To protect freedom of travel and reproductive rights.

IN THE SENATE OF THE UNITED STATES

introduced the following bill; which was read twice and referred to the Committee on

A BILL

To protect freedom of travel and reproductive rights.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Freedom to Travel for Health Care Act of 2022”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The right to travel freely and voluntarily among the several States is one of the chief privi-
leges and immunities guaranteed to all citizens of the United States by the 14th Amendment and one of the fundamental rights guaranteed to all persons
under the 14th Amendment’s Equal Protection Clause.

(2) Section 5 of the 14th Amendment empowers Congress to enforce, by appropriate legislation, its provisions.

(3) Article 1, section 8, clause 3 of the Constitution of the United States empowers Congress to regulate commerce among the several States.

(4) The Supreme Court has repeatedly held that “a citizen of one State who travels in other States, intending to return home at the end of his journey, is entitled to enjoy the ‘Privileges and Immunities of Citizens in the several States’ that he visits” (Saenz v. Roe, 526 U.S. 489, 501 (1999) (citing Corfield v. Coryell, 6 F. Cas. 546 (No. 3,230) (C.C.E.D.Pa.1823); Edwards v. California, 314 U.S. 160 (1941); United States v. Guest, 383 U.S. 745 (1966))).

(5) The Supreme Court long ago decided that one of the privileges which the Constitution guarantees to citizens of 1 State is the “fundamental” right to travel to another State to seek and obtain services lawful in that State, including medical services, on terms of substantial equality with the citizens of that State (Toomer v. Witsell, 334 U.S. 385, 396
(1948); Hicklin v. Orbeck, 437 U.S. 518, 525
(citing Ward v. Maryland, 79 U.S. 418 (1870));
Chalker v. Birmingham & N.W.R. Co., 249
U.S. 522, 527 (1919); Shaffer v. Carter, 252 U.S.
37, 52, 53 (1920)).

(6) In 2022, legislation introduced in State legislatures, and draft legislation proposed to State legislators by interest groups, attempts to restrict freedom to travel for reproductive health care.

**SEC. 3. FREEDOM OF TRAVEL.**

(a) Prohibited Conduct.—It shall be unlawful for any person or government to—

(1) restrict or in way sanction, hold liable, discriminate against, or otherwise disadvantage any individual from traveling to another State to receive or provide reproductive health care that is legal in that State;

(2) restrict or in any way sanction, hold liable, discriminate against, or otherwise disadvantage any individual, entity, or nonprofit organization from assisting an individual in traveling to another State to receive or provide reproductive health care that is legal in that State;
(3) deny any right, benefit, or privilege to an individual, entity, or nonprofit organization as retaliation for another person’s travel to another State to receive or provide reproductive health care that is legal in that State; or

(4) restrict or in any way sanction, hold liable, discriminate against, or otherwise disadvantage a reproductive health care provider for providing, initiating, or otherwise enabling reproductive health care services for an individual who does not reside in the State wherein the provider offers health care services if it would be legal for the health care provider to provide, initiate, or otherwise enable the same reproductive health care services to an individual who resides in the State where the provider offers health care services.

(b) Preemption.—A State law that is inconsistent with this section shall be preempted and shall have no legal effect. No State, State official, or any other person acting under the color of law may enforce or apply any law that is inconsistent with this section.

(c) Enforcement.—

(1) Attorney General.—The Attorney General may commence a civil action in United States district court on behalf of the United States against
any State, State official, or any other person acting under the color of law in violation of this section. The court shall hold unlawful and set aside the limitation or requirement if it is in violation of this section.

(2) Private right of action.—Any individual or entity adversely affected by an alleged violation of this section may commence a civil action in State or Federal court against any State, State official, or any other person acting under the color of law in violation of this section. The court shall hold unlawful and set aside the limitation or requirement if it is in violation of this section.

(3) Reproductive health care provider.—A reproductive health care provider may commence an action for relief on its own behalf, on behalf of the provider’s staff, or on behalf of the provider’s patients who are or may be adversely affected by an alleged violation of this section.

(4) Remedies.—In any action under this section, the court may award appropriate relief, including damages, declaratory relief, and temporary, preliminary, or permanent injunctive relief.

(5) Costs.—In any action under this section, the court shall award costs of litigation, as well as
reasonable attorney’s fees, to any prevailing plaintiff. A plaintiff shall not be liable to a defendant for costs or attorney’s fees in any non-frivolous action under this section.

(6) JURISDICTION.—The district courts of the United States shall have jurisdiction over proceedings under this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided for by law.

(7) ABROGATION OF STATE IMMUNITY.—Neither a State that enforces or maintains, nor a government official who implements or enforces, any limitation or requirement that violates this section shall be immune under the Tenth Amendment to the Constitution of the United States, the Eleventh Amendment to the Constitution of the United States, the doctrine of sovereign immunity, the doctrine of qualified immunity, or any other source of law, from an action in a Federal or State court of competent jurisdiction challenging that limitation or requirement.

(8) RIGHT TO REMOVE.—A defendant shall have a right to remove to Federal court any civil or criminal proceeding that would have the purpose or
effect of interfering with or imposing any liability for
the exercise of the travel right in this section, with
venue in the district court of the United States for
the district and division embracing the place wherein
such proceeding is pending. An order remanding the
case to State court may be immediately reviewable
on appeal or otherwise.

(d) DEFINITIONS.—In this Act:

(1) GOVERNMENT.—The term “government”
includes each branch, department, agency, instru-
mentality, and official of the United States or of a
State.

(2) REPRODUCTIVE HEALTH CARE.—The term
“reproductive health care” means medical, surgical,
counseling, or referral services related to pregnancy,
the termination of a pregnancy, contraception serv-
dices, and other reproductive care.

(3) STATE.—The term “State” includes the
District of Columbia, Puerto Rico, each territory
and possession of the United States, and any sub-
division of a State, including any unit of local gov-
ernment, such as a county, city, town, village, or
other general purpose political subdivision of a
State.
SEC. 4. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person, entity, government, or circumstance, is held to be unconstitutional, the remainder of this Act, or the application of such provision to all other persons, entities, governments, or circumstances, shall not be affected thereby.