kagan write, “[The majority] says
5 that from the very moment of fertilization, a woman
6 has no rights to speak of. A State can force her to
7 bring a pregnancy to term, even at the steepest per-
8 sonal and familial costs.”.

9 (3) The dissenting Justices continue, “The Mis-
10 sissippi law at issue here bars abortions after the
11 15th week of pregnancy. Under the majority’s rul-
12 ing, though, another State’s law could do so after
13 ten weeks, or five or three or one—or, again, from
14 the moment of fertilization. States have already
15 passed such laws, in anticipation of today’s ruling.
16 More will follow.”.

17 (4) The dissenting Justices also stated, “one re-
18 sult of [the] decision is certain; the curtailment of
19 women’s rights, and of their status as free and equal
20 citizens.”.

21 (5) Indeed, some States acted to ban abortion
22 outright in the immediate aftermath of the Dobbs
23 decision, with half the States in the country expected
24 to ban abortion entirely in the days and weeks to
25 come.

1 (6) Even before Roe was overturned, access to
2 abortion services had been obstructed across the
3 United States in various ways, including blockades
4 of health care facilities and associated violence, pro-
5 hibitions of, and restrictions on, insurance coverage;
6 parental involvement laws (notification and consent);
7 restrictions that shame and stigmatize people seek-
8 ing abortion services; and medically unnecessary reg-
9 ulations that neither confer any health benefit nor
10 further the safety of abortion services, but which
11 harm people by delaying, complicating access to, and
12 reducing the availability of, abortion services.

13 (7) Abortion services are essential to health
14 care, and access to those services is central to peo-
15 ple's ability to participate equally in the economic
16 and social life of the United States. Abortion access
17 allows people who are pregnant to make their own
18 decisions about their pregnancies, their families, and
19 their lives.

20 (8) Reproductive justice requires every indi-
21 vidual to have the right to make their own decisions
22 about having children regardless of their cir-
23 cumstances and without interference and discrimina-
24 tion. Reproductive Justice is a human right that can
25 and will be achieved when all people, regardless of

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

9 (9) Reproductive justice seeks to address re-
10 strictions on reproductive health, including abortion,
11 that perpetuate systems of oppression, lack of bodily
12 autonomy, white supremacy, and anti-Black racism.
13 This violent legacy has manifested in policies includ-
14 ing enslavement, rape, and experimentation on Black
15 women; forced sterilizations; medical experimen-
16 tation on low-income women's reproductive systems;
17 and the forcible removal of Indigenous children. Ac-
18 cess to equitable reproductive health care, including
19 abortion services, has always been deficient in the
20 United States for Black, Indigenous, and other Peo-
21 ple of Color (BIPOC) and their families.

22 (10) The legacy of restrictions on reproductive
23 health, rights, and justice is not a dated vestige of
24 a dark history. Presently, the harms of abortion-spe-
25 cific restrictions fall especially heavily on people with

1 low incomes, BIPOC, immigrants, young people,
2 people with disabilities, and those living in rural and
3 other medically underserved areas. Abortion-specific
4 restrictions are even more compounded by the ongoing
5 criminalization of people who are pregnant, including
6 those who are incarcerated, living with HIV, or with
7 substance-use disorders. These communities
8 already experience health disparities due to social,
9 political, and environmental inequities, and restrictions
10 on abortion services exacerbate these harms.
11 Removing medically unjustified restrictions on abortion
12 services would constitute one important step on the path
13 toward realizing Reproductive Justice by ensuring that the
14 full range of reproductive health care is accessible to all
15 who need it.

16 (11) Abortion-specific restrictions are a tool of
17 gender oppression, as they target health care services
18 that are used primarily by women. These paternalistic
19 restrictions rely on and reinforce harmful stereotypes
20 about gender roles, women's decision-making, and women's
21 need for protection instead of support, undermining their
22 ability to control their own lives and well-being. These
23 restrictions harm the basic autonomy, dignity, and equality
24 of women, and

1 their ability to participate in the social and economic
2 life of the Nation.

3 (12) The terms “woman” and “women” are
4 used in this bill to reflect the identity of the majority
5 of people targeted and affected by restrictions on
6 abortion services, and to address squarely the tar-
7 geted restrictions on abortion, which are rooted in
8 misogyny. However, access to abortion services is
9 critical to the health of every person capable of be-
10 coming pregnant. This Act is intended to protect all
11 people with the capacity for pregnancy—cisgender
12 women, transgender men, non-binary individuals,
13 those who identify with a different gender, and oth-
14 ers—who are unjustly harmed by restrictions on
15 abortion services.

16 (13) Since 2011, States and local governments
17 have passed nearly 500 restrictions singling out
18 health care providers who offer abortion services,
19 interfering with their ability to provide those services
20 and the patients’ ability to obtain those services.

21 (14) Many State and local governments have
22 imposed restrictions on the provision of abortion
23 services that are neither evidence-based nor gen-
24 erally applicable to the medical profession or to
25 other medically comparable outpatient gynecological

1 procedures, such as endometrial ablations, dilation
2 and curettage for reasons other than abortion,
3 hysteroscopies, loop electrosurgical excision proce-
4 dures, or other analogous non-gynecological proce-
5 dures performed in similar outpatient settings in-
6 cluding vasectomy, sigmoidoscopy, and colonoscopy.

7 (15) Abortion is essential health care and one
8 of the safest medical procedures in the United
9 States. An independent, comprehensive review of the
10 state of science on the safety and quality of abortion
11 services, published by the National Academies of
12 Sciences, Engineering, and Medicine in 2018, found
13 that abortion in the United States is safe and effec-
14 tive and that the biggest threats to the quality of
15 abortion services in the United States are State reg-
16 ulations that create barriers to care. These abortion-
17 specific restrictions conflict with medical standards
18 and are not supported by the recommendations and
19 guidelines issued by leading reproductive health care
20 professional organizations including the American
21 College of Obstetricians and Gynecologists, the Soci-
22 ety of Family Planning, the National Abortion Fed-
23 eration, the World Health Organization, and others.

24 (16) Many abortion-specific restrictions do not
25 confer any health or safety benefits on the patient.

1 Instead, these restrictions have the purpose and ef-
2 fect of unduly burdening people’s personal and pri-
3 vate medical decisions to end their pregnancies by
4 making access to abortion services more difficult,
5 invasive, and costly, often forcing people to travel
6 significant distances and make multiple unnecessary
7 visits to the provider, and in some cases, foreclosing
8 the option altogether. For example, a 2018 report
9 from the University of California San Francisco’s
10 Advancing New Standards in Reproductive Health
11 research group found that in 27 cities across the
12 United States, people have to travel more than 100
13 miles in any direction to reach an abortion provider.

14 (17) An overwhelming majority of abortions in
15 the United States are provided in clinics, not hos-
16 pitals, but the large majority of counties throughout
17 the United States have no clinics that provide abor-
18 tion.

19 (18) These restrictions additionally harm peo-
20 ple’s health by reducing access not only to abortion
21 services but also to other essential health care serv-
22 ices offered by many of the providers targeted by the
23 restrictions, including—

24 (A) screenings and preventive services, in-
25 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 (19) The cumulative effect of these numerous
8 restrictions has been to severely limit, and now
9 eliminate entirely, the availability of abortion serv-
10 ices in some areas, creating a patchwork system
11 where the provision of abortion services is legal in
12 some States and illegal in others. A 2019 report
13 from the Government Accountability Office exam-
14 ining State Medicaid compliance with abortion cov-
15 erage requirements analyzed seven key challenges
16 (identified both by health care providers and re-
17 search literature) and their effect on abortion access,
18 and found that access to abortion services varied
19 across the States and even within a State.

20 (20) International human rights law recognizes
21 that access to abortion is intrinsically linked to the
22 rights to life, health, equality and non-discrimina-
23 tion, privacy, and freedom from ill-treatment. United
24 Nations (UN) human rights treaty monitoring bod-
25 ies have found that legal abortion services, like other

1 reproductive health care services, must be available,
2 accessible, affordable, acceptable, and of good qual-
3 ity. UN human rights treaty bodies have likewise
4 condemned medically unnecessary barriers to abor-
5 tion services, including mandatory waiting periods,
6 biased counseling requirements, and third-party au-
7 thorization requirements.

8 (21) Core human rights treaties ratified by the
9 United States protect access to abortion. For exam-
10 ple, in 2018, the UN Human Rights Committee,
11 which oversees implementation of the ICCPR, made
12 clear that the right to life, enshrined in Article 6 of
13 the ICCPR, at a minimum requires governments to
14 provide safe, legal, and effective access to abortion
15 where a person's life and health is at risk, or when
16 carrying a pregnancy to term would cause substan-
17 tial pain or suffering. The Committee stated that
18 governments must not impose restrictions on abor-
19 tion which subject women and girls to physical or
20 mental pain or suffering, discriminate against them,
21 arbitrarily interfere with their privacy, or place them
22 at risk of undertaking unsafe abortions. Further-
23 more, the Committee stated that governments should
24 remove existing barriers that deny effective access to
25 safe and legal abortion, refrain from introducing

1 new barriers to abortion, and prevent the stigmatiza-
2 tion of those seeking abortion.

3 (22) UN independent human rights experts
4 have expressed particular concern about barriers to
5 abortion services in the United States. For example,
6 at the conclusion of his 2017 visit to the United
7 States, the UN Special Rapporteur on extreme pov-
8 erty and human rights noted concern that low-in-
9 come women face legal and practical obstacles to ex-
10 ercising their constitutional right to access abortion
11 services, trapping many women in cycles of poverty.
12 Similarly, in May 2020, the UN Working Group on
13 discrimination against women and girls, along with
14 other human rights experts, expressed concern that
15 some states had manipulated the COVID–19 crisis
16 to restrict access to abortion, which the experts rec-
17 ognized as “the latest example illustrating a pattern
18 of restrictions and retrogressions in access to legal
19 abortion care across the country” and reminded
20 U.S. authorities that abortion care constitutes essen-
21 tial health care that must remain available during
22 and after the pandemic. They noted that barriers to
23 abortion access exacerbate systemic inequalities and
24 cause particular harm to marginalized communities,

1 including low-income people, people of color, immi-
2 grants, people with disabilities, and LGBTQ people.

3 (23) Abortion-specific restrictions affect the
4 cost and availability of abortion services, and the
5 settings in which abortion services are delivered.
6 People travel across State lines and otherwise en-
7 gage in interstate commerce to access this essential
8 medical care, and more would be forced to do so ab-
9 sent this Act. Likewise, health care providers travel
10 across State lines and otherwise engage in interstate
11 commerce in order to provide abortion services to
12 patients, and more would be forced to do so absent
13 this Act.

14 (24) Health care providers engage in a form of
15 economic and commercial activity when they provide
16 abortion services, and there is an interstate market
17 for abortion services.

18 (25) Abortion restrictions substantially affect
19 interstate commerce in numerous ways. For exam-
20 ple, to provide abortion services, health care pro-
21 viders engage in interstate commerce to purchase
22 medicine, medical equipment, and other necessary
23 goods and services. To provide and assist others in
24 providing abortion services, health care providers en-
25 gage in interstate commerce to obtain and provide

1 training. To provide abortion services, health care
2 providers employ and obtain commercial services
3 from doctors, nurses, and other personnel who en-
4 gage in interstate commerce and travel across State
5 lines.

6 (26) It is difficult and time and resource-con-
7 suming for clinics to challenge State laws that bur-
8 den or impede abortion services. Litigation that
9 blocks one abortion restriction may not prevent a
10 State from adopting other similarly burdensome
11 abortion restrictions or using different methods to
12 burden or impede abortion services. There is a his-
13 tory and pattern of States passing successive and
14 different laws that unduly burden abortion services.

15 (27) When a health care provider ceases pro-
16 viding abortion services as a result of burdensome
17 and medically unnecessary regulations, it is often
18 difficult or impossible for that health care provider
19 to recommence providing those abortion services,
20 and difficult or impossible for other health care pro-
21 viders to provide abortion services that restore or re-
22 place the ceased abortion services.

23 (28) Health care providers are subject to license
24 laws in various jurisdictions, which are not affected
25 by this Act except as provided in this Act.

1 (29) Congress has the authority to enact this
2 Act to protect abortion services pursuant to—

3 (A) its powers under the commerce clause
4 of section 8 of article I of the Constitution of
5 the United States;

6 (B) its powers under section 5 of the Four-
7 teenth Amendment to the Constitution of the
8 United States to enforce the provisions of sec-
9 tion 1 of the Fourteenth Amendment; and

10 (C) its powers under the necessary and
11 proper clause of section 8 of Article I of the
12 Constitution of the United States.

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

24 (31) Congressional action is necessary to put an
25 end to harmful restrictions, to federally protect ac-

1 cess to abortion services for everyone regardless of
2 where they live, and to protect the ability of health
3 care providers to provide these services in a safe and
4 accessible manner.

5 (b) PURPOSE.—It is the purpose of this Act—

6 (1) to permit health care providers to provide
7 abortion services without limitations or requirements
8 that single out the provision of abortion services for
9 restrictions that are more burdensome than those re-
10 strictions imposed on medically comparable proce-
11 dures, do not significantly advance reproductive
12 health or the safety of abortion services, and make
13 abortion services more difficult to access;

14 (2) to promote access to abortion services and
15 women’s ability to participate equally in the eco-
16 nomic and social life of the United States; and

17 (3) to invoke Congressional authority, including
18 the powers of Congress under the commerce clause
19 of section 8 of article I of the Constitution of the
20 United States, its powers under section 5 of the
21 Fourteenth Amendment to the Constitution of the
22 United States to enforce the provisions of section 1
23 of the Fourteenth Amendment, and its powers under
24 the necessary and proper clause of section 8 of arti-
25 cle I of the Constitution of the United States.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) **ABORTION SERVICES.**—The term “abortion
4 services” means an abortion and any medical or
5 non-medical services related to and provided in con-
6 junction with an abortion (whether or not provided
7 at the same time or on the same day as the abor-
8 tion).

9 (2) **GOVERNMENT.**—The term “government”
10 includes each branch, department, agency, instru-
11 mentality, and official of the United States or a
12 State.

13 (3) **HEALTH CARE PROVIDER.**—The term
14 “health care provider” means any entity or indi-
15 vidual (including any physician, certified nurse-mid-
16 wife, nurse practitioner, and physician assistant)
17 that—

18 (A) is engaged or seeks to engage in the
19 delivery of health care services, including abor-
20 tion services; and

21 (B) if required by law or regulation to be
22 licensed or certified to engage in the delivery of
23 such services—

24 (i) is so licensed or certified; or

25 (ii) would be so licensed or certified

26 but for their past, present, or potential

1 provision of abortion services permitted by
2 section 4.

3 (4) MEDICALLY COMPARABLE PROCEDURE.—

4 The term “medically comparable procedures” means
5 medical procedures that are similar in terms of
6 health and safety risks to the patient, complexity, or
7 the clinical setting that is indicated.

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

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

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

1 **SEC. 4. PERMITTED SERVICES.**

2 (a) **GENERAL RULE.**—A health care provider has a
3 statutory right under this Act to provide abortion services,
4 and may provide abortion services, and that provider’s pa-
5 tient has a corresponding right to receive such services,
6 without any of the following limitations or requirements:

7 (1) A requirement that a health care provider
8 perform specific tests or medical procedures in con-
9 nection with the provision of abortion services, un-
10 less generally required for the provision of medically
11 comparable procedures.

12 (2) A requirement that the same health care
13 provider who provides abortion services also perform
14 specified tests, services, or procedures prior to or
15 subsequent to the abortion.

16 (3) A requirement that a health care provider
17 offer or provide the patient seeking abortion services
18 medically inaccurate information in advance of or
19 during abortion services.

20 (4) A limitation on a health care provider’s abil-
21 ity to prescribe or dispense drugs based on current
22 evidence-based regimens or the provider’s good-faith
23 medical judgment, other than a limitation generally
24 applicable to the medical profession.

25 (5) A limitation on a health care provider’s abil-
26 ity to provide abortion services via telemedicine,

1 other than a limitation generally applicable to the
2 provision of medical services via telemedicine.

3 (6) A requirement or limitation concerning the
4 physical plant, equipment, staffing, or hospital
5 transfer arrangements of facilities where abortion
6 services are provided, or the credentials or hospital
7 privileges or status of personnel at such facilities,
8 that is not imposed on facilities or the personnel of
9 facilities where medically comparable procedures are
10 performed.

11 (7) A requirement that, prior to obtaining an
12 abortion, a patient make one or more medically un-
13 necessary in-person visits to the provider of abortion
14 services or to any individual or entity that does not
15 provide abortion services.

16 (8) A prohibition on abortion at any point or
17 points in time prior to fetal viability, including a
18 prohibition or restriction on a particular abortion
19 procedure.

20 (9) A prohibition on abortion after fetal viabil-
21 ity when, in the good-faith medical judgment of the
22 treating health care provider, continuation of the
23 pregnancy would pose a risk to the pregnant pa-
24 tient's life or health.

1 (10) A limitation on a health care provider's
2 ability to provide immediate abortion services when
3 that health care provider believes, based on the
4 good-faith medical judgment of the provider, that
5 delay would pose a risk to the patient's health.

6 (11) A requirement that a patient seeking abor-
7 tion services at any point or points in time prior to
8 fetal viability disclose the patient's reason or reasons
9 for seeking abortion services, or a limitation on the
10 provision or obtaining of abortion services at any
11 point or points in time prior to fetal viability based
12 on any actual, perceived, or potential reason or rea-
13 sons of the patient for obtaining abortion services,
14 regardless of whether the limitation is based on a
15 health care provider's degree of actual or construc-
16 tive knowledge of such reason or reasons.

17 (b) OTHER LIMITATIONS OR REQUIREMENTS.—The
18 statutory right specified in subsection (a) shall not be lim-
19 ited or otherwise infringed through, in addition to the limi-
20 tations and requirements specified in paragraphs (1)
21 through (11) of subsection (a), any limitation or require-
22 ment that—

23 (1) is the same as or similar to one or more of
24 the limitations or requirements described in sub-
25 section (a); or

1 (2) both—

2 (A) expressly, effectively, implicitly, or as
3 implemented singles out the provision of abor-
4 tion services, health care providers who provide
5 abortion services, or facilities in which abortion
6 services are provided; and

7 (B) impedes access to abortion services.

8 (c) FACTORS FOR CONSIDERATION.—Factors a court
9 may consider in determining whether a limitation or re-
10 quirement impedes access to abortion services for purposes
11 of subsection (b)(2)(B) include the following:

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

17 (2) Whether the limitation or requirement is
18 reasonably likely to delay or deter some patients in
19 accessing abortion services.

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

1 (4) Whether the limitation or requirement is
2 reasonably likely to have the effect of necessitating
3 a trip to the offices of a health care provider that
4 would not otherwise be required.

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

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

15 (7) The cumulative impact of the limitation or
16 requirement combined with other new or existing
17 limitations or requirements.

18 (d) EXCEPTION.—To defend against a claim that a
19 limitation or requirement violates a health care provider’s
20 or patient’s statutory rights under subsection (b), a party
21 must establish, by clear and convincing evidence, that—

22 (1) the limitation or requirement significantly
23 advances the safety of abortion services or the health
24 of patients; and

1 (2) the safety of abortion services or the health
2 of patients cannot be advanced by a less restrictive
3 alternative measure or action.

4 **SEC. 5. APPLICABILITY AND PREEMPTION.**

5 (a) IN GENERAL.—

6 (1) Except as stated under subsection (b), this
7 Act supersedes and applies to the law of the Federal
8 Government and each State government, and the im-
9 plementation of such law, whether statutory, com-
10 mon law, or otherwise, and whether adopted before
11 or after the date of enactment of this Act, and nei-
12 ther the Federal Government nor any State govern-
13 ment shall administer, implement, or enforce any
14 law, rule, regulation, standard, or other provision
15 having the force and effect of law that conflicts with
16 any provision of this Act, notwithstanding any other
17 provision of Federal law, including the Religious
18 Freedom Restoration Act of 1993 (42 U.S.C.
19 2000bb et seq.).

20 (2) Federal statutory law adopted after the
21 date of the enactment of this Act is subject to this
22 Act unless such law explicitly excludes such applica-
23 tion by reference to this Act.

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

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

3 (2) insurance or medical assistance coverage of
4 abortion services;

5 (3) the procedure described in section
6 1531(b)(1) of title 18, United States Code; or

7 (4) generally applicable State contract law.

8 (c) DEFENSE.—In any cause of action against an in-
9 dividual or entity who is subject to a limitation or require-
10 ment that violates this Act, in addition to the remedies
11 specified in section 8, this Act shall also apply to, and
12 may be raised as a defense by, such an individual or entity.

13 **SEC. 6. EFFECTIVE DATE.**

14 This Act shall take effect immediately upon the date
15 of enactment of this Act. This Act shall apply to all re-
16 strictions on the provision of, or access to, abortion serv-
17 ices whether the restrictions are enacted or imposed prior
18 to or after the date of enactment of this Act, except as
19 otherwise provided in this Act.

20 **SEC. 7. RULES OF CONSTRUCTION.**

21 (a) IN GENERAL.—In interpreting the provisions of
22 this Act, a court shall liberally construe such provisions
23 to effectuate the purposes of the Act.

24 (b) RULE OF CONSTRUCTION.—Nothing in this Act
25 shall be construed to authorize any government to inter-

1 fere with, diminish, or negatively affect a person's ability
2 to obtain or provide abortion services.

3 (c) OTHER INDIVIDUALS CONSIDERED AS GOVERN-
4 MENT OFFICIALS.—Any person who, by operation of a
5 provision of Federal or State law, is permitted to imple-
6 ment or enforce a limitation or requirement that violates
7 section 4 of this Act shall be considered a government offi-
8 cial for purposes of this Act.

9 **SEC. 8. ENFORCEMENT.**

10 (a) ATTORNEY GENERAL.—The Attorney General
11 may commence a civil action on behalf of the United
12 States against any State that violates, or against any gov-
13 ernment official (including a person described in section
14 7(c)) that implements or enforces a limitation or require-
15 ment that violates, section 4. The court shall hold unlawful
16 and set aside the limitation or requirement if it is in viola-
17 tion of this Act.

18 (b) PRIVATE RIGHT OF ACTION.—

19 (1) IN GENERAL.—Any individual or entity, in-
20 cluding any health care provider or patient, ad-
21 versely affected by an alleged violation of this Act,
22 may commence a civil action against any State that
23 violates, or against any government official (includ-
24 ing a person described in section 7(c)) that imple-
25 ments or enforces a limitation or requirement that

1 violates, section 4. The court shall hold unlawful and
2 set aside the limitation or requirement if it is in vio-
3 lation of this Act.

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

9 (c) EQUITABLE RELIEF.—In any action under this
10 section, the court may award appropriate equitable relief,
11 including temporary, preliminary, or permanent injunctive
12 relief.

13 (d) COSTS.—In any action under this section, the
14 court shall award costs of litigation, as well as reasonable
15 attorney’s fees, to any prevailing plaintiff. A plaintiff shall
16 not be liable to a defendant for costs or attorney’s fees
17 in any non-frivolous action under this section.

18 (e) JURISDICTION.—The district courts of the United
19 States shall have jurisdiction over proceedings under this
20 Act and shall exercise the same without regard to whether
21 the party aggrieved shall have exhausted any administra-
22 tive or other remedies that may be provided for by law.

23 (f) ABROGATION OF STATE IMMUNITY.—Neither a
24 State that enforces or maintains, nor a government official
25 (including a person described in section 7(c)) who is per-

1 mitted to implement or enforce any limitation or require-
2 ment that violates section 4 shall be immune under the
3 Tenth Amendment to the Constitution of the United
4 States, the Eleventh Amendment to the Constitution of
5 the United States, or any other source of law, from an
6 action in a Federal or State court of competent jurisdic-
7 tion challenging that limitation or requirement.

8 **SEC. 9. SEVERABILITY.**

9 If any provision of this Act, or the application of such
10 provision to any person, entity, government, or cir-
11 cumstance, is held to be unconstitutional, the remainder
12 of this Act, or the application of such provision to all other
13 persons, entities, governments, or circumstances, shall not
14 be affected thereby.

