

118TH CONGRESS  
1ST SESSION

# S. 822

To terminate the Department of Defense memorandum relating to access to abortions, to prohibit the use of travel and transportation allowances, medical convalescent leave, and administrative absences to travel to obtain abortions, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 15, 2023

Ms. ERNST (for herself, Mr. WICKER, Mr. DAINES, Mr. CRAMER, Mrs. BLACKBURN, Mr. BUDD, Mr. TILLIS, Mr. SCOTT of Florida, Mr. HAWLEY, Mr. LEE, Mrs. HYDE-SMITH, Mr. BRAUN, Mr. COTTON, Mr. GRAHAM, Mr. RICKETTS, Mr. HOEVEN, Mr. LANKFORD, Mr. KENNEDY, Mr. TUBERVILLE, Mr. RISCH, Mr. VANCE, Mr. CRAPO, Mr. BARRASSO, Mr. CORNYN, Mr. BOOZMAN, Mrs. BRITT, Mrs. FISCHER, Mr. RUBIO, Mr. THUNE, Mr. SCOTT of South Carolina, Mr. CASSIDY, Mr. HAGERTY, Ms. LUMMIS, Mr. ROUNDS, Mr. SCHMITT, Mr. MULLIN, and Mr. SULLIVAN) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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## A BILL

To terminate the Department of Defense memorandum relating to access to abortions, to prohibit the use of travel and transportation allowances, medical convalescent leave, and administrative absences to travel to obtain abortions, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Modification to De-  
3 partment of Defense Travel Authorities for Abortion-Rel-  
4 ated Expenses Act of 2023”.

5 **SEC. 2. TERMINATION OF DEPARTMENT OF DEFENSE**  
6 **MEMORANDUM RELATING TO ACCESS TO**  
7 **ABORTIONS.**

8 (a) SENSE OF CONGRESS.—It is the sense of Con-  
9 gress that—

10 (1) consistent with section 1093 of title 10,  
11 United States Code, the Department of Defense may  
12 not use any funds for abortions except in a case in  
13 which the life of the mother would be endangered if  
14 the fetus were carried to term or in which the preg-  
15 nancy is the result of an act of rape or incest;

16 (2) the Secretary of Defense has no legal au-  
17 thority to implement any policies under which funds  
18 are to be used for that purpose; and

19 (3) the Department of Defense memorandum  
20 entitled “Ensuring Access to Reproductive Health  
21 Care”, dated October 20, 2022, is therefore in direct  
22 conflict with section 1093 of title 10, United States  
23 Code, and the intent of Congress, and must be re-  
24 scinded.

25 (b) TERMINATION OF MEMORANDUM.—

1           (1) IN GENERAL.—The Department of Defense  
2 memorandum entitled “Ensuring Access to Repro-  
3 ductive Health Care”, dated October 20, 2022, shall  
4 have no force or effect.

5           (2) PROHIBITION ON AVAILABILITY OF FUNDS  
6 TO CARRY OUT MEMORANDUM.—None of the funds  
7 authorized to be appropriated or otherwise made  
8 available to the Department of Defense may be obli-  
9 gated or expended to carry out the memorandum de-  
10 scribed in paragraph (1) or any successor to such  
11 memorandum.

12 **SEC. 3. PROHIBITION ON PROVISION OF TRAVEL AND**  
13 **TRANSPORTATION ALLOWANCES TO OBTAIN**  
14 **ABORTIONS.**

15           (a) IN GENERAL.—Section 452 of title 37, United  
16 States Code, is amended by adding at the end the fol-  
17 lowing new subsection:

18           “(j) PROHIBITION ON ALLOWANCES TO OBTAIN  
19 ABORTIONS.—The Secretary of Defense may not provide  
20 transportation-, lodging-, meals-in-kind, or any actual or  
21 necessary expenses of travel or transportation, for, or in  
22 connection with, official travel under circumstances as  
23 specified in regulations prescribed under section 464 of  
24 this title for a member of the Armed Forces or a depend-  
25 ent of such a member seeking an abortion or any abortion-

1 related service, except in a case in which the life of the  
2 mother would be endangered if the fetus were carried to  
3 term or the pregnancy is the result of an act of rape or  
4 incest.”.

5 (b) PROHIBITION ON CONSIDERING LIMITED ACCESS  
6 TO ABORTIONS AS UNUSUAL, EXTRAORDINARY, HARD-  
7 SHIP, OR EMERGENCY CIRCUMSTANCES.—Section 453(d)  
8 of title 37, United States Code, is amended—

9 (1) by inserting “(1)” before “An authorized  
10 traveler”; and

11 (2) by adding at the end the following new  
12 paragraph:

13 “(2) The access of a member of the Armed Forces  
14 or a dependent of such a member to an abortion or abor-  
15 tion-related services being limited because of the duty loca-  
16 tion of the member does not constitute an unusual, ex-  
17 traordinary, hardship, or emergency circumstance for the  
18 purposes of section 452 of title 37, United States Code,  
19 except in a case in which the life of the mother would be  
20 endangered if the fetus were carried to term or the preg-  
21 nancy is the result of an act of rape or incest.”.

1 **SEC. 4. PROHIBITION ON USE OF MEDICAL CONVALESCENT**  
 2 **LEAVE OR ADMINISTRATIVE ABSENCES FOR**  
 3 **TRAVEL TO OBTAIN ABORTIONS.**

4 (a) IN GENERAL.—Chapter 40 of title 10, United  
 5 States Code, is amended by inserting after section 701 the  
 6 following new section:

7 **“§ 701a. Prohibition on use of medical convalescent**  
 8 **leave or administrative absences for trav-**  
 9 **el to obtain abortions**

10 “A member of the Armed Forces may not take con-  
 11 valescent leave under section 701(m) or use an adminis-  
 12 trative absence for travel for the purposes of obtaining an  
 13 abortion or abortion-related service, except in a case in  
 14 which the life of the mother would be endangered if the  
 15 fetus were carried to term or the pregnancy is the result  
 16 of an act of rape or incest.”.

17 (b) CLERICAL AMENDMENT.—The table of sections  
 18 at the beginning of chapter 40 of such title is amended  
 19 by inserting after the item relating to section 701 the fol-  
 20 lowing new item:

“701a. Prohibition on use of medical convalescent leave or administrative ab-  
 sences for travel to obtain abortions.”.

21 **SEC. 5. RULE OF CONSTRUCTION.**

22 (a) IN GENERAL.—Nothing in this Act or an amend-  
 23 ment made by this Act may be construed to affect the  
 24 treatment of any infection, injury, disease, or disorder that

1 has been caused by or exacerbated by the performance of  
2 an abortion.

3 (b) APPLICABILITY.—Subsection (a) applies without  
4 regard to whether—

5 (1) the abortion was performed in accordance  
6 with Federal or State law; or

7 (2) funding for the abortion is permissible  
8 under section 1093 of title 10, United States Code.

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