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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2023

Ms. JACKSON LEE 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 Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Safeguard Healthcare Industry Employees from Litigation and Distress Act” or the “SHIELD Act”.

4 SEC. 2. DEFINITIONS.

5 In this Act:
(1) The term “reproductive health care service” includes, with respect to a current, potential, or anticipated pregnancy—
(A) a diagnosis;
(B) an evaluation;
(C) an assessment;
(D) a consultation or the provision of advice, including with respect to decision making;
(E) a treatment; and
(F) an abortion-related health care service.

(2) The term “health care provider” means any entity or individual (including any physician, certified nurse-midwife, nurse practitioner, nurse, physician’s assistant, pharmacist, or other medical professional) that is—
(A) engaged or seeks to engage in decision making related to, or the delivery of, health care services, including reproductive health care services; and
(B) licensed or certified to perform such service under applicable State law.

(3) The term “State” includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, the Northern Mariana Is-
lands, each Indian tribe, and each territory or possession of the United States.

SEC. 3. RESTRICTION ON CERTAIN DEPARTMENT OF JUSTICE LAW ENFORCEMENT FUNDING.

(a) IN GENERAL.—The funds that a State would otherwise receive under a covered grant program shall be reduced by 50 percent if the State has in effect a law that authorizes officers or employees of the State or of a unit of local government to prevent (including through criminal enforcement), restrict, impede, or retaliate against—

(1) a health care provider who seeks to initiate, provide, or otherwise facilitate the provision of reproductive health care services to a patient or prospective patient;

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

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

(A) reproductive health care services; or

(B) a health care provider for the purpose of accessing reproductive health care services; or
(4) any person or entity that seeks to assist another person who seeks to gain access to—

(A) reproductive health care services; or

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

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

(1) part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 13081 et seq.); and


SEC. 4. INTERFERENCE BY OFFICERS OR EMPLOYEES OF A STATE OR UNIT OF LOCAL GOVERNMENT PROHIBITED.

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

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

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

(A) reproductive health care services; or

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

or

(4) any person or entity that seeks to assist another person who seeks to gain access to—

(A) reproductive health care services; or

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

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

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

(1) declaratory and injunctive relief;
(2) such compensatory damages as the court
determines appropriate, including for economic
losses and for emotional pain and suffering;
(3) such punitive damages as the court deter-
mines appropriate; and
(4) reasonable attorney’s fees and costs of the
action that the court determines appropriate to
award to a prevailing plaintiff.
(d) CRIMINAL PENALTY.—Whoever, in violating sub-
section (a), uses a deadly or dangerous weapon or inflicts
bodily injury, shall be fined under title 18, United States
Code, or imprisoned not more than 20 years, or both.
(e) NO STATE IMMUNITY.—A State shall not be im-
mune under the eleventh amendment to the Constitution
of the United States from an action in a Federal or State
court of competent jurisdiction for a violation of this sec-
tion.
SEC. 5. INTERFERENCE BY PERSONS NOT OFFICERS OR
EMPLOYEES OF A STATE OR UNIT OF LOCAL
GOVERNMENT PROHIBITED.
(a) IN GENERAL.—No person who is not an officer
or employee of a State or of a unit of local government,
who, in a circumstance described in subsection (b), by op-
eration of a provision of State law attempts to implement
or enforce State law, may act or threaten to act in any manner to prevent, restrict, impede, or retaliate against—

(1) a health care provider who seeks to initiate, provide, or otherwise facilitate the provision of reproductive health care services to a patient or prospective patient;

(2) any person or entity that assists a health care provider who seeks to initiate, provide, or otherwise facilitate the provision of reproductive health care services to a patient or prospective patient;

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

(A) reproductive health care services; or

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

(4) any person or entity that seeks to assist another person who seeks to gain access to—

(A) reproductive health care services; or

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

(b) CIRCUMSTANCES DESCRIBED.—For the purposes of subsection (a), the circumstances described in this subsection are that—

(1) any travel in interstate or foreign commerce, or travel enabled by a means, channel, facil-
ity, or instrumentality of interstate or foreign commerce, occurred in furtherance of or in connection with the conduct described in subsection (a);

(2) a means, channel, facility, or instrumentality of interstate or foreign commerce was used in furtherance of or in connection with the conduct described in subsection (a);

(3) any payment of any kind was made, directly or indirectly, in furtherance of or in connection with the conduct described in subsection (a) using any means, channel, facility, or instrumentality of interstate or foreign commerce or in or affecting interstate or foreign commerce;

(4) any communication was transmitted in interstate or foreign commerce, relating to or in furtherance of the conduct described in subsection (a) using any means, channel, facility, or instrumentality of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means or in manner, including by computer, mail, wire, or electromagnetic transmission;

(5) any instrument, item, substance, or other object that has traveled in interstate or foreign commerce was used to perform the conduct described in subsection (a);
(6) the conduct described in subsection (a) occurred within the special maritime and territorial jurisdiction of the United States, or any territory or possession of the United States; or

(7) the conduct described in subsection (a) otherwise occurred in or affected interstate or foreign commerce.

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

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

(1) declaratory and injunctive relief;

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

(3) such punitive damages as the court determines appropriate; and

(4) reasonable attorney’s fees and costs of the action that the court determines appropriate to award to a prevailing plaintiff.
(c) CRIMINAL PENALTY.—Whoever, in violating subsection (a), uses a deadly or dangerous weapon or inflicts bodily injury, shall be fined under title 18, United States Code, or imprisoned not more than 20 years, or both.

SEC. 6. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person, entity, government, or circumstance, is held to be unconstitutional, the remainder of this Act, or the application of such provision to all other persons, entities, governments, or circumstances, shall not be affected thereby.