

104TH CONGRESS  
1ST SESSION

# H. R. 1952

To protect women's reproductive health and constitutional right to choice.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 1995

Mrs. SCHROEDER (for herself, Mrs. LOWEY, Ms. JACKSON-LEE, Ms. RIVERS, Mrs. KENNELLY, Ms. DELAURO, Miss COLLINS of Michigan, Mrs. COLLINS of Illinois, Ms. FURSE, Ms. HARMAN, Ms. NORTON, Mrs. MALONEY, Ms. SLAUGHTER, Ms. MCKINNEY, Mrs. MINK of Hawaii, Ms. PELOSI, Ms. VELÁZQUEZ, Ms. WOOLSEY, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BALDACCI, Mr. BEILENSEN, Mr. BENTSEN, Mr. BERMAN, Mr. CARDIN, Mr. COLEMAN, Mr. CONYERS, Mr. DEFazio, Mr. DELLUMS, Mr. DEUTSCH, Mr. EVANS, Mr. FILNER, Mr. FARR, Mr. FRANK of Massachusetts, Mr. GEJDENSON, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HORN, Mr. JOHNSTON of Florida, Mr. MATSUI, Mr. MEEHAN, Mr. MILLER of California, Mr. MINETA, Mr. NADLER, Mr. OLVER, Mr. REED, Mr. RUSH, Mr. SABO, Mr. SANDERS, Mr. SERRANO, Mr. SCHUMER, Mr. SHAYS, Mr. STARK, Mr. WAXMAN, Mr. WARD, Mr. YATES, and Ms. LOFGREN) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Commerce, 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

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## A BILL

To protect women's reproductive health and constitutional right to choice.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Women’s Choice and  
3 Reproductive Health Protection Act of 1995”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds that—

6 (1) reproductive rights are central to women’s  
7 ability to exercise full enjoyment of rights secured to  
8 them by Federal and State law;

9 (2) abortion has been a legal and constitu-  
10 tionally protected medical procedure throughout the  
11 United States since 1973 and has become part of  
12 mainstream medical practice as is evidenced by the  
13 positions of medical institutions including the Amer-  
14 ican Medical Association, the American College of  
15 Obstetricians and Gynecologists, and the American  
16 Medical Women’s Association;

17 (3) the availability of abortion services is dimin-  
18 ishing throughout the United States: 84 percent of  
19 counties have no abortion provider and between  
20 1982 and 1992 the number of providers decreased  
21 in 45 States; and

22 (4) at a minimum, Congress must retain the  
23 following policies, which currently preserve women’s  
24 choice and reproductive health:

25 (A) Funding for abortion services for vic-  
26 tims of rape and incest.

1 (B) Protection from clinic violence.

2 (C) The implementation of breast cancer,  
3 cervical cancer and chlamydia screening pro-  
4 grams in all 50 States.

5 (D) Full implementation of legislation to  
6 establish contraceptive and infertility research  
7 programs.

8 (E) Authorization of family planning pro-  
9 grams.

10 (F) The prohibition of a “gag” rule on in-  
11 formation pertaining to reproductive medical  
12 services.

13 (G) The evaluation of RU-486.

14 (H) The fundamental right to choose, as  
15 stated by the Supreme Court in Roe v. Wade.

16 (I) Fairness in insurance.

17 (J) The ability of military personnel over-  
18 seas to purchase abortion services at military  
19 facilities with private funds.

20 **SEC. 3. SENSE OF CONGRESS WITH RESPECT TO CERTAIN**  
21 **REPRODUCTIVE HEALTH ISSUES.**

22 (a) RAPE AND INCEST VICTIM PROTECTION.—It is  
23 the sense of Congress that the current provisions requiring  
24 funding of abortion services in cases of life endangerment,  
25 rape or incest for women eligible for medical assistance

1 are essential to their health and well-being and therefore  
2 Federal and State governments must provide funding in  
3 these cases.

4 (b) CLINIC VIOLENCE.—It is the sense of Congress  
5 that—

6 (1) Federal resources are necessary to ensure  
7 that women have safe access to reproductive health  
8 facilities and that health professionals can deliver  
9 services in a secure environment free from violence  
10 and threats of force; and

11 (2) it is necessary and appropriate to use Fed-  
12 eral resources to combat the nationwide campaign of  
13 violence and harassment against reproductive health  
14 centers.

15 (c) PREVENTIVE HEALTH MEASURES REGARDING  
16 BREAST AND CERVICAL CANCER.—It is the sense of the  
17 Congress that the program of grants under title XV of  
18 the Public Health Service Act should receive a level of  
19 funding that is adequate for all States to receive grants  
20 under such title.

21 (d) PROGRAMS REGARDING CONTRACEPTION AND  
22 INFERTILITY.—

23 (1) RESEARCH CENTERS.—It is the sense of the  
24 Congress that the program of research centers under  
25 section 452A of the Public Health Service Act

1 should receive a level of funding that is adequate for  
2 a reasonable number of research centers to be oper-  
3 ated under the program.

4 (2) LOAN REPAYMENT PROGRAM REGARDING  
5 CONDUCT OF RESEARCH.—It is the sense of the  
6 Congress that the program of loan-repayment con-  
7 tracts under section 487B of the Public Health  
8 Service Act should receive a level of funding that is  
9 adequate for a reasonable number of individuals to  
10 conduct research under the program.

11 (3) SCREENINGS FOR INFERTILITY-RELATED  
12 SEXUALLY TRANSMITTED DISEASES.—It is the sense  
13 of the Congress that the program of grants under  
14 section 318A of the Public Health Service Act  
15 should receive a level of funding that is adequate for  
16 screenings under such section to be available in all  
17 States.

18 **SEC. 4. FAMILY PLANNING AMENDMENTS.**

19 Section 1001(d) of the Public Health Service Act (42  
20 U.S.C. 300(d)) is amended to read as follows:

21 “(d) For the purpose of grants and contracts under  
22 this section, there are authorized to be appropriated  
23 \$220,000,000 for fiscal year 1996, \$250,000,000 for fis-  
24 cal year 1997, and such sums as may be necessary for  
25 each of the fiscal years 1998 through 2000.”.

1 **SEC. 5. FREEDOM OF FULL DISCLOSURE.**

2 Title XI of the Civil Rights Act of 1964 is amended  
3 by adding at the end the following:

4 “SEC. 1107. (a) Notwithstanding any other provision  
5 of law, no governmental authority shall, in or through any  
6 program or activity that provides health care services or  
7 information, administered or assisted by such authority,  
8 limit the right of any person to provide, or the right of  
9 any person to receive, nonfraudulent information about  
10 the availability of reproductive health care services, includ-  
11 ing family planning, prenatal care, adoption, and abortion  
12 services.

13 “(b) As used in this section the term ‘governmental  
14 authority’ means any authority of the United States.”.

15 **SEC. 6. FAIRNESS IN EVALUATION OF RU-486.**

16 The Secretary of Health and Human Services shall—

17 (1) assure that the Food and Drug Administra-  
18 tion evaluates the drug called Mifepristone or RU-  
19 486 only on the basis provided by law; and

20 (2) assess initiatives by which the Department  
21 of Health and Human Services can promote the  
22 testing, licensing, and manufacturing in the United  
23 States of this drug or other antiprogestins.

24 **SEC. 7. FREEDOM OF CHOICE.**

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

1           (1) The 1973 Supreme Court decision in *Roe v.*  
2           Wade established constitutionally based limits on the  
3           power of States to restrict the right of a woman to  
4           choose to terminate a pregnancy. Under the strict  
5           scrutiny standard enunciated in *Roe v. Wade*, States  
6           were required to demonstrate that laws restricting  
7           the right of a woman to choose to terminate a preg-  
8           nancy were the least restrictive means available to  
9           achieve a compelling State interest. Since 1989, the  
10          Supreme Court has no longer applied the strict scru-  
11          tinity standard in reviewing challenges to the constitu-  
12          tionality of State laws restricting such rights.

13          (2) As a result of the Supreme Court's recent  
14          modification of the strict scrutiny standard enun-  
15          ciated in *Roe v. Wade*, certain States have restricted  
16          the right of women to choose to terminate a preg-  
17          nancy or to utilize some forms of contraception, and  
18          these restrictions operate cumulatively to—

19                 (A)(i) increase the number of illegal or  
20                 medically less safe abortions, often resulting in  
21                 physical impairment, loss of reproductive capac-  
22                 ity or death to the women involved;

23                 (ii) burden interstate commerce by forcing  
24                 women to travel from States in which legal bar-  
25                 riers render contraception or abortion unavail-

1           able or unsafe to other States or foreign na-  
2           tions;

3           (iii) interfere with freedom of travel be-  
4           tween and among the various States;

5           (iv) burden the medical and economic re-  
6           sources of States that continue to provide  
7           women with access to safe and legal abortion;  
8           and

9           (v) interfere with the ability of medical  
10          professionals to provide health services;

11          (B) obstruct access to and use of contra-  
12          ceptive and other medical techniques that are  
13          part of interstate and international commerce;

14          (C) discriminate between women who are  
15          able to afford interstate and international travel  
16          and women who are not, a disproportionate  
17          number of whom belong to racial or ethnic mi-  
18          norities; and

19          (D) infringe upon women's ability to exer-  
20          cise full enjoyment of rights secured to them by  
21          Federal and State law, both statutory and con-  
22          stitutional.

23          (3) Although Congress may not by legislation  
24          create constitutional rights, it may, where authorized  
25          by its enumerated powers and not prohibited by a

1 constitutional provision, enact legislation to create  
2 and secure statutory rights in areas of legitimate na-  
3 tional concern.

4 (4) Congress has the affirmative power both  
5 under section 8 of article I of the Constitution of the  
6 United States and under section 5 of the Fourteenth  
7 Amendment of the Constitution to enact legislation  
8 to prohibit State interference with interstate com-  
9 merce, liberty or equal protection of the laws.

10 (b) PURPOSE.—It is the purpose of this section to  
11 establish, as a statutory matter, limitations upon the  
12 power of States to restrict the freedom of a woman to ter-  
13minate a pregnancy in order to achieve the same limita-  
14 tions as provided, as a constitutional matter, under the  
15 strict scrutiny standard of review enunciated in *Roe v.*  
16 *Wade* and applied in subsequent cases from 1973 to 1988.

17 (c) IN GENERAL.—A State—

18 (1) may not restrict the freedom of a woman to  
19 choose whether or not to terminate a pregnancy be-  
20 fore fetal viability;

21 (2) may restrict the freedom of a woman to  
22 choose whether or not to terminate a pregnancy  
23 after fetal viability unless such a termination is nec-  
24 essary to preserve the life or health of the woman;  
25 and

1           (3) may impose requirements on the perform-  
2           ance of abortion procedures if such requirements are  
3           medically necessary to protect the health of women  
4           undergoing such procedures.

5           (d) DEFINITION.—As used in this section, the term  
6           “State” includes the District of Columbia, the Common-  
7           wealth of Puerto Rico, and each other territory or posses-  
8           sion of the United States.

9           **SEC. 8. FAIRNESS IN INSURANCE.**

10           Notwithstanding any other provision of law no Fed-  
11           eral law shall be construed to prohibit a provider of health  
12           insurance from offering coverage for the full range of re-  
13           productive health care, including abortion services.

14           **SEC. 9. ABORTIONS IN FACILITIES OF THE UNIFORMED**  
15                               **SERVICES NOT PROHIBITED IF NOT FEDER-**  
16                               **ALLY FUNDED.**

17           Section 1093 of title 10, United States Code, is  
18           amended—

19           (1) by inserting “(a) LIMITATION.—” before  
20           “Funds”; and

21           (2) by adding at the end the following:

22           “(b) ABORTIONS IN FACILITIES OVERSEAS.—Sub-  
23           section (a) does not limit the performing of an abortion  
24           in a facility of the uniformed services located outside the  
25           48 contiguous States of the United States if—

1           “(1) the cost of performing the abortion is fully  
2           paid from a source or sources other than funds  
3           available to the Department of Defense;

4           “(2) abortions are not prohibited by the laws of  
5           the jurisdiction where the facility is located; and

6           “(3) the abortion would otherwise be permitted  
7           under the laws applicable to the provision of health  
8           care to members and former members of the uni-  
9           formed services and their dependents in such facil-  
10          ity.”.

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