

118TH CONGRESS  
1ST SESSION

# S. 471

To amend title XIX of the Social Security Act to allow for greater State flexibility with respect to excluding providers who are involved in abortions.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2023

Mr. LANKFORD (for himself, Mr. HAWLEY, Mr. CRUZ, Mr. RISCH, Mr. BRAUN, Mr. DAINES, Mr. SCOTT of Florida, Mrs. HYDE-SMITH, Mr. THUNE, Mr. MULLIN, Mr. MARSHALL, and Mr. TILLIS) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XIX of the Social Security Act to allow for greater State flexibility with respect to excluding providers who are involved in abortions.

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 Public  
5 Health and Safety Act”.

1 **SEC. 2. INCREASING STATE FLEXIBILITY IN DETERMINING**  
 2 **PARTICIPATION OF PROVIDERS WHO PER-**  
 3 **FORM, OR PARTICIPATE IN THE PERFORM-**  
 4 **ANCE OF, ABORTIONS.**

5 Section 1902 of the Social Security Act (42 U.S.C.  
 6 1396a), as amended by section 5131 of the Health Ex-  
 7 tenders, Improving Access to Medicare, Medicaid, and  
 8 CHIP, and Strengthening Public Health Act of 2022, is  
 9 amended—

10 (1) in subsection (a)(23), by striking “sub-  
 11 section (g)” and inserting “subsections (g) and  
 12 (uu),”; and

13 (2) by adding at the end the following new sub-  
 14 section:

15 “(uu) RULES WITH RESPECT TO DETERMINATION  
 16 OF PARTICIPATION OF PROVIDERS WHO PERFORM, OR  
 17 PARTICIPATE IN THE PERFORMANCE OF, ABORTIONS.—

18 “(1) IN GENERAL.—Subject to paragraph (2),  
 19 for purposes of this title, a State, at its option, may  
 20 establish criteria with respect to the participation  
 21 under the State plan (or a waiver of such plan) of  
 22 an institution, an agency, an entity, or a person who  
 23 performs, or participates in the performance of,  
 24 abortions.

25 “(2) EXCEPTION.—Paragraph (1) shall not  
 26 apply to an abortion—

1           “(A) if the pregnancy is the result of an  
2           act of rape or incest; or

3           “(B) in the case where a woman suffers  
4           from a physical disorder, physical injury, or  
5           physical illness that would, as certified by a  
6           physician, place the woman in danger of death  
7           unless an abortion is performed, including a  
8           life-endangering physical condition caused by or  
9           arising from the pregnancy itself.

10          “(3) DEFINITIONS.—For purposes of this sub-  
11          section, the terms ‘institution’, ‘agency’, or ‘entity’  
12          mean the entire legal institution, agency, or entity,  
13          or any part thereof, including any institution, agen-  
14          cy, or entity that controls, is controlled by, or is  
15          under common control with such institution, agency,  
16          or entity.”.

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