

## Calendar No. 139

117TH CONGRESS  
1ST SESSION**H. R. 3755**

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27, 2021

Received

SEPTEMBER 28, 2021

Read the first time

SEPTEMBER 29, 2021

Read the second time and placed on the calendar

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**AN ACT**

To protect a person's ability to determine whether to continue or end a pregnancy, and to protect a health care provider's ability to provide abortion services.

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 "Women's Health Pro-  
5 tection Act of 2021".

6 **SEC. 2. FINDINGS AND PURPOSE.**

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

1           (1) Abortion services are essential to health  
2           care and access to those services is central to peo-  
3           ple’s ability to participate equally in the economic  
4           and social life of the United States. Abortion access  
5           allows people who are pregnant to make their own  
6           decisions about their pregnancies, their families, and  
7           their lives.

8           (2) Since 1973, the Supreme Court repeatedly  
9           has recognized the constitutional right to terminate  
10          a pregnancy before fetal viability, and to terminate  
11          a pregnancy after fetal viability where it is nec-  
12          essary, in the good-faith medical judgment of the  
13          treating health care professional, for the preserva-  
14          tion of the life or health of the person who is preg-  
15          nant.

16          (3) Nonetheless, access to abortion services has  
17          been obstructed across the United States in various  
18          ways, including blockades of health care facilities  
19          and associated violence, prohibitions of, and restric-  
20          tions on, insurance coverage; parental involvement  
21          laws (notification and consent); restrictions that  
22          shame and stigmatize people seeking abortion serv-  
23          ices; and medically unnecessary regulations that nei-  
24          ther confer any health benefit nor further the safety  
25          of abortion services, but which harm people by de-

1       laying, complicating access to, and reducing the  
2       availability of, abortion services.

3               (4) Reproductive justice requires every indi-  
4       vidual to have the right to make their own decisions  
5       about having children regardless of their cir-  
6       cumstances and without interference and discrimina-  
7       tion. Reproductive Justice is a human right that can  
8       and will be achieved when all people, regardless of  
9       actual or perceived race, color, national origin, immi-  
10      gration status, sex (including gender identity, sex  
11      stereotyping, or sexual orientation), age, or disability  
12      status have the economic, social, and political power  
13      and resources to define and make decisions about  
14      their bodies, health, sexuality, families, and commu-  
15      nities in all areas of their lives, with dignity and  
16      self-determination.

17              (5) 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, and other Peo-  
4       ple of Color (BIPOC) and their families.

5           (6) The legacy of restrictions on reproductive  
6       health, rights, and justice is not a dated vestige of  
7       a dark history. Presently, the harms of abortion-spe-  
8       cific restrictions fall especially heavily on people with  
9       low incomes, BIPOC, immigrants, young people,  
10      people with disabilities, and those living in rural and  
11      other medically underserved areas. Abortion-specific  
12      restrictions are even more compounded by the ongo-  
13      ing criminalization of people who are pregnant, in-  
14      cluding those who are incarcerated, living with HIV,  
15      or with substance-use disorders. These communities  
16      already experience health disparities due to social,  
17      political, and environmental inequities, and restric-  
18      tions on abortion services exacerbate these harms.  
19      Removing medically unjustified restrictions on abor-  
20      tion services would constitute one important step on  
21      the path toward realizing Reproductive Justice by  
22      ensuring that the full range of reproductive health  
23      care is accessible to all who need it.

24           (7) Abortion-specific restrictions are a tool of  
25      gender oppression, as they target health care serv-

1 ices that are used primarily by women. These pater-  
2 nalistic restrictions rely on and reinforce harmful  
3 stereotypes about gender roles, women’s decision-  
4 making, and women’s need for protection instead of  
5 support, undermining their ability to control their  
6 own lives and well-being. These restrictions harm the  
7 basic autonomy, dignity, and equality of women, and  
8 their ability to participate in the social and economic  
9 life of the Nation.

10 (8) The terms “woman” and “women” are used  
11 in this bill to reflect the identity of the majority of  
12 people targeted and affected by restrictions on abor-  
13 tion services, and to address squarely the targeted  
14 restrictions on abortion, which are rooted in misog-  
15 gyny. However, access to abortion services is critical  
16 to the health of every person capable of becoming  
17 pregnant. This Act is intended to protect all people  
18 with the capacity for pregnancy—cisgender women,  
19 transgender men, non-binary individuals, those who  
20 identify with a different gender, and others—who  
21 are unjustly harmed by restrictions on abortion serv-  
22 ices.

23 (9) Since 2011, States and local governments  
24 have passed nearly 500 restrictions singling out  
25 health care providers who offer abortion services,

1 interfering with their ability to provide those services  
2 and the patients' ability to obtain those services.

3 (10) Many State and local governments have  
4 imposed restrictions on the provision of abortion  
5 services that are neither evidence-based nor gen-  
6 erally applicable to the medical profession or to  
7 other medically comparable outpatient gynecological  
8 procedures, such as endometrial ablations, dilation  
9 and curettage for reasons other than abortion,  
10 hysteroscopies, loop electrosurgical excision proce-  
11 dures, or other analogous non-gynecological proce-  
12 dures performed in similar outpatient settings in-  
13 cluding vasectomy, sigmoidoscopy, and colonoscopy.

14 (11) Abortion is essential health care and one  
15 of the safest medical procedures in the United  
16 States. An independent, comprehensive review of the  
17 state of science on the safety and quality of abortion  
18 services, published by the National Academies of  
19 Sciences, Engineering, and Medicine in 2018, found  
20 that abortion in the United States is safe and effec-  
21 tive and that the biggest threats to the quality of  
22 abortion services in the United States are State reg-  
23 ulations that create barriers to care. These abortion-  
24 specific restrictions conflict with medical standards  
25 and are not supported by the recommendations and

1 guidelines issued by leading reproductive health care  
2 professional organizations including the American  
3 College of Obstetricians and Gynecologists, the Soci-  
4 ety of Family Planning, the National Abortion Fed-  
5 eration, the World Health Organization, and others.

6 (12) Many abortion-specific restrictions do not  
7 confer any health or safety benefits on the patient.  
8 Instead, these restrictions have the purpose and ef-  
9 fect of unduly burdening people’s personal and pri-  
10 vate medical decisions to end their pregnancies by  
11 making access to abortion services more difficult,  
12 invasive, and costly, often forcing people to travel  
13 significant distances and make multiple unnecessary  
14 visits to the provider, and in some cases, foreclosing  
15 the option altogether. For example, a 2018 report  
16 from the University of California San Francisco’s  
17 Advancing New Standards in Reproductive Health  
18 research group found that in 27 cities across the  
19 United States, people have to travel more than 100  
20 miles in any direction to reach an abortion provider.

21 (13) An overwhelming majority of abortions in  
22 the United States are provided in clinics, not hos-  
23 pitals, but the large majority of counties throughout  
24 the United States have no clinics that provide abor-  
25 tion.

1           (14) These restrictions additionally harm peo-  
2           ple’s health by reducing access not only to abortion  
3           services but also to other essential health care serv-  
4           ices offered by many of the providers targeted by the  
5           restrictions, including—

6                   (A) screenings and preventive services, in-  
7                   cluding contraceptive services;

8                   (B) testing and treatment for sexually  
9                   transmitted infections;

10                  (C) LGBTQ health services; and

11                  (D) referrals for primary care, intimate  
12                  partner violence prevention, prenatal care and  
13                  adoption services.

14           (15) The cumulative effect of these numerous  
15           restrictions has been to severely limit the availability  
16           of abortion services in some areas, creating a patch-  
17           work system where access to abortion services is  
18           more available in some States than in others. A  
19           2019 report from the Government Accountability Of-  
20           fice examining State Medicaid compliance with abor-  
21           tion coverage requirements analyzed seven key chal-  
22           lenges (identified both by health care providers and  
23           research literature) and their effect on abortion ac-  
24           cess, and found that access to abortion services var-  
25           ied across the States and even within a State.

1           (16) International human rights law recognizes  
2           that access to abortion is intrinsically linked to the  
3           rights to life, health, equality and non-discrimina-  
4           tion, privacy, and freedom from ill-treatment. United  
5           Nations (UN) human rights treaty monitoring bod-  
6           ies have found that legal abortion services, like other  
7           reproductive health care services, must be available,  
8           accessible, affordable, acceptable, and of good qual-  
9           ity. UN human rights treaty bodies have likewise  
10          condemned medically unnecessary barriers to abor-  
11          tion services, including mandatory waiting periods,  
12          biased counseling requirements, and third-party au-  
13          thorization requirements.

14          (17) 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 ICCPR, made  
18          clear that the right to life, enshrined in Article 6 of  
19          the ICCPR, at a minimum requires governments to  
20          provide safe, legal, and effective access to abortion  
21          where a person's life and health is at risk, or when  
22          carrying a pregnancy to term would cause substan-  
23          tial pain or suffering. The Committee stated that  
24          governments must not impose restrictions on abor-  
25          tion which subject women and girls to physical or

1 mental pain or suffering, discriminate against them,  
2 arbitrarily interfere with their privacy, or place them  
3 at risk of undertaking unsafe abortions. Further-  
4 more, the Committee stated that governments should  
5 remove existing barriers that deny effective access to  
6 safe and legal abortion, refrain from introducing  
7 new barriers to abortion, and prevent the stigmatiza-  
8 tion of those seeking abortion.

9 (18) UN independent human rights experts  
10 have expressed particular concern about barriers to  
11 abortion services in the United States. For example,  
12 at the conclusion of his 2017 visit to the United  
13 States, the UN Special Rapporteur on extreme pov-  
14 erty and human rights noted concern that low-in-  
15 come women face legal and practical obstacles to ex-  
16 ercising their constitutional right to access abortion  
17 services, trapping many women in cycles of poverty.  
18 Similarly, in May 2020, the UN Working Group on  
19 discrimination against women and girls, along with  
20 other human rights experts, expressed concern that  
21 some states had manipulated the COVID–19 crisis  
22 to restrict access to abortion, which the experts rec-  
23 ognized as “the latest example illustrating a pattern  
24 of restrictions and retrogressions in access to legal  
25 abortion care across the country” and reminded

1 U.S. authorities that abortion care constitutes essen-  
2 tial health care that must remain available during  
3 and after the pandemic. They noted that barriers to  
4 abortion access exacerbate systemic inequalities and  
5 cause particular harm to marginalized communities,  
6 including low-income people, people of color, immi-  
7 grants, people with disabilities, and LGBTQ people.

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

19 (20) Health care providers engage in a form of  
20 economic and commercial activity when they provide  
21 abortion services, and there is an interstate market  
22 for abortion services.

23 (21) Abortion restrictions substantially affect  
24 interstate commerce in numerous ways. For exam-  
25 ple, to provide abortion services, health care pro-

1       viders engage in interstate commerce to purchase  
2       medicine, medical equipment, and other necessary  
3       goods and services. To provide and assist others in  
4       providing abortion services, health care providers en-  
5       gage in interstate commerce to obtain and provide  
6       training. To provide abortion services, health care  
7       providers employ and obtain commercial services  
8       from doctors, nurses, and other personnel who en-  
9       gage in interstate commerce and travel across State  
10      lines.

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

20           (23) When a health care provider ceases pro-  
21      viding abortion services as a result of burdensome  
22      and medically unnecessary regulations, it is often  
23      difficult or impossible for that health care provider  
24      to recommence providing those abortion services,  
25      and difficult or impossible for other health care pro-

1 providers to provide abortion services that restore or re-  
2 place the ceased abortion services.

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

6 (25) Congress has the authority to enact this  
7 Act to protect abortion services pursuant to—

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

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

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

18 (26) Congress has used its authority in the past  
19 to protect access to abortion services and health care  
20 providers' ability to provide abortion services. In the  
21 early 1990s, protests and blockades at health care  
22 facilities where abortion services were provided, and  
23 associated violence, increased dramatically and  
24 reached crisis level, requiring Congressional action.  
25 Congress passed the Freedom of Access to Clinic

1 Entrances Act (Public Law 103–259; 108 Stat. 694)  
2 to address that situation and protect physical access  
3 to abortion services.

4 (27) Congressional action is necessary to put an  
5 end to harmful restrictions, to federally protect ac-  
6 cess to abortion services for everyone regardless of  
7 where they live, and to protect the ability of health  
8 care providers to provide these services in a safe and  
9 accessible manner.

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

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

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

22 (3) to invoke Congressional authority, including  
23 the powers of Congress under the commerce clause  
24 of section 8 of article I of the Constitution of the  
25 United States, its powers under section 5 of the

1 Fourteenth Amendment to the Constitution of the  
2 United States to enforce the provisions of section 1  
3 of the Fourteenth Amendment, and its powers under  
4 the necessary and proper clause of section 8 of arti-  
5 cle I of the Constitution of the United States.

6 **SEC. 3. DEFINITIONS.**

7 In this Act:

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

14 (2) **GOVERNMENT.**—The term “government”  
15 includes each branch, department, agency, instru-  
16 mentality, and official of the United States or a  
17 State.

18 (3) **HEALTH CARE PROVIDER.**—The term  
19 “health care provider” means any entity or indi-  
20 vidual (including any physician, certified nurse-mid-  
21 wife, nurse practitioner, and physician assistant)  
22 that—

23 (A) is engaged or seeks to engage in the  
24 delivery of health care services, including abor-  
25 tion services, and

1 (B) if required by law or regulation to be  
2 licensed or certified to engage in the delivery of  
3 such services—

4 (i) is so licensed or certified, or

5 (ii) would be so licensed or certified  
6 but for their past, present, or potential  
7 provision of abortion services permitted by  
8 section 4.

9 (4) MEDICALLY COMPARABLE PROCEDURE.—

10 The term “medically comparable procedures” means  
11 medical procedures that are similar in terms of  
12 health and safety risks to the patient, complexity, or  
13 the clinical setting that is indicated.

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

17 (6) STATE.—The term “State” includes the  
18 District of Columbia, the Commonwealth of Puerto  
19 Rico, and each territory and possession of the  
20 United States, and any subdivision of any of the  
21 foregoing, including any unit of local government,  
22 such as a county, city, town, village, or other general  
23 purpose political subdivision of a State.

24 (7) VIABILITY.—The term “viability” means  
25 the point in a pregnancy at which, in the good-faith

1 medical judgment of the treating health care pro-  
2 vider, based on the particular facts of the case be-  
3 fore the health care provider, there is a reasonable  
4 likelihood of sustained fetal survival outside the  
5 uterus with or without artificial support.

6 **SEC. 4. PERMITTED SERVICES.**

7 (a) GENERAL RULE.—A health care provider has a  
8 statutory right under this Act to provide abortion services,  
9 and may provide abortion services, and that provider’s pa-  
10 tient has a corresponding right to receive such services,  
11 without any of the following limitations or requirements:

12 (1) A requirement that a health care provider  
13 perform specific tests or medical procedures in con-  
14 nection with the provision of abortion services, un-  
15 less generally required for the provision of medically  
16 comparable procedures.

17 (2) A requirement that the same health care  
18 provider who provides abortion services also perform  
19 specified tests, services, or procedures prior to or  
20 subsequent to the abortion.

21 (3) A requirement that a health care provider  
22 offer or provide the patient seeking abortion services  
23 medically inaccurate information in advance of or  
24 during abortion services.

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

6           (5) A limitation on a health care provider’s abil-  
7           ity to provide abortion services via telemedicine,  
8           other than a limitation generally applicable to the  
9           provision of medical services via telemedicine.

10          (6) A requirement or limitation concerning the  
11          physical plant, equipment, staffing, or hospital  
12          transfer arrangements of facilities where abortion  
13          services are provided, or the credentials or hospital  
14          privileges or status of personnel at such facilities,  
15          that is not imposed on facilities or the personnel of  
16          facilities where medically comparable procedures are  
17          performed.

18          (7) A requirement that, prior to obtaining an  
19          abortion, a patient make one or more medically un-  
20          necessary in-person visits to the provider of abortion  
21          services or to any individual or entity that does not  
22          provide abortion services.

23          (8) A prohibition on abortion at any point or  
24          points in time prior to fetal viability, including a

1 prohibition or restriction on a particular abortion  
2 procedure.

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

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

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

24 (b) OTHER LIMITATIONS OR REQUIREMENTS.—The  
25 statutory right specified in subsection (a) shall not be lim-

1 ited or otherwise infringed through, in addition to the limi-  
2 tations and requirements specified in paragraphs (1)  
3 through (11) of subsection (a), any limitation or require-  
4 ment that—

5 (1) is the same as or similar to one or more of  
6 the limitations or requirements described in sub-  
7 section (a); or

8 (2) both—

9 (A) expressly, effectively, implicitly, or as  
10 implemented singles out the provision of abor-  
11 tion services, health care providers who provide  
12 abortion services, or facilities in which abortion  
13 services are provided; and

14 (B) impedes access to abortion services.

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

19 (1) Whether the limitation or requirement, in a  
20 provider’s good-faith medical judgment, interferes  
21 with a health care provider’s ability to provide care  
22 and render services, or poses a risk to the patient’s  
23 health or safety.

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

4           (3) Whether the limitation or requirement is  
5 reasonably likely to directly or indirectly increase the  
6 cost of providing abortion services or the cost for ob-  
7 taining abortion services (including costs associated  
8 with travel, childcare, or time off work).

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

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

17           (6) Whether the limitation or requirement im-  
18 poses penalties that are not imposed on other health  
19 care providers for comparable conduct or failure to  
20 act, or that are more severe than penalties imposed  
21 on other health care providers for comparable con-  
22 duct or failure to act.

23           (7) The cumulative impact of the limitation or  
24 requirement combined with other new or existing  
25 limitations or requirements.

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

5 (1) the limitation or requirement significantly  
6 advances the safety of abortion services or the health  
7 of patients; and

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

11 **SEC. 5. APPLICABILITY AND PREEMPTION.**

12 (a) IN GENERAL.—

13 (1) Except as stated under subsection (b), this  
14 Act supersedes and applies to the law of the Federal  
15 Government and each State government, and the im-  
16 plementation of such law, whether statutory, com-  
17 mon law, or otherwise, and whether adopted before  
18 or after the date of enactment of this Act, and nei-  
19 ther the Federal Government nor any State govern-  
20 ment shall administer, implement, or enforce any  
21 law, rule, regulation, standard, or other provision  
22 having the force and effect of law that conflicts with  
23 any provision of this Act, notwithstanding any other  
24 provision of Federal law, including the Religious

1 Freedom Restoration Act of 1993 (42 U.S.C.  
2 2000bb et seq.).

3 (2) Federal statutory law adopted after the  
4 date of the enactment of this Act is subject to this  
5 Act unless such law explicitly excludes such applica-  
6 tion by reference to this Act.

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

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

11 (2) insurance or medical assistance coverage of  
12 abortion services;

13 (3) the procedure described in section  
14 1531(b)(1) of title 18, United States Code; or

15 (4) generally applicable State contract law.

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

21 **SEC. 6. EFFECTIVE DATE.**

22 This Act shall take effect immediately upon the date  
23 of enactment of this Act. This Act shall apply to all re-  
24 strictions on the provision of, or access to, abortion serv-  
25 ices whether the restrictions are enacted or imposed prior

1 to or after the date of enactment of this Act, except as  
2 otherwise provided in this Act.

3 **SEC. 7. RULES OF CONSTRUCTION.**

4 (a) IN GENERAL.—In interpreting the provisions of  
5 this Act, a court shall liberally construe such provisions  
6 to effectuate the purposes of the Act.

7 (b) RULE OF CONSTRUCTION.—Nothing in this Act  
8 shall be construed to authorize any government to inter-  
9 fere with a person’s ability to terminate a pregnancy, to  
10 diminish or in any way negatively affect a person’s con-  
11 stitutional right to terminate a pregnancy, or to displace  
12 any other remedy for violations of the constitutional right  
13 to terminate a pregnancy.

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

20 **SEC. 8. ENFORCEMENT.**

21 (a) ATTORNEY GENERAL.—The Attorney General  
22 may commence a civil action on behalf of the United  
23 States against any State that violates, or against any gov-  
24 ernment official (including a person described in section  
25 7(c)) that implements or enforces a limitation or require-

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

4 (b) PRIVATE RIGHT OF ACTION.—

5 (1) IN GENERAL.—Any individual or entity, in-  
6 cluding any health care provider or patient, ad-  
7 versely affected by an alleged violation of this Act,  
8 may commence a civil action against any State that  
9 violates, or against any government official (includ-  
10 ing a person described in section 7(c)) that imple-  
11 ments or enforces a limitation or requirement that  
12 violates, section 4. The court shall hold unlawful and  
13 set aside the limitation or requirement if it is in vio-  
14 lation of this Act.

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

20 (c) EQUITABLE RELIEF.—In any action under this  
21 section, the court may award appropriate equitable relief,  
22 including temporary, preliminary, or permanent injunctive  
23 relief.

24 (d) 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 (e) 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 (f) 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 shall be immune under the  
14 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.

19 **SEC. 9. SEVERABILITY.**

20 If any provision of this Act, or the application of such  
21 provision to any person, entity, government, or cir-  
22 cumstance, is held to be unconstitutional, the remainder  
23 of this Act, or the application of such provision to all other



Calendar No. 139

117<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 3755**

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**AN ACT**

To protect a person's ability to determine whether to continue or end a pregnancy, and to protect a health care provider's ability to provide abortion services.

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SEPTEMBER 29, 2021

Read the second time and placed on the calendar