

117TH CONGRESS
1ST SESSION

H. R. 2234

To ensure affordable abortion coverage and care for every person, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2021

Ms. LEE of California (for herself, Ms. SCHAKOWSKY, Ms. DEGETTE, Ms. PRESSLEY, Ms. MOORE of Wisconsin, Mr. WELCH, Ms. BARRAGÁN, Ms. SPEIER, Mr. CONNOLLY, Ms. VELÁZQUEZ, Mr. LAWSON of Florida, Mr. JOHNSON of Georgia, Ms. BASS, Mr. CARSON, Mrs. BEATTY, Ms. MCCOLLUM, Ms. STEVENS, Mr. LOWENTHAL, Ms. STRICKLAND, Mr. NADLER, Ms. GARCIA of Texas, Ms. JACOBS of California, Mrs. LAWRENCE, Mr. MCGOVERN, Mr. TRONE, Ms. NORTON, Mr. TAKANO, Mr. LEVIN of Michigan, Ms. WILD, Ms. DELBENE, Ms. MENG, Mr. GALLEG0, Ms. CASTOR of Florida, Ms. CLARKE of New York, Mr. CLEAVER, Mr. JONES, Mr. CASTEN, Ms. KAPTUR, Ms. MATSUI, Mr. NEGUSE, Mr. MORELLE, Mr. BLUMENAUER, Mr. CICCILLINE, Ms. BLUNT ROCHESTER, Ms. PORTER, Ms. BUSH, Mr. PAYNE, Mr. PANETTA, Mr. TORRES of New York, Mr. ESPAILLAT, Ms. BROWNLEY, Mr. MALINOWSKI, Mr. MOULTON, Mr. DANNY K. DAVIS of Illinois, Mrs. CAROLYN B. MALONEY of New York, Ms. WILLIAMS of Georgia, Ms. PINGREE, Ms. LOIS FRANKEL of Florida, Mr. LIEU, Mr. HASTINGS, Mrs. HAYES, Ms. BONAMICI, Ms. SCHRIER, Mr. HIGGINS of New York, Mr. DEFazio, Ms. ROSS, Mrs. NAPOLITANO, Mr. SIREs, Mr. DEUTCH, Mr. TONKO, Mrs. TORRES of California, Ms. UNDERWOOD, Mr. PHILLIPS, Mr. COHEN, Mr. HUFFMAN, Mr. POCAN, Mrs. TRAHAN, Ms. CHU, Ms. DELAURO, Mr. CARBAJAL, Ms. CLARK of Massachusetts, Ms. KUSTER, Mrs. FLETCHER, Mr. CROW, Ms. LEGER FERNANDEZ, Ms. WASSERMAN SCHULTZ, Mr. CASE, Ms. SÁNCHEZ, Mr. SEAN PATRICK MALONEY of New York, Ms. MANNING, Mr. LEVIN of California, Mr. AUCHINCLOSS, Mr. QUIGLEY, Mr. KAHELE, Mr. GRIJALVA, Ms. LOFGREN, Mr. GOMEZ, Mrs. WATSON COLEMAN, Mr. SCHIFF, Mr. EVANS, Mr. SHERMAN, Mr. HIMES, Ms. NEWMAN, Ms. TITUS, Mr. PETERS, Mr. SMITH of Washington, Mr. GARCÍA of Illinois, Mr. FOSTER, Ms. SHERRILL, Mr. MCNERNEY, Mr. CRIST, Mr. THOMPSON of California, Ms. ADAMS, Ms. TLAIB, Mr. PALLONE, Mr. MEEKS, Mr. PRICE of North Carolina, Mr. LARSEN of Washington, Mr. RYAN, Mrs. MCBATH, Ms. JAYAPAL, Mr. KILDEE, Mr. RASKIN, Mr. DESAULNIER, Mr. BROWN, Ms. WILSON of Florida, Mr. SCHNEIDER, Mr. KEATING, Mr. BERA, Mr. CASTRO of Texas, Ms. OMAR,

Ms. OCASIO-CORTEZ, Mr. KILMER, Ms. JOHNSON of Texas, Mr. VARGAS, Mr. KHANNA, Ms. DEAN, Ms. WEXTON, Mr. VEASEY, Mrs. DINGELL, Mr. BEYER, Mr. CÁRDENAS, and Ms. SCANLON) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Natural Resources, Armed Services, Veterans' Affairs, the Judiciary, Oversight and Reform, and Foreign Affairs, 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 ensure affordable abortion coverage and care for every person, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Equal Access to Abor-

5 tion Coverage in Health Insurance Act of 2021” or the

6 “EACH Act of 2021”.

7 **SEC. 2. FINDINGS.**

8 Congress makes the following findings:

9 (1) All people should have access to abortion

10 services regardless of actual or perceived race, color,

11 ethnicity, language, ancestry, citizenship, immigra-

12 tion status, sex (including a sex stereotype; preg-

13 nancy, childbirth, or a related medical condition;

14 sexual orientation or gender identity; and sex char-

15 acteristics), age, disability, or sex work status or be-

16 havior.

1 (2) A person's income level, wealth, or type of
2 insurance should not prevent them from having ac-
3 cess to a full range of pregnancy-related health care,
4 including abortion services.

5 (3) No person should have the decision to have,
6 or not to have, an abortion made for them based on
7 the ability or inability to afford the health care serv-
8 ice.

9 (4) Since 1976, the Federal Government has
10 banned the use of Federal funds to pay for abortion
11 services and allows for exceptions only in very nar-
12 row circumstances. This ban affects people of repro-
13 ductive age in the United States who are insured
14 through the Medicaid program, as well as individuals
15 who receive insurance or care through other feder-
16 ally-funded health programs and plans.

17 (5) Women make up the majority of Medicaid
18 enrollees (54 percent) and, in 2019, approximately
19 14 million women of reproductive age relied on the
20 program for care. Due to systematic barriers and
21 discrimination, a disproportionately higher number
22 of women of color and Lesbian, Gay, Bisexual,
23 Transgender, or Queer (LGBTQ) individuals are en-
24 rolled in the program.

1 (6) Women of color are more likely to be in-
2 sured by the Medicaid program. Nationwide, 29 per-
3 cent of Black women and 25 percent of Hispanic
4 women aged 15–49 were enrolled in Medicaid in
5 2018 , compared with 15 percent of white women.

6 (7) In the aggregate, nearly one-fifth (19 per-
7 cent) of Asian American and Pacific Islander women
8 are enrolled in the Medicaid program, while enroll-
9 ment rates for certain Asian ethnic subgroups are
10 much higher (at 62 percent of Bhutanese women, 43
11 percent of Hmong women and 32 percent of Paki-
12 stani women).

13 (8) Medicaid also provides coverage to more
14 than one in four (27 percent) nonelderly American
15 Indian and Alaska Native (AIAN) adults and half of
16 AIAN children.

17 (9) In a 2014 nationwide survey of LGBT peo-
18 ple with incomes less than 400 percent Federal Pov-
19 erty Level (FPL), 61 percent of all respondents had
20 incomes in the Medicaid expansion range—up to
21 138 percent of the FPL—including 73 percent of
22 African-American respondents, 67 percent of Latino
23 respondents, and 53 percent of white respondents.
24 Another survey found that 32 percent of Asian and

1 Native Hawaiian/Pacific Islander transgender people
2 were living in poverty.

3 (10) Of women aged 15–44 enrolled in Med-
4 icaid in 2018, 55 percent lived in the 34 States and
5 the District of Columbia where Medicaid does not
6 cover abortion services except in limited cir-
7 cumstances. This amounted to 7.2 million women of
8 reproductive age, including 3 million women living
9 below the FPL. Of this population, Black, Indige-
10 nous, and other People of Color (BIPOC) women ac-
11 counted for 51 percent of those enrolled.

12 (11) The Indian Health Service (IHS) is the
13 federally funded health program for American Indi-
14 ans and Alaska Natives. The IHS serves a popu-
15 lation of approximately 2.56 million and as a feder-
16 ally funded system, since 1988, it has been barred
17 from providing abortion services except for very lim-
18 ited cases. American Indians and Alaska Natives
19 often face higher levels of poverty and limited access
20 to health care for a number of intersecting oppres-
21 sions thus leaving them without recourse for the fed-
22 eral ban on abortion services.

23 (12) Moreover, 26 States also prohibit coverage
24 of abortion services in the marketplaces and 11 pro-
25 hibit coverage in private health insurance plans

1 under the Patient Protection and Affordable Care
2 Act of 2010 (Public Law 111–148).

3 (13) A recent report details how restrictions on
4 abortion services coverage interfere with a person’s
5 individual decision-making, with their health and
6 well-being, with their economic security, with their
7 vulnerability to intimate partner violence, and with
8 their constitutionally protected right to a safe and
9 normal health care service.

10 (14) About 25 percent of women covered by
11 Medicaid seeking abortion services must carry their
12 pregnancies to term because they are unable to ob-
13 tain funds for their care. Government-imposed bar-
14 riers to abortion services restrict people’s decisions
15 on if, when, and how to parent, and have long-last-
16 ing and life-altering harmful effects on the pregnant
17 person, their families and their communities. Those
18 who seek and are denied abortion services are more
19 likely to remain in or fall into poverty than those
20 who access the care they need.

21 (15) Restrictions on abortion service coverage
22 have a disproportionately harmful impact on women
23 with low incomes, women of color, immigrant
24 women, LGBTQ people, and young women. Addi-
25 tionally, numerous state-imposed barriers make it

1 disparately difficult for low-income people, people of
2 color, immigrants, LGBTQ people, and young people
3 to access the health care and resources necessary to
4 prevent unintended pregnancy or to assure that they
5 are able to carry healthy pregnancies to term. Fur-
6 thermore, young people of reproductive age (15–24)
7 are more likely to have a lower income than those
8 older than that, and this income gap is greater for
9 young BIPOC. More than 40 percent of youth and
10 children under age 19 and almost a quarter of
11 young people age 19 to 25 have health insurance
12 through government programs. Without insurance
13 coverage for abortion services, young people are at
14 greater risk of not having the economic means to af-
15 ford care outside of insurance. Young people face
16 disproportionate access barriers to abortion includ-
17 ing parental involvement requirement (notification
18 and consent) and cost, in addition to barriers to con-
19 traception and inadequate and incomplete sexual(ity)
20 education. These challenges, which are magnified for
21 BIPOC and queer, trans, and nonbinary youth, can
22 cause significant delays in access to needed care,
23 and could ultimately harm the life of the young per-
24 son seeking abortion services. These institutionalized
25 barriers deny young people’s right to bodily auton-

1 omy and can force young people to encounter an
2 abusive parent or guardian, ignores trusted relation-
3 ships young people may have with adults other than
4 a parent or legal guardian, and in the case of the
5 judicial bypass process, may force young BIPOC to
6 interact with a legal system that has historically tar-
7 geted and caused harm to communities of color.

8 (16) These and other government-created and
9 government-institutionalized barriers—including the
10 restriction on funding for abortion services in Fed-
11 eral programs—exacerbate and create poverty and
12 racial inequality in income, wealth-generation, and
13 access to services.

14 (17) Access to health care, including abortion
15 services, promotes the general welfare of people liv-
16 ing in the United States. Singling out abortion serv-
17 ices for funding restrictions in health care programs
18 otherwise designed to promote the health and
19 wellbeing of people in the United States has cost
20 pregnant people their lives, their livelihoods, their
21 ability to obtain or maintain economic security for
22 themselves and their families, their ability to meet
23 their family’s basic needs, their ability to continue
24 their education without disruption, and their ability
25 to break free of abusive relationships.

1 (18) Like other health care and health insur-
2 ance markets in the United States, abortion services
3 and public insurance programs are commercial ac-
4 tivities that affect interstate commerce. Providers
5 and patients travel across state lines, and otherwise
6 engage in interstate commerce, to provide and access
7 abortion services. Material goods, services, and fed-
8 erally-regulated medications used in abortion serv-
9 ices circulate in interstate commerce.

10 (19) Congress has the authority to enact this
11 Act to ensure affordable coverage of abortion and
12 other services pursuant to—

13 (A) its powers under the necessary and
14 proper clause of Section 8, Article I of the Con-
15 stitution of the United States;

16 (B) its powers under the commerce clause
17 of Section 8, Article 1 of the Constitution of the
18 United States;

19 (C) its powers to tax and spend for the
20 general welfare under Section 8, Article 1 of
21 the Constitution of the United States; and

22 (D) its powers to enforce section 1 of the
23 Fourteenth Amendment under Section 5 of the
24 Fourteenth Amendment to the Constitution of
25 the United States.

1 (20) Congress has exercised these constitutional
2 powers to create, expand, and insure health care ac-
3 cess for people in the United States for decades.
4 Pursuant to this constitutional authority, Congress
5 has enacted, and subsequently reauthorized, numer-
6 ous health care programs including but not limited
7 to title XVIII of the Social Security Act of 1965
8 (Medicare); title XIX of the Social Security Act of
9 1965 (Medicaid); and title XXI of the Social Secu-
10 rity Act (Children’s Health Insurance Program, en-
11 acted in 1997).

12 **SEC. 3. DEFINITIONS.**

13 For purposes of this Act:

14 (1) **ABORTION SERVICES.**—The term “abortion
15 services” means an abortion and any services related
16 to and provided in conjunction with an abortion,
17 whether or not provided at the same time or on the
18 same day as the abortion.

19 (2) **HEALTH PROGRAM OR PLAN.**—The term
20 “health program or plan” means the following
21 health programs or plans that pay the cost of, or
22 provide, health care:

23 (A) The Medicaid program under title XIX
24 of the Social Security Act (42 U.S.C. 1396 et
25 seq.).

1 (B) The Children's Health Insurance Pro-
2 gram under title XXI of the Social Security Act
3 (42 U.S.C. 1397 et seq.).

4 (C) The Medicare program under title
5 XVIII of the Social Security Act (42 U.S.C.
6 1395 et seq.).

7 (D) A Medicare supplemental policy as de-
8 fined in section 1882(g)(1) of the Social Secu-
9 rity Act (42 U.S.C. 1395ss(g)(1)).

10 (E) The Indian Health Service program
11 under the Indian Health Care Improvement Act
12 (25 U.S.C. 1601 et seq.).

13 (F) Medical care and health benefits under
14 the TRICARE program (10 U.S.C. 1071 et
15 seq.).

16 (G) Benefits for veterans under chapter 17
17 of title 38, United States Code, and medical
18 care for survivors and dependents of veterans
19 (38 U.S.C. 1781 et seq.).

20 (H) Benefits under the uniform health
21 benefits program for employees of the Depart-
22 ment of Defense assigned to a nonappropriated
23 fund instrumentality of the Department estab-
24 lished under section 349 of the National De-

1 fense Authorization Act for Fiscal Year 1995
2 (Public Law 103–337; 10 U.S.C. 1587 note).

3 (I) Medical care for individuals in the care
4 or custody of the Department of Homeland Se-
5 curity pursuant to any of sections 235, 236, or
6 241 of the Immigration and Nationality Act (8
7 U.S.C. 1225, 1226, 1231).

8 (J) Medical care for individuals in the care
9 or custody of the Department of Health and
10 Human Services, Office of Refugee Resettle-
11 ment under section 235 of the William Wilber-
12 force Trafficking Victims Protection Reauthor-
13 ization Act of 2008 (8 U.S.C. 1232) or section
14 462 of the Homeland Security Act of 2002 (6
15 U.S.C. 279).

16 (K) Medical assistance to refugees under
17 section 412 of the Immigration and Nationality
18 Act (8 U.S.C. 1522).

19 (L) Other coverage, such as a State health
20 benefits risk pool, as the Secretary of Health
21 and Human Services, in coordination with the
22 Secretary of the Treasury, recognizes for pur-
23 poses of section 5000A(f)(1)(E) of the Internal
24 Revenue Code of 1986 (26 U.S.C.
25 5000A(f)(1)(E)).

1 (M) The Federal Employees Health Ben-
2 efit Plan under chapter 89 of title 5, United
3 States Code.

4 (N) Medical care for individuals under the
5 care or custody of the Department of Justice
6 pursuant to chapter 301 of title 18 (18 U.S.C.
7 4001 et seq.).

8 (O) Medical care for Peace Corps volun-
9 teers under section 5(e) of the Peace Corps Act
10 (22 U.S.C. 2504(e)).

11 (P) Other government-sponsored programs
12 established after the date of the enactment of
13 this Act.

14 **SEC. 4. ABORTION COVERAGE AND CARE REGARDLESS OF**
15 **INCOME OR SOURCE OF INSURANCE.**

16 (a) ENSURING ABORTION COVERAGE AND CARE
17 THROUGH THE FEDERAL GOVERNMENT IN ITS ROLE AS
18 AN INSURER AND EMPLOYER.—Each person insured by,
19 enrolled in, or otherwise receiving medical care from
20 health programs or plans described in section 3(2) shall
21 receive coverage of abortion services. Health programs or
22 plans described in section 3(2) shall provide coverage of
23 abortion services.

24 (b) ENSURING ABORTION COVERAGE AND CARE
25 THROUGH THE FEDERAL GOVERNMENT IN ITS ROLE AS

1 A HEALTH CARE PROVIDER.—In its role as a provider
 2 of health services including in health programs and plans
 3 described in section 3(2), the Federal Government shall
 4 ensure access to abortion services for individuals who are
 5 eligible to receive medical care in its own facilities or in
 6 facilities with which it contracts to provide medical care.

7 (c) PROHIBITING RESTRICTIONS ON PRIVATE INSUR-
 8 ANCE COVERAGE OF ABORTION SERVICES.—The Federal
 9 Government shall not prohibit, restrict, or otherwise in-
 10 hibit insurance coverage of abortion services by State or
 11 local government or by private health plans.

12 **SEC. 5. REPEAL OF SECTION 1303.**

13 (a) IN GENERAL.—Section 1303 of the Patient Pro-
 14 tection and Affordable Care Act (42 U.S.C. 18023) is re-
 15 pealed.

16 (b) CONFORMING AMENDMENTS.—

17 (1) BASIC HEALTH PLANS.—Section 1331(d) of
 18 the Patient Protection and Affordable Care Act (42
 19 U.S.C. 18051(d)) is amended by striking paragraph
 20 (4).

21 (2) MULTI-STATE PLANS.—Section 1334(a) of
 22 the Patient Protection and Affordable Care Act
 23 (Public Law 111–148) is amended—

24 (A) by striking paragraph (6); and

1 (B) by redesignating paragraph (7) as
2 paragraph (6).

3 **SEC. 6. SENSE OF CONGRESS.**

4 It is the sense of Congress that—

5 (1) the Federal Government, acting in its ca-
6 pacity as an insurer, employer, or health care pro-
7 vider, should serve as a model for the Nation to en-
8 sure coverage of abortion services; and

9 (2) restrictions on coverage of abortion services
10 in the private insurance market must end.

11 **SEC. 7. RULE OF CONSTRUCTION.**

12 Nothing in this Act shall be construed to have any
13 effect on any Federal, State, or local law that includes
14 more protections for abortion coverage or services than
15 those set forth in this Act.

16 **SEC. 8. RELATIONSHIP TO FEDERAL LAW.**

17 This Act supersedes and applies to all Federal law,
18 and the implementation of that law, whether statutory or
19 otherwise, and whether adopted before or after the date
20 of enactment of this Act and is not subject to the Religious
21 Freedom Restoration Act of 1993 (42 U.S.C. 2000bb et
22 seq.).

23 **SEC. 9. SEVERABILITY.**

24 If any portion of this Act or the application thereof
25 to any person, entity, government, or circumstances is

1 held invalid, such invalidity shall not affect the portions
2 or applications of this Act which can be given effect with-
3 out the invalid portion or application.

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