

118TH CONGRESS
1ST SESSION

S. _____

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.

IN THE SENATE OF THE UNITED STATES

Ms. ERNST introduced the following bill; which was read twice and referred to the Committee on _____

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Modification to De-
5 partment of Defense Travel Authorities for Abortion-Re-
6 lated Expenses Act of 2023”.

1 **SEC. 2. TERMINATION OF DEPARTMENT OF DEFENSE**
2 **MEMORANDUM RELATING TO ACCESS TO**
3 **ABORTIONS.**

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

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

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

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

21 (b) TERMINATION OF MEMORANDUM.—

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

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

8 **SEC. 3. PROHIBITION ON PROVISION OF TRAVEL AND**
9 **TRANSPORTATION ALLOWANCES TO OBTAIN**
10 **ABORTIONS.**

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

14 “(j) PROHIBITION ON ALLOWANCES TO OBTAIN
15 ABORTIONS.—The Secretary of Defense may not provide
16 transportation-, lodging-, meals-in-kind, or any actual or
17 necessary expenses of travel or transportation, for, or in
18 connection with, official travel under circumstances as
19 specified in regulations prescribed under section 464 of
20 this title for a member of the armed forces or a dependent
21 of such a member seeking an abortion or any abortion-
22 related service, except in a case in which the life of the
23 mother would be endangered if the fetus were carried to
24 term or the pregnancy is the result of an act of rape or
25 incest.”.

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

5 (1) by inserting “(1)” before “An authorized
6 traveler”; and

7 (2) by adding at the end the following new
8 paragraph:

9 “(2) The access of a member of the armed forces or
10 a dependent of such a member to an abortion or abortion-
11 related services being limited because of the duty location
12 of the member does not constitute an unusual, extraor-
13 dinary, hardship, or emergency circumstance for the pur-
14 poses of section 452 of title 37, United States Code, except
15 in a case in which the life of the mother would be endan-
16 gered if the fetus were carried to term or the pregnancy
17 is the result of an act of rape or incest.”.

18 **SEC. 4. PROHIBITION ON USE OF MEDICAL CONVALESCENT**
19 **LEAVE OR ADMINISTRATIVE ABSENCES FOR**
20 **TRAVEL TO OBTAIN ABORTIONS.**

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

1 **“§ 701a. Prohibition on use of medical convalescent**
2 **leave or administrative absences for trav-**
3 **el to obtain abortions**

4 “A member of the armed forces may not take con-
5 valescent leave under section 701(m) or use an adminis-
6 trative absence for travel for the purposes of obtaining an
7 abortion or abortion-related service, except in a case in
8 which the life of the mother would be endangered if the
9 fetus were carried to term or the pregnancy is the result
10 of an act of rape or incest.”.

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

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

15 **SEC. 5. RULE OF CONSTRUCTION.**

16 (a) IN GENERAL.—Nothing in this Act or an amend-
17 ment made by this Act may be construed to affect the
18 treatment of any infection, injury, disease, or disorder that
19 has been caused by or exacerbated by the performance of
20 an abortion.

21 (b) APPLICABILITY.—Subsection (a) applies without
22 regard to whether—

23 (1) the abortion was performed in accordance
24 with Federal or State law; or

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