

103D CONGRESS  
1ST SESSION

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**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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## 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.

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 “Freedom of Access  
5 to Clinic Entrances Act of 1993”.

1 **SEC. 2. CONGRESSIONAL STATEMENT OF FINDINGS AND**  
2 **PURPOSE.**

3 (a) FINDINGS.—Congress finds that—

4 (1) medical clinics and other facilities through-  
5 out the Nation offering abortion-related services  
6 have been targeted in recent years by an interstate  
7 campaign of violence and obstruction aimed at clos-  
8 ing the facilities or physically blocking ingress to  
9 them, and intimidating those seeking to obtain or  
10 provide abortion-related services;

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

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

18 (4) the methods used to deny women access to  
19 these services include blockades of facility entrances;  
20 invasions and occupations of the premises; vandalism  
21 and destruction of property in and around the facil-  
22 ity; bombings, arson, and murder; and other acts of  
23 force and threats of force;

24 (5) those engaging in such tactics frequently  
25 trample police lines and barricades and overwhelm  
26 State and local law enforcement authorities and

1 courts and their ability to restrain and enjoin unlaw-  
2 ful conduct and prosecute those who have violated  
3 the law;

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

8 (7) such conduct operates to infringe upon  
9 women's ability to exercise full enjoyment of rights  
10 secured to them by Federal and State law, both stat-  
11 utory and constitutional, and burdens interstate  
12 commerce, including by interfering with business ac-  
13 tivities of medical clinics involved in interstate com-  
14 merce and by forcing women to travel from States  
15 where their access to reproductive health services is  
16 obstructed to other States;

17 (8) the entities that provide pregnancy or abor-  
18 tion-related services engage in commerce by purchas-  
19 ing and leasing facilities and equipment, selling  
20 goods and services, employing people, and generating  
21 income;

22 (9) such entities purchase medicine, medical  
23 supplies, surgical instruments, and other supplies  
24 produced in other States;

1           (10) violence, threats of violence, obstruction,  
2           and property damage directed at abortion providers  
3           and medical facilities have had the effect of restrict-  
4           ing the interstate movement of goods and people;

5           (11) prior to the Supreme Court's decision in  
6           Bray v. Alexandria Women's Health Clinic (113 S.  
7           Ct. 753 (1993)), such conduct was frequently re-  
8           strained and enjoined by Federal courts in actions  
9           brought under section 1980(3) of the Revised Stat-  
10          utes (42 U.S.C. 1985(3));

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

14          (13) legislation is necessary to prohibit the ob-  
15          struction of access by women to pregnancy or abor-  
16          tion-related services and to ensure that persons in-  
17          jured by such conduct, as well as the Attorney Gen-  
18          eral of the United States and State Attorneys Gen-  
19          eral, can seek redress in the Federal courts;

20          (14) the obstruction of access to pregnancy or  
21          abortion-related services can be prohibited, and the  
22          right of injured parties to seek redress in the courts  
23          can be established, without abridging the exercise of  
24          any rights guaranteed under the First Amendment  
25          to the Constitution or other law; and

1           (15) Congress has the affirmative power under  
2           section 8 of article I of the Constitution as well as  
3           under section 5 of the Fourteenth Amendment to  
4           the Constitution to enact such legislation.

5           (b) PURPOSE.—It is the purpose of this Act to pro-  
6           tect and promote the public health and safety and activi-  
7           ties affecting interstate commerce by prohibiting the use  
8           of force, threat of force or physical obstruction to injure,  
9           intimidate or interfere with a person seeking to obtain or  
10          provide pregnancy or abortion-related services, and the de-  
11          struction of property of facilities providing pregnancy or  
12          abortion-related services, and by establishing the right of  
13          private parties injured by such conduct, as well as the At-  
14          torney General of the United States and State Attorneys  
15          General in appropriate cases, to bring actions for appro-  
16          priate relief.

17       **SEC. 3. FREEDOM OF ACCESS TO CLINIC ENTRANCES.**

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

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

22          “(a) PROHIBITED ACTIVITIES.—Whoever—

23               “(1) by force or threat of force or by physical  
24               obstruction, intentionally injures, intimidates or  
25               interferes with or attempts to injure, intimidate or

1 interfere with any person because that person is or  
2 has been, or in order to intimidate such person or  
3 any other person or any class of persons from, ob-  
4 taining or providing pregnancy or abortion-related  
5 services: *Provided, however,* That nothing in this sec-  
6 tion shall be construed as expanding or limiting the  
7 authority of States to regulate the performance of  
8 abortions or the availability of pregnancy or abor-  
9 tion-related services;

10 “(2) by force or threat of force or by physical  
11 obstruction, intentionally injures, intimidates or  
12 interferes with or attempts to injure, intimidate or  
13 interfere with any person lawfully exercising or seek-  
14 ing to exercise the First Amendment right of reli-  
15 gious freedom at a place of worship; or

16 “(3) intentionally damages or destroys the  
17 property of a medical facility or in which a medical  
18 facility is located, or attempts to do so, because such  
19 facility provides pregnancy or abortion-related serv-  
20 ices, or intentionally damages or destroys the prop-  
21 erty of a place of religious worship,

22 shall be subject to the penalties provided in subsection (b)  
23 and the civil remedies provided in subsection (c), except  
24 that a parent or legal guardian of a minor shall not be  
25 subject to any penalties or civil remedies under this section

1 for such activities insofar as they are directed exclusively  
2 at that minor.

3 “(b) PENALTIES.—Whoever violates this section  
4 shall—

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

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

20 except that for an offense involving exclusively a non-  
21 violent physical obstruction, the fine shall be not more  
22 than \$10,000 and the length of imprisonment shall be not  
23 more than six months, or both, for the first offense; and  
24 the fine shall be not more than \$25,000 and the length  
25 of imprisonment shall be not more than 18 months, or

1 both, for a subsequent offense; and except that if bodily  
2 injury results, the length of imprisonment shall be not  
3 more than 10 years, and if death results, it shall be for  
4 any term of years or for life.

5 “(c) CIVIL REMEDIES.—

6 “(1) RIGHT OF ACTION.—

7 “(A) IN GENERAL.—Any person aggrieved  
8 by reason of the conduct prohibited by sub-  
9 section (a) may commence a civil action for the  
10 relief set forth in subparagraph (B), except that  
11 such an action may be brought under sub-  
12 section (a)(1) only by a person involved in pro-  
13 viding or seeking to provide, or obtaining or  
14 seeking to obtain, services in a medical facility  
15 that provides pregnancy or abortion-related  
16 services.

17 “(B) RELIEF.—In any action under sub-  
18 paragraph (A), the court may award appro-  
19 priate relief, including temporary, preliminary  
20 or permanent injunctive relief and compen-  
21 satory and punitive damages, as well as the  
22 costs of suit and reasonable fees for attorneys  
23 and expert witnesses. With respect to compen-  
24 satory damages, the plaintiff may elect, at any  
25 time prior to the rendering of final judgment,

1 to recover, in lieu of actual damages, an award  
2 of statutory damages in the amount of \$5,000  
3 per violation.

4 “(2) ACTION BY ATTORNEY GENERAL OF THE  
5 UNITED STATES.—

6 “(A) IN GENERAL.—If the Attorney Gen-  
7 eral of the United States has reasonable cause  
8 to believe that any person or group of persons  
9 is being, has been, or may be injured by con-  
10 duct constituting a violation of this section, and  
11 such conduct raises an issue of general public  
12 importance, the Attorney General may com-  
13 mence a civil action in any appropriate United  
14 States District Court.

15 “(B) RELIEF.—In any action under sub-  
16 paragraph (A), the court may award appro-  
17 priate relief, including temporary, preliminary  
18 or permanent injunctive relief and compen-  
19 satory damages to persons aggrieved as de-  
20 scribed in paragraph (1)(B). The court, to vin-  
21 dicate the public interest, may also assess a  
22 civil penalty against each respondent—

23 “(i) in an amount not exceeding  
24 \$10,000 for a nonviolent physical obstruc-

1           tion and \$15,000 for other first violations;  
2           and

3           “(ii) in an amount not exceeding  
4           \$15,000 for a nonviolent physical obstruc-  
5           tion and \$25,000, for any other subse-  
6           quent violation.

7           “(3) ACTIONS BY STATE ATTORNEYS GEN-  
8           ERAL.—

9           “(A) IN GENERAL.—If the Attorney Gen-  
10           eral of a State has reasonable cause to believe  
11           that any person or group of persons is being,  
12           has been, or may be injured by conduct con-  
13           stituting a violation of this section, and such  
14           conduct raises an issue of general public impor-  
15           tance, such Attorney General may commence a  
16           civil action in the name of such State, as *parens*  
17           *patriae* on behalf of natural persons residing in  
18           such State, in any appropriate United States  
19           District Court.

20           “(B) RELIEF.—In any action under sub-  
21           paragraph (A), the court may award appro-  
22           priate relief, including temporary, preliminary  
23           or permanent injunctive relief, compensatory  
24           damages, and civil penalties as described in  
25           paragraph (2)(B).

1       “(d) RULES OF CONSTRUCTION.—Nothing in this  
2 section shall be construed or interpreted to—

3               “(1) prevent any State from exercising jurisdic-  
4 tion over any offense over which it would have jurisdic-  
5 tion in the absence of this section;

6               “(2) deprive State and local law enforcement  
7 authorities of responsibility for prosecuting acts that  
8 may be violations of this section and that are viola-  
9 tions of State or local law;

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

14              “(4) limit or otherwise affect the right of a per-  
15 son aggrieved by acts that may be violations of this  
16 section to seek other available civil remedies;

17              “(5) prohibit expression protected by the First  
18 Amendment to the Constitution; or

19              “(6) create new remedies for interference with  
20 expressive activities protected by the First Amend-  
21 ment to the Constitution, occurring outside a medi-  
22 cal facility, regardless of the point of view expressed.

23       “(e) DEFINITIONS.—As used in this section:

1           “(1) INTERFERE WITH.—The term ‘interfere  
2 with’ means to restrict a person’s freedom of move-  
3 ment.

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

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

12           “(4) PHYSICAL OBSTRUCTION.—The term  
13 ‘physical obstruction’ means rendering impassable  
14 ingress to or egress from a medical facility that pro-  
15 vides pregnancy or abortion-related services or to or  
16 from a place of religious worship, or rendering pas-  
17 sage to or from such a facility or place of religious  
18 worship unreasonably difficult or hazardous.

19           “(5) PREGNANCY OR ABORTION-RELATED SERV-  
20 ICES.—The term ‘pregnancy or abortion-related  
21 services’ includes medical, surgical, counselling or re-  
22 ferral services, provided in a medical facility, relat-  
23 ing to pregnancy or the termination of a pregnancy.

24           “(6) STATE.—The term ‘State’ includes a State  
25 of the United States, the District of Columbia, and

1 any commonwealth, territory, or possession of the  
2 United States.”.

3 **SEC. 4. RULE OF CONSTRUCTION.**

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

10 **SEC. 5. EFFECTIVE DATE.**

11 This Act shall take effect with respect to conduct oc-  
12 ccurring on or after the date of enactment of this Act.

Passed the Senate November 16 (legislative day, No-  
vember 2), 1993.

Attest:

*Secretary.*

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