

File No. 140107

Committee Item No. \_\_\_\_\_  
Board Item No. 20

**COMMITTEE/BOARD OF SUPERVISORS**  
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Committee \_\_\_\_\_

Date \_\_\_\_\_

Board of Supervisors Meeting

Date February 11, 2014

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- S. 1696/H.R. 3471
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Completed by: Joy Lamug  
Completed by: \_\_\_\_\_

Date February 6, 2014  
Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

1 [Women, Girls, and Transgender Women's Health Month - February 2014]

2  
3 **Resolution declaring February 2014 as Women, Girls, and Transgender Women's**  
4 **Health Month in the City and County of San Francisco, encouraging women, girls, and**  
5 **transgender women to sign-up for health insurance through Covered California or the**  
6 **expanded Medi-Cal Program; acknowledging that reproductive health is a vital**  
7 **component of women, girls, and transgender women's health and overall wellbeing**  
8 **that must be recognized, prioritized, and protected; affirming San Francisco's support**  
9 **for the Women's Health Protection Act of 2013; launching a social media campaign to**  
10 **honor women, girls, and transgender women's health; and encourage women, girls,**  
11 **and transgender women to obtain health coverage through Covered California, the**  
12 **expanded Medi-Cal Program, or Healthy San Francisco.**

13  
14 WHEREAS, The Affordable Care Act offers an unprecedented opportunity for women,  
15 girls, and transgender women to improve their health by obtaining affordable insurance under  
16 Covered California or through the expanded Medi-Cal Program; and

17 WHEREAS, Reproductive health is women's health meaning that women, girls, and  
18 transgender women are only safe and secure if they have access to the full range of  
19 reproductive health care services including all FDA approved contraceptives, access to  
20 abortion, and preventative health care services including breast and cervical cancer  
21 screenings, testing and treatment for sexually transmitted diseases (STDs), prenatal and  
22 postnatal care, medically accurate comprehensive sexual health education, and screenings  
23 for inter-personal violence; and

24 WHEREAS, The Affordable Care Act will make women, girls, and transgender women  
25 safer and more secure by providing expanded options for affordable health insurance that, in

1 California, will provide reproductive health care services that women, girls, and transgender  
2 women need and deserve without cost-sharing; and

3 WHEREAS, February is Black History Month, and Black/African-American residents in  
4 San Francisco face an alarming difference in health compared to all other ethnic groups  
5 including the fact that the perinatal death rate among Black/African American residents was  
6 five times higher than other ethnic groups and the infant death rate was six times higher; and

7 WHEREAS, Despite the gains for women, girls, and transgender women in the  
8 Affordable Care Act, there remain aggressive and concerted efforts in the United States to  
9 take away the full range of reproductive health care services, including insurance coverage for  
10 abortions, contraceptives and preventative health care services; and

11 WHEREAS, Even in San Francisco, each week protesters harass and intimidate  
12 women, girls, and transgender women as they seek reproductive health services at clinics like  
13 Planned Parenthood; and

14 WHEREAS, Members of Congress have introduced the Women's Health Protection Act  
15 of 2013 (S. 1696/H.R. 3471), on file with the Clerk of the Board of Supervisors in File No.  
16 140107, which is hereby declared to be a part of this resolution as if set forth fully herein,  
17 which would protect a woman's right and ability to determine whether and when to bear a  
18 child or end a pregnancy by limiting restrictions on the provision of abortion services by  
19 individual states; and

20 WHEREAS, Birth control has been legal in the United States since 1965 and 99% of  
21 sexually active women in the United States use birth control to plan their families, reduce  
22 unintended pregnancies, achieve greater financial security, and treat medical conditions; and

23 WHEREAS, Women and girls in consultation with their physicians, have a  
24 constitutionally protected right to abortion care, and before the Supreme Court decision, *Roe*  
25

1 v. *Wade*, made abortion safe and legal in 1973, as many as 1.2 million women and girls per  
2 year had unsafe abortions, resulting in thousands of deaths and emergency room visits; and

3 WHEREAS, The widespread use of contraception and availability of comprehensive  
4 sex education have led to the decline of unintended pregnancies and STDs, including  
5 HIV/AIDS; and

6 WHEREAS, Family planning and preventative health care, including cancer  
7 screenings, contraception, and abortion, promote healthy families and save taxpayers \$4 for  
8 nearly every public dollar invested; now, therefore, be it

9 RESOLVED, That the Board of Supervisors declares February 2014, as Women, Girls  
10 and Transgender Women's Health Month in San Francisco; and, be it

11 FURTHER RESOLVED, That the Board of Supervisors encourages all women, girls,  
12 and transgender women in San Francisco to obtain insurance through Covered California or  
13 the expanded Medi-Cal Program or if ineligible for those programs, to sign up for the Healthy  
14 San Francisco program; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors supports the Women's Health  
16 Protection Act of 2013 and thanks those Members of the United States Congress from  
17 California who have endorsed the Act; and be it

18 FURTHER RESOLVED, That the Board of Supervisors hereby directs the Clerk of the  
19 Board to send a copy of this resolution to Senator Diane Feinstein, Senator Barbara Boxer,  
20 Representative Nancy Pelosi, and Representative Jackie Speier; and be it

21 FURTHER RESOLVED, That the Board of Supervisors commits to partner with  
22 community based organizations that promote women, girls, and transgender women's health  
23 to launch a social media campaign throughout the month of February to both encourage  
24 women, girls, and transgender women to sign up for insurance through Covered California  
25

1 and the expanded Medi-Cal Program as well as affirm that women, girls, and transgender  
2 women's reproductive health must be recognized, prioritized, and protected.

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113TH CONGRESS  
1ST SESSION

# S. 1696

To protect a woman's right to determine whether and when to bear a child or end a pregnancy by limiting restrictions on the provision of abortion services.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 13, 2013

Mr. BLUMENTHAL (for himself, Ms. BALDWIN, Mrs. BOXER, Mr. SCHATZ, Ms. HIRONO, Mr. HARKIN, Mr. WHITEHOUSE, Mr. SANDERS, Mr. SCHUMER, Mrs. MURRAY, Mrs. GILLIBRAND, Ms. CANTWELL, Mr. MURPHY, Mr. BROWN, Ms. WARREN, Mr. TESTER, Mr. MENENDEZ, Mr. HEINRICH, Mr. COONS, Mr. MARKEY, Mr. MERKLEY, Mrs. SHAHEEN, Ms. MIKULSKI, Mr. BOOKER, Mrs. FEINSTEIN, Ms. STABENOW, Mr. WYDEN, Mr. FRANKEN, Ms. KLOBUCHAR, Mr. CARDIN, and Mrs. MCCASKILL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To protect a woman's right to determine whether and when to bear a child or end a pregnancy by limiting restrictions on the provision of 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 2013".

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) **FINDINGS.**—Congress finds the following:

3 (1) Access to safe, legal abortion services is es-  
4 sential to women's health and central to women's  
5 ability to participate equally in the economic and so-  
6 cial life of the United States.

7 (2) Access to safe, legal abortion services has  
8 been hindered in the United States in various ways,  
9 including blockades of health care facilities and asso-  
10 ciated violence; restrictions on insurance coverage;  
11 restrictions on minors' ability to obtain services; and  
12 requirements and restrictions that single out abor-  
13 tion providers and those seeking their services, and  
14 which do not further women's health or the safety  
15 of abortion, but harm women by reducing the avail-  
16 ability of services.

17 (3) In the early 1990s, protests and blockades  
18 at health care facilities where abortions were per-  
19 formed, and associated violence, increased dramati-  
20 cally and reached crisis level, requiring Congres-  
21 sional action. Congress passed the Freedom of Ac-  
22 cess to Clinic Entrances Act (Public Law 103-259)  
23 to address that situation and ensure that women  
24 could physically access abortion services.

25 (4) Since 2010, there has been an equally dra-  
26 matic increase in the number of laws and regulations

1       singling out abortion that threaten women's health  
2       and their ability to access safe abortion services by  
3       interfering with health care professionals' ability to  
4       provide such services. Congressional action is now  
5       necessary to put an end to these restrictions. In ad-  
6       dition, there has been a dramatic increase in the  
7       passage of laws that blatantly violate the constitu-  
8       tional protections afforded women, such as bans on  
9       abortions prior to viability.

10           (5) Legal abortion is one of the safest medical  
11       procedures in the United States. That safety is  
12       furthered by regulations that are based on science  
13       and are generally applicable to the medical profes-  
14       sion or to medically comparable procedures.

15           (6) Many State and local governments are im-  
16       posing restrictions on the provision of abortion that  
17       are neither science-based nor generally applicable to  
18       the medical profession or to medically comparable  
19       procedures. Though described by their proponents as  
20       health and safety regulations, many of these abor-  
21       tion-specific restrictions do not advance the safety of  
22       abortion services and do nothing to protect women's  
23       health. Also, these restrictions interfere with wom-  
24       en's personal and private medical decisions, make  
25       access to abortion more difficult and costly, and



1 even make it impossible for some women to obtain  
2 those services.

3 (7) These restrictions harm women's health by  
4 reducing access not only to abortion services but also  
5 to the other essential health care services offered by  
6 the providers targeted by the restrictions, including  
7 contraceptive services, which reduce unintended  
8 pregnancies and thus abortions, and screenings for  
9 cervical cancer and sexually transmitted infections.  
10 These harms fall especially heavily on low-income  
11 women, women of color, and women living in rural  
12 and other medically underserved areas.

13 (8) The cumulative effect of these numerous re-  
14 strictions has been widely varying access to abortion  
15 services such that a woman's ability to exercise her  
16 constitutional rights is dependent on the State in  
17 which she lives. Federal legislation putting a stop to  
18 harmful restrictions throughout the United States is  
19 necessary to ensure that women in all States have  
20 access to safe abortion services, an essential con-  
21 stitutional right repeatedly affirmed by the United  
22 States Supreme Court.

23 (9) Congress has the authority to protect wom-  
24 en's ability to access abortion services pursuant to  
25 its powers under the Commerce Clause and its pow-

1       ers under section 5 of the Fourteenth Amendment to  
2       the Constitution to enforce the provisions of section  
3       1 of the Fourteenth Amendment.

4       (b) PURPOSE.—It is the purpose of this Act to pro-  
5       tect women’s health by ensuring that abortion services will  
6       continue to be available and that abortion providers are  
7       not singled out for medically unwarranted restrictions that  
8       harm women by preventing them from accessing safe abor-  
9       tion services. It is not the purpose of this Act to address  
10      all threats to access to abortion (for example, this Act does  
11      not apply to clinic violence, restrictions on insurance cov-  
12      erage of abortion, or requirements for parental consent or  
13      notification before a minor may obtain an abortion) which  
14      Congress should address through separate legislation as  
15      appropriate.

16   **SEC. 3. DEFINITIONS.**

17       In this Act:

18           (1) ABORTION.—The term “abortion” means  
19       any medical treatment, including the prescription of  
20       medication, intended to cause the termination of a  
21       pregnancy except for the purpose of increasing the  
22       probability of a live birth, to remove an ectopic preg-  
23       nancy, or to remove a dead fetus.

1 (2) ABORTION PROVIDER.—The term “abortion  
2 provider” means a health care professional who per-  
3 forms abortions.

4 (3) GOVERNMENT.—The term “government”  
5 includes a branch, department, agency, instrumen-  
6 tality, or individual acting under color of law of the  
7 United States, a State, or a subdivision of a State.

8 (4) HEALTH CARE PROFESSIONAL.—The term  
9 “health care professional” means a licensed medical  
10 professional (including physicians, certified nurse-  
11 midwives, nurse practitioners, and physician assist-  
12 ants) who is competent to perform abortions based  
13 on clinical training.

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 each of  
18 the 50 States, the District of Columbia, the Com-  
19 monwealth of Puerto Rico, and each territory or pos-  
20 session of the United States.

21 (7) VIABILITY.—The term “viability” means  
22 the point in a pregnancy at which, in the good-faith  
23 medical judgment of the treating health care profes-  
24 sional, based on the particular facts of the case be-  
25 fore her or him, there is a reasonable likelihood of

1       sustained fetal survival outside the uterus with or  
2       without artificial support.

3 **SEC. 4. PROHIBITED MEASURES AND ACTIONS.**

4       (a) **GENERAL PROHIBITIONS.**—The following limita-  
5 tions or requirements are unlawful and shall not be im-  
6 posed or applied by any government because they single  
7 out the provision of abortion services for restrictions that  
8 are more burdensome than those restrictions imposed on  
9 medically comparable procedures, they do not significantly  
10 advance women's health or the safety of abortion services,  
11 and they make abortion services more difficult to access:

12       (1) A requirement that a medical professional  
13 perform specific tests or follow specific medical pro-  
14 cedures in connection with the provision of an abor-  
15 tion, unless generally required for the provision of  
16 medically comparable procedures.

17       (2) A limitation on an abortion provider's abil-  
18 ity to delegate tasks, other than a limitation gen-  
19 erally applicable to providers of medically com-  
20 parable procedures.

21       (3) A limitation on an abortion provider's abil-  
22 ity to prescribe or dispense drugs based on her or  
23 his good-faith medical judgment, other than a limi-  
24 tation generally applicable to the medical profession.

1           (4) A limitation on an abortion provider's abil-  
2           ity to provide abortion services via telemedicine,  
3           other than a limitation generally applicable to the  
4           provision of medical services via telemedicine.

5           (5) A requirement or limitation concerning the  
6           physical plant, equipment, staffing, or hospital  
7           transfer arrangements of facilities where abortions  
8           are performed, or the credentials or hospital privi-  
9           leges or status of personnel at such facilities, that is  
10          not imposed on facilities or the personnel of facilities  
11          where medically comparable procedures are per-  
12          formed.

13          (6) A requirement that, prior to obtaining an  
14          abortion, a woman make one or more medically un-  
15          necessary visits to the provider of abortion services  
16          or to any individual or entity that does not provide  
17          abortion services.

18          (7) A requirement or limitation that prohibits  
19          or restricts medical training for abortion procedures,  
20          other than a requirement or limitation generally ap-  
21          plicable to medical training for medically comparable  
22          procedures.

23          (b) OTHER PROHIBITED MEASURES OR ACTIONS.—

24                (1) IN GENERAL.—A measure or action that re-  
25                stricts the provision of abortion services or the facili-

1 ties that provide abortion services that is similar to  
2 any of the prohibited limitations or requirements de-  
3 scribed in subsection (a) shall be unlawful if such  
4 measure or action singles out abortion services or  
5 make abortions services more difficult to access and  
6 does not significantly advance women's health or the  
7 safety of abortion services.

8 (2) PRIMA FACIE CASE.—To make a prima  
9 facie showing that a measure or action is unlawful  
10 under paragraph (1) a plaintiff shall demonstrate  
11 that the measure or action involved—

12 (A) singles out the provision of abortion  
13 services or facilities in which abortion services  
14 are performed; or

15 (B) impedes women's access to abortion  
16 services based on one or more of the factors de-  
17 scribed in paragraph (3).

18 (3) FACTORS.—Factors for a court to consider  
19 in determining whether a measure or action impedes  
20 access to abortion services for purposes of paragraph  
21 (2)(B) include the following:

22 (A) Whether the measure or action inter-  
23 feres with an abortion provider's ability to pro-  
24 vide care and render services in accordance with  
25 her or his good-faith medical judgment.

1 (B) Whether the measure or action is rea-  
2 sonably likely to delay some women in accessing  
3 abortion services.

4 (C) Whether the measure or action is rea-  
5 sonably likely to directly or indirectly increase  
6 the cost of providing abortion services or the  
7 cost for obtaining abortion services (including  
8 costs associated with travel, childcare, or time  
9 off work).

10 (D) Whether the measure or action re-  
11 quires, or is reasonably likely to have the effect  
12 of necessitating, a trip to the offices of the  
13 abortion provider that would not otherwise be  
14 required.

15 (E) Whether the measure or action is rea-  
16 sonably likely to result in a decrease in the  
17 availability of abortion services in the State.

18 (F) Whether the measure or action im-  
19 poses criminal or civil penalties that are not im-  
20 posed on other health care professionals for  
21 comparable conduct or failure to act or that are  
22 harsher than penalties imposed on other health  
23 care professionals for comparable conduct or  
24 failure to act.

1 (G) The cumulative impact of the measure  
2 or action combined with other new or existing  
3 requirements or restrictions.

4 (4) DEFENSE.—A measure or action shall be  
5 unlawful under this subsection upon making a prima  
6 facie case (as provided for under paragraph (2)), un-  
7 less the defendant establishes, by clear and con-  
8 vincing evidence, that—

9 (A) the measure or action significantly ad-  
10 vances the safety of abortion services or the  
11 health of women; and

12 (B) the safety of abortion services or the  
13 health of women cannot be advanced by a less  
14 restrictive alternative measure or action.

15 (c) OTHER PROHIBITIONS.—The following restric-  
16 tions on the performance of abortion are unlawful and  
17 shall not be imposed or applied by any government:

18 (1) A prohibition or ban on abortion prior to  
19 fetal viability.

20 (2) A prohibition on abortion after fetal viabil-  
21 ity when, in the good-faith medical judgment of the  
22 treating physician, continuation of the pregnancy  
23 would pose a risk to the pregnant woman's life or  
24 health.



1           (3) A restriction that limits a pregnant wom-  
2           an's ability to obtain an immediate abortion when a  
3           health care professional believes, based on her or his  
4           good-faith medical judgment, that delay would pose  
5           a risk to the woman's health.

6           (4) A measure or action that prohibits or re-  
7           stricts a woman from obtaining an abortion prior to  
8           fetal viability based on her reasons or perceived rea-  
9           sons or that requires a woman to state her reasons  
10          before obtaining an abortion prior to fetal viability.

11          (d) LIMITATION.—The provisions of this Act shall  
12          not apply to laws regulating physical access to clinic en-  
13          trances, requirements for parental consent or notification  
14          before a minor may obtain an abortion, insurance coverage  
15          of abortion, or the procedure described in section  
16          1531(b)(1) of title 18, United States Code.

17          (e) EFFECTIVE DATE.—This Act shall apply to gov-  
18          ernment restrictions on the provision of abortion services,  
19          whether statutory or otherwise, whether they are enacted  
20          or imposed prior to or after the date of enactment of this  
21          Act.

22          **SEC. 5. LIBERAL CONSTRUCTION.**

23          (a) LIBERAL CONSTRUCTION.—In interpreting the  
24          provisions of this Act, a court shall liberally construe such  
25          provisions to effectuate the purposes of the Act.

1 (b) **RULE OF CONSTRUCTION.**—Nothing in this Act  
2 shall be construed to authorize any government to inter-  
3 fere with a woman’s ability to terminate her pregnancy,  
4 to diminish or in any way negatively affect a woman’s con-  
5 stitutional right to terminate her pregnancy, or to displace  
6 any other remedy for violations of the constitutional right  
7 to terminate a pregnancy.

8 **SEC. 6. ENFORCEMENT.**

9 (a) **ATTORNEY GENERAL.**—The Attorney General  
10 may commence a civil action for prospective injunctive re-  
11 lief on behalf of the United States against any government  
12 official that is charged with implementing or enforcing any  
13 restriction that is challenged as unlawful under this Act.

14 (b) **PRIVATE RIGHT OF ACTION.**—

15 (1) **IN GENERAL.**—Any individual or entity ag-  
16 grieved by an alleged violation of this Act may com-  
17 mence a civil action for prospective injunctive relief  
18 against the government official that is charged with  
19 implementing or enforcing the restriction that is  
20 challenged as unlawful under this Act.

21 (2) **FACILITY OR PROFESSIONAL.**—A health  
22 care facility or medical professional may commence  
23 an action for prospective injunctive relief on behalf  
24 of the facility’s or professional’s patients who are or

1        may be adversely affected by an alleged violation of  
2        this Act.

3        (c) **EQUITABLE RELIEF.**—In any action under this  
4        section, the court may award appropriate equitable relief,  
5        including temporary, preliminary, or permanent injunctive  
6        relief.

7        (d) **COSTS.**—In any action under this section, the  
8        court shall award the costs of litigation, including reason-  
9        able attorney and expert witness fees, to any prevailing  
10       or substantially prevailing plaintiff.

11       (e) **JURISDICTION.**—The district courts of the United  
12       States shall have jurisdiction over proceedings commenced  
13       pursuant to this section and shall exercise the same with-  
14       out regard to whether the party aggrieved shall have ex-  
15       hausted any administrative or other remedies that may be  
16       provided for by law.

17       **SEC. 7. PREEMPTION.**

18       No State or subdivision thereof shall enact or enforce  
19       any law, rule, regulation, standard, or other provision hav-  
20       ing the force and effect of law that conflicts with any pro-  
21       vision of this Act.

22       **SEC. 8. SEVERABILITY.**

23       If any provision of this Act, or the application of such  
24       provision to any person or circumstance, is held to be un-  
25       constitutional, the remainder of this Act, or the applica-

1 tion of such provision to all other persons or cir-  
2 cumstances, shall not be affected thereby.

○

113TH CONGRESS  
1ST SESSION

# H. R. 3471

To protect a woman's right to determine whether and when to bear a child or end a pregnancy by limiting restrictions on the provision of abortion services.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 2013

Ms. CHU (for herself, Ms. FUDGE, Ms. FRANKEL of Florida, Ms. BROWNLEY of California, Ms. TITUS, Mrs. NEGRETE MCLEOD, Ms. BASS, Mrs. BEATTY, Mr. BERA of California, Mr. BLUMENAUER, Ms. BROWN of Florida, Mrs. CHRISTENSEN, Mr. CICILLINE, Mr. CLAY, Mr. DANNY K. DAVIS of Illinois, Ms. DELAURO, Ms. DELBENE, Mr. ELLISON, Mr. FARR, Mr. GRIJALVA, Mr. GUTIÉRREZ, Ms. HAHN, Mr. HOLT, Ms. JACKSON LEE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of Georgia, Mrs. KIRKPATRICK, Ms. LEE of California, Mr. LEWIS, Mr. LOWENTHAL, Mrs. CAROLYN B. MALONEY of New York, Ms. MCCOLLUM, Ms. MOORE, Mr. MORAN, Ms. NORTON, Mr. RANGEL, Ms. LINDA T. SÁNCHEZ of California, Ms. SCHAKOWSKY, Ms. SLAUGHTER, Ms. SPEIER, Mr. TAKANO, Mr. WELCH, Ms. CASTOR of Florida, Ms. MICHELLE LUJAN GRISHAM of New Mexico, Ms. TSONGAS, Mr. BRALEY of Iowa, Mr. SMITH of Washington, Ms. KUSTER, Mr. KILDEE, Mr. LOEBSACK, Ms. ESTY, Mr. SHERMAN, Mr. PAYNE, Ms. MENG, Mr. POCAN, Mr. HUFFMAN, Ms. WATERS, Ms. KELLY of Illinois, Ms. EDWARDS, and Mr. KEATING) introduced the following bill; which was referred to the Committee on Energy and Commerce

---

## A BILL

To protect a woman's right to determine whether and when to bear a child or end a pregnancy by limiting restrictions on the provision of 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 2013”.

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

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

8             (1) Access to safe, legal abortion services is es-  
9 sential to women’s health and central to women’s  
10 ability to participate equally in the economic and so-  
11 cial life of the United States.

12            (2) Access to safe, legal abortion services has  
13 been hindered in the United States in various ways,  
14 including blockades of health care facilities and asso-  
15 ciated violence; restrictions on insurance coverage;  
16 restrictions on minors’ ability to obtain services; and  
17 requirements and restrictions that single out abor-  
18 tion providers and those seeking their services, and  
19 which do not further women’s health or the safety  
20 of abortion, but harm women by reducing the avail-  
21 ability of services.

22            (3) In the early 1990s, protests and blockades  
23 at health care facilities where abortions were per-  
24 formed, and associated violence, increased dramati-  
25 cally and reached crisis level, requiring Congres-

1 sional action. Congress passed the Freedom of Ac-  
2 cess to Clinic Entrances Act (Public Law 103-259)  
3 to address that situation and ensure that women  
4 could physically access abortion services.

5 (4) Since 2010, there has been an equally dra-  
6 matic increase in the number of laws and regulations  
7 singling out abortion that threaten women's health  
8 and their ability to access safe abortion services by  
9 interfering with health care professionals' ability to  
10 provide such services. Congressional action is now  
11 necessary to put an end to these restrictions. In ad-  
12 dition, there has been a dramatic increase in the  
13 passage of laws that blatantly violate the constitu-  
14 tional protections afforded women, such as bans on  
15 abortions prior to viability.

16 (5) Legal abortion is one of the safest medical  
17 procedures in the United States. That safety is  
18 furthered by regulations that are based on science  
19 and are generally applicable to the medical profes-  
20 sion or to medically comparable procedures.

21 (6) Many State and local governments are im-  
22 posing restrictions on the provision of abortion that  
23 are neither science-based nor generally applicable to  
24 the medical profession or to medically comparable  
25 procedures. Though described by their proponents as

1 health and safety regulations, many of these abor-  
2 tion-specific restrictions do not advance the safety of  
3 abortion services and do nothing to protect women's  
4 health. Also, these restrictions interfere with wom-  
5 en's personal and private medical decisions, make  
6 access to abortion more difficult and costly, and  
7 even make it impossible for some women to obtain  
8 those services.

9 (7) These restrictions harm women's health by  
10 reducing access not only to abortion services but also  
11 to the other essential health care services offered by  
12 the providers targeted by the restrictions, including  
13 contraceptive services, which reduce unintended  
14 pregnancies and thus abortions, and screenings for  
15 cervical cancer and sexually transmitted infections.  
16 These harms fall especially heavily on low-income  
17 women, women of color, and women living in rural  
18 and other medically underserved areas.

19 (8) The cumulative effect of these numerous re-  
20 strictions has been widely varying access to abortion  
21 services such that a woman's ability to exercise her  
22 constitutional rights is dependent on the State in  
23 which she lives. Federal legislation putting a stop to  
24 harmful restrictions throughout the United States is  
25 necessary to ensure that women in all States have



1 access to safe abortion services, an essential con-  
2 stitutional right repeatedly affirmed by the United  
3 States Supreme Court.

4 (9) Congress has the authority to protect wom-  
5 en's ability to access abortion services pursuant to  
6 its powers under the Commerce Clause and its pow-  
7 ers under section 5 of the Fourteenth Amendment to  
8 the Constitution to enforce the provisions of section  
9 1 of the Fourteenth Amendment.

10 (b) PURPOSE.—It is the purpose of this Act to pro-  
11 tect women's health by ensuring that abortion services will  
12 continue to be available and that abortion providers are  
13 not singled out for medically unwarranted restrictions that  
14 harm women by preventing them from accessing safe abor-  
15 tion services. It is not the purpose of this Act to address  
16 all threats to access to abortion (for example, this Act does  
17 not apply to clinic violence, restrictions on insurance cov-  
18 erage of abortion, or requirements for parental consent or  
19 notification before a minor may obtain an abortion) which  
20 Congress should address through separate legislation as  
21 appropriate.

22 **SEC. 3. DEFINITIONS.**

23 In this Act:

24 (1) ABORTION.—The term “abortion” means  
25 any medical treatment, including the prescription of

1 medication, intended to cause the termination of a  
2 pregnancy except for the purpose of increasing the  
3 probability of a live birth, to remove an ectopic preg-  
4 nancy, or to remove a dead fetus.

5 (2) ABORTION PROVIDER.—The term “abortion  
6 provider” means a health care professional who per-  
7 forms abortions.

8 (3) GOVERNMENT.—The term “government”  
9 includes a branch, department, agency, instrumen-  
10 tality, or individual acting under color of law of the  
11 United States, a State, or a subdivision of a State.

12 (4) HEALTH CARE PROFESSIONAL.—The term  
13 “health care professional” means a licensed medical  
14 professional (including physicians, certified nurse-  
15 midwives, nurse practitioners, and physician assist-  
16 ants) who is competent to perform abortions based  
17 on clinical training.

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

21 (6) STATE.—The term “State” includes each of  
22 the 50 States, the District of Columbia, the Com-  
23 monwealth of Puerto Rico, and each territory or pos-  
24 session of the United States.

1           (7) VIABILITY.—the term “viability” means the  
2           point in a pregnancy at which, in the good-faith  
3           medical judgment of the treating health care profes-  
4           sional, based on the particular facts of the case be-  
5           fore her or him, there is a reasonable likelihood of  
6           sustained fetal survival outside the uterus with or  
7           without artificial support.

8   **SEC. 4. PROHIBITED MEASURES AND ACTIONS.**

9           (a) GENERAL PROHIBITIONS.—The following limita-  
10          tions or requirements are unlawful and shall not be im-  
11          posed or applied by any government because they single  
12          out the provision of abortion services for restrictions that  
13          are more burdensome than those restrictions imposed on  
14          medically comparable procedures, they do not significantly  
15          advance women’s health or the safety of abortion services,  
16          and they make abortion services more difficult to access:

17               (1) A requirement that a medical professional  
18               perform specific tests or follow specific medical pro-  
19               cedures in connection with the provision of an abor-  
20               tion, unless generally required for the provision of  
21               medically comparable procedures.

22               (2) A limitation on an abortion provider’s abil-  
23               ity to delegate tasks, other than a limitation gen-  
24               erally applicable to providers of medically com-  
25               parable procedures.

1           (3) A limitation on an abortion provider's abil-  
2           ity to prescribe or dispense drugs based on her or  
3           his good-faith medical judgment, other than a limi-  
4           tation generally applicable to the medical profession.

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

9           (5) A requirement or limitation concerning the  
10          physical plant, equipment, staffing, or hospital  
11          transfer arrangements of facilities where abortions  
12          are performed, or the credentials or hospital privi-  
13          leges or status of personnel at such facilities, that is  
14          not imposed on facilities or the personnel of facilities  
15          where medically comparable procedures are per-  
16          formed.

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

22          (7) A requirement or limitation that prohibits  
23          or restricts medical training for abortion procedures,  
24          other than a requirement or limitation generally ap-

1 plicable to medical training for medically comparable  
2 procedures.

3 (b) OTHER PROHIBITED MEASURES OR ACTIONS.—

4 (1) IN GENERAL.—A measure or action that re-  
5 stricts the provision of abortion services or the facili-  
6 ties that provide abortion services that is similar to  
7 any of the prohibited limitations or requirements de-  
8 scribed in subsection (a) shall be unlawful if such  
9 measure or action singles out abortion services or  
10 make abortions services more difficult to access and  
11 does not significantly advance women's health or the  
12 safety of abortion services.

13 (2) PRIMA FACIE CASE.—To make a prima  
14 facie showing that a measure or action is unlawful  
15 under paragraph (1) a plaintiff shall demonstrate  
16 that the measure or action involved—

17 (A) singles out the provision of abortion  
18 services or facilities in which abortion services  
19 are performed; or

20 (B) impedes women's access to abortion  
21 services based on one or more of the factors de-  
22 scribed in paragraph (3).

23 (3) FACTORS.—Factors for a court to consider  
24 in determining whether a measure or action impedes

1 access to abortion services for purposes of paragraph  
2 (2)(B) include the following:

3 (A) Whether the measure or action inter-  
4 feres with an abortion provider's ability to pro-  
5 vide care and render services in accordance with  
6 her or his good-faith medical judgment.

7 (B) Whether the measure or action is rea-  
8 sonably likely to delay some women in accessing  
9 abortion services.

10 (C) Whether the measure or action is rea-  
11 sonably likely to directly or indirectly increase  
12 the cost of providing abortion services or the  
13 cost for obtaining abortion services (including  
14 costs associated with travel, childcare, or time  
15 off work).

16 (D) Whether the measure or action re-  
17 quires, or is reasonably likely to have the effect  
18 of necessitating, a trip to the offices of the  
19 abortion provider that would not otherwise be  
20 required.

21 (E) Whether the measure or action is rea-  
22 sonably likely to result in a decrease in the  
23 availability of abortion services in the State.

24 (F) Whether the measure or action im-  
25 poses criminal or civil penalties that are not im-

1           posed on other health care professionals for  
2           comparable conduct or failure to act or that are  
3           harsher than penalties imposed on other health  
4           care professionals for comparable conduct or  
5           failure to act.

6           (G) The cumulative impact of the measure  
7           or action combined with other new or existing  
8           requirements or restrictions.

9           (4) DEFENSE.—A measure or action shall be  
10          unlawful under this subsection upon making a prima  
11          facie case (as provided for under paragraph (2)), un-  
12          less the defendant establishes, by clear and con-  
13          vincing evidence, that—

14                 (A) the measure or action significantly ad-  
15                 vances the safety of abortion services or the  
16                 health of women; and

17                 (B) the safety of abortion services or the  
18                 health of women cannot be advanced by a less  
19                 restrictive alternative measure or action.

20          (c) OTHER PROHIBITIONS.—The following restric-  
21          tions on the performance of abortion are unlawful and  
22          shall not be imposed or applied by any government:

23                 (1) A prohibition or ban on abortion prior to  
24                 fetal viability.

1           (2) A prohibition on abortion after fetal viabil-  
2           ity when, in the good-faith medical judgment of the  
3           treating physician, continuation of the pregnancy  
4           would pose a risk to the pregnant woman's life or  
5           health.

6           (3) A restriction that limits a pregnant wom-  
7           an's ability to obtain an immediate abortion when a  
8           health care professional believes, based on her or his  
9           good-faith medical judgment, that delay would pose  
10          a risk to the woman's health.

11          (4) A measure or action that prohibits or re-  
12          stricts a woman from obtaining an abortion prior to  
13          fetal viability based on her reasons or perceived rea-  
14          sons or that requires a woman to state her reasons  
15          before obtaining an abortion prior to fetal viability.

16          (d) LIMITATION.—The provisions of this Act shall  
17          not apply to laws regulating physical access to clinic en-  
18          trances, requirements for parental consent or notification  
19          before a minor may obtain an abortion, insurance coverage  
20          of abortion, or the procedure described in section  
21          1531(b)(1) of title 18, United States Code.

22          (e) EFFECTIVE DATE.—This Act shall apply to gov-  
23          ernment restrictions on the provision of abortion services,  
24          whether statutory or otherwise, whether they are enacted



1 or imposed prior to or after the date of enactment of this  
2 Act.

3 **SEC. 5. LIBERAL CONSTRUCTION.**

4 (a) LIBERAL CONSTRUCTION.—In interpreting the  
5 provisions of this Act, a court shall liberally construe such  
6 provisions 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 woman's ability to terminate her pregnancy,  
10 to diminish or in any way negatively affect a woman's con-  
11 stitutional right to terminate her pregnancy, or to displace  
12 any other remedy for violations of the constitutional right  
13 to terminate a pregnancy.

14 **SEC. 6. ENFORCEMENT.**

15 (a) ATTORNEY GENERAL.—The Attorney General  
16 may commence a civil action for prospective injunctive re-  
17 lief on behalf of the United States against any government  
18 official that is charged with implementing or enforcing any  
19 restriction that is challenged as unlawful under this Act.

20 (b) PRIVATE RIGHT OF ACTION.—

21 (1) IN GENERAL.—Any individual or entity ag-  
22 grieved by an alleged violation of this Act may com-  
23 mence a civil action for prospective injunctive relief  
24 against the government official that is charged with

1 implementing or enforcing the restriction that is  
2 challenged as unlawful under this Act.

3 (2) FACILITY OR PROFESSIONAL.—A health  
4 care facility or medical professional may commence  
5 an action for prospective injunctive relief on behalf  
6 of the facility's or professional's patients who are or  
7 may be adversely affected by an alleged violation of  
8 this Act.

9 (c) EQUITABLE RELIEF.—In any action under this  
10 section, the court may award appropriate equitable relief,  
11 including temporary, preliminary, or permanent injunctive  
12 relief.

13 (d) COSTS.—In any action under this section, the  
14 court shall award the costs of litigation, including reason-  
15 able attorney and expert witness fees, to any prevailing  
16 or substantially prevailing plaintiff.

17 (e) JURISDICTION.—The district courts of the United  
18 States shall have jurisdiction over proceedings commenced  
19 pursuant to this section and shall exercise the same with-  
20 out regard to whether the party aggrieved shall have ex-  
21 hausted any administrative or other remedies that may be  
22 provided for by law.

23 **SEC. 7. PREEMPTION.**

24 No State or subdivision thereof shall enact or enforce  
25 any law, rule, regulation, standard, or other provision hav-

1 ing the force and effect of law that conflicts with any pro-  
2 vision of this Act.

3 **SEC. 8. SEVERABILITY.**

4     If any provision of this Act, or the application of such  
5 provision to any person or circumstance, is held to be un-  
6 constitutional, the remainder of this Act, or the applica-  
7 tion of such provision to all other persons or cir-  
8 cumstances, shall not be affected thereby.

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