

117TH CONGRESS
2D SESSION

H. R. 8838

To protect health care providers and people seeking reproductive health care services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2022

Ms. JACKSON LEE (for herself, Ms. LEE of California, and Mr. KAHELE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, 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 protect health care providers and people seeking reproductive health care services, 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 “Safeguard Healthcare
5 Industry Employees from Litigation and Distress Act” or
6 the “SHIELD Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

1 (1) The term “reproductive health care service”
2 includes, with respect to a current, potential, or an-
3 ticipated pregnancy—

4 (A) a diagnosis;

5 (B) an evaluation;

6 (C) an assessment;

7 (D) a consultation or the provision of ad-
8 vice, including with respect to decision-making;

9 (E) a treatment; and

10 (F) an abortion-related health care service.

11 (2) The term “health care provider” means any
12 entity or individual (including any physician, cer-
13 tified nurse-midwife, nurse practitioner, nurse, phy-
14 sician’s assistant, pharmacist, or other medical pro-
15 fessional) that is—

16 (A) engaged or seeks to engage in decision-
17 making related to, or the delivery of, health
18 care services, including reproductive health care
19 services; and

20 (B) licensed or certified to perform such
21 service under applicable State law.

22 (3) The term “State” includes the several
23 States, the District of Columbia, the Commonwealth
24 of Puerto Rico, the United States Virgin Islands,
25 American Samoa, Guam, the Northern Mariana Is-

1 lands, each Indian tribe, and each territory or pos-
2 session of the United States.

3 **SEC. 3. RESTRICTION ON CERTAIN DEPARTMENT OF JUS-**
4 **TICE LAW ENFORCEMENT FUNDING.**

5 (a) IN GENERAL.—The funds that a State would oth-
6 erwise receive under a covered grant program shall be re-
7 duced by 50 percent if the State has in effect a law that
8 authorizes officers or employees of the State or of a unit
9 of local government to prevent (including through criminal
10 enforcement), restrict, impede, or retaliate against—

11 (1) a health care provider who seeks to initiate,
12 provide, or otherwise facilitate the provision of re-
13 productive health care services to a patient or pro-
14 spective patient;

15 (2) any person or entity that seeks to assist a
16 health care provider who seeks to initiate, provide,
17 or otherwise facilitate the provision of reproductive
18 health care services to a patient or prospective pa-
19 tient;

20 (3) any person who seeks to gain access to—

21 (A) reproductive health care services; or

22 (B) a health care provider for the purpose
23 of accessing reproductive health care services;
24 or

1 (4) any person or entity that seeks to assist an-
2 other person who seeks to gain access to—

3 (A) reproductive health care services; or

4 (B) a health care provider for the purpose
5 of accessing reproductive health care services.

6 (b) COVERED GRANT PROGRAM.—In this section, the
7 term “covered grant program” means grants under—

8 (1) part Q of title I of the Omnibus Crime Con-
9 trol and Safe Streets Act of 1968 (34 U.S.C. 13081
10 et seq.); and

11 (2) subpart 1 of part E of title I of the Omni-
12 bus Crime Control and Safe Streets Act of 1968 (34
13 U.S.C. 10151 et seq.).

14 **SEC. 4. INTERFERENCE BY OFFICERS OR EMPLOYEES OF A**
15 **STATE OR UNIT OF LOCAL GOVERNMENT**
16 **PROHIBITED.**

17 (a) IN GENERAL.—No officer or employee of a State
18 or unit of local government may act under color of law
19 in any manner that would have a discriminatory effect on
20 a woman by preventing (including through criminal en-
21 forcement), restricting, impeding, or retaliating against—

22 (1) a health care provider who seeks to initiate,
23 provide, or otherwise facilitate the provision of re-
24 productive health care services to a patient or pro-
25 spective patient;

1 (2) any person or entity that seeks to assist a
2 health care provider who seeks to initiate, provide,
3 or otherwise facilitate the provision of reproductive
4 health care services to a patient or prospective pa-
5 tient;

6 (3) any person who seeks to gain access to—

7 (A) reproductive health care services; or

8 (B) a health care provider for the purpose
9 of accessing reproductive health care services;
10 or

11 (4) any person or entity that seeks to assist an-
12 other person who seeks to gain access to—

13 (A) reproductive health care services; or

14 (B) a health care provider for the purpose
15 of accessing reproductive health care services.

16 (b) ENFORCEMENT BY ATTORNEY GENERAL.—The
17 Attorney General may bring a civil action for declaratory
18 and injunctive relief in the appropriate United States dis-
19 trict court against any person who violates subsection (a).

20 (c) PRIVATE RIGHT OF ACTION.—Any person who is
21 harmed by a violation of subsection (a) may bring a civil
22 action in the appropriate United States district court
23 against the person who violated such subsection for—

24 (1) declaratory and injunctive relief;

1 (2) such compensatory damages as the court
2 determines appropriate, including for economic
3 losses and for emotional pain and suffering;

4 (3) such punitive damages as the court deter-
5 mines appropriate; and

6 (4) reasonable attorney's fees and costs of the
7 action that the court determines appropriate to
8 award to a prevailing plaintiff.

9 (d) CRIMINAL PENALTY.—Whoever, in violating sub-
10 section (a), uses a deadly or dangerous weapon or inflicts
11 bodily injury, shall be fined under title 18, United States
12 Code, or imprisoned not more than 20 years, or both.

13 (e) NO STATE IMMUNITY.—A State shall not be im-
14 mune under the eleventh amendment to the Constitution
15 of the United States from an action in a Federal or State
16 court of competent jurisdiction for a violation of this sec-
17 tion.

18 **SEC. 5. INTERFERENCE BY PERSONS NOT OFFICERS OR**
19 **EMPLOYEES OF A STATE OR UNIT OF LOCAL**
20 **GOVERNMENT PROHIBITED.**

21 (a) IN GENERAL.—No person who is not an officer
22 or employee of a State or of a unit of local government,
23 who, in a circumstance described in subsection (b), by op-
24 eration of a provision of State law attempts to implement

1 or enforce State law, may act or threaten to act in any
2 manner to prevent, restrict, impede, or retaliate against—

3 (1) a health care provider who seeks to initiate,
4 provide, or otherwise facilitate the provision of re-
5 productive health care services to a patient or pro-
6 spective patient;

7 (2) any person or entity that assists a health
8 care provider who seeks to initiate, provide, or other-
9 wise facilitate the provision of reproductive health
10 care services to a patient or prospective patient;

11 (3) any person who seeks to gain access to—

12 (A) reproductive health care services; or

13 (B) a health care provider for the purpose
14 of accessing reproductive health care services;

15 or

16 (4) any person or entity that seeks to assist an-
17 other person who seeks to gain access to—

18 (A) reproductive health care services; or

19 (B) a health care provider for the purpose
20 of accessing reproductive health care services.

21 (b) CIRCUMSTANCES DESCRIBED.—For the purposes
22 of subsection (a), the circumstances described in this sub-
23 section are that—

24 (1) any travel in interstate or foreign com-
25 merce, or travel enabled by a means, channel, facil-

1 ity, or instrumentality of interstate or foreign com-
2 merce, occurred in furtherance of or in connection
3 with the conduct described in subsection (a);

4 (2) a means, channel, facility, or instrumen-
5 tality of interstate or foreign commerce was used in
6 furtherance of or in connection with the conduct de-
7 scribed in subsection (a);

8 (3) any payment of any kind was made, directly
9 or indirectly, in furtherance of or in connection with
10 the conduct described in subsection (a) using any
11 means, channel, facility, or instrumentality of inter-
12 state or foreign commerce or in or affecting inter-
13 state or foreign commerce;

14 (4) any communication was transmitted in
15 interstate or foreign commerce, relating to or in fur-
16 therance of the conduct described in subsection (a)
17 using any means, channel, facility, or instrumen-
18 tality of interstate or foreign commerce or in or af-
19 fecting interstate or foreign commerce by any means
20 or in manner, including by computer, mail, wire, or
21 electromagnetic transmission;

22 (5) any instrument, item, substance, or other
23 object that has traveled in interstate or foreign com-
24 merce was used to perform the conduct described in
25 subsection (a);

1 (6) the conduct described in subsection (a) oc-
2 curred within the special maritime and territorial ju-
3 risdiction of the United States, or any territory or
4 possession of the United States; or

5 (7) the conduct described in subsection (a) oth-
6 erwise occurred in or affected interstate or foreign
7 commerce.

8 (c) ENFORCEMENT BY ATTORNEY GENERAL.—The
9 Attorney General may bring a civil action for declaratory
10 and injunctive relief in the appropriate United States dis-
11 trict court against any person who violates subsection (a).

12 (d) PRIVATE RIGHT OF ACTION.—Any person who is
13 harmed by a violation of subsection (a) may bring a civil
14 action in the appropriate United States district court
15 against the person who violated such subsection for—

16 (1) declaratory and injunctive relief;

17 (2) such compensatory damages as the court
18 determines appropriate, including for economic
19 losses and for emotional pain and suffering;

20 (3) such punitive damages as the court deter-
21 mines appropriate; and

22 (4) reasonable attorney’s fees and costs of the
23 action that the court determines appropriate to
24 award to a prevailing plaintiff.

1 (e) CRIMINAL PENALTY.—Whoever, in violating sub-
2 section (a), uses a deadly or dangerous weapon or inflicts
3 bodily injury, shall be fined under title 18, United States
4 Code, or imprisoned not more than 20 years, or both.

5 **SEC. 6. SEVERABILITY.**

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

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