

118TH CONGRESS
2D SESSION

H. R. 9865

To amend title 10, United States Code, to ensure that members of the Armed Forces and their families have access to the contraception they need in order to promote the health and readiness of all members of the Armed Forces, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2024

Ms. ESCOBAR (for herself, Ms. STRICKLAND, Ms. JACOBS, Mr. KHANNA, Ms. McCLELLAN, Ms. SLOTKIN, Mr. RYAN, Ms. CASTOR of Florida, Mr. VEASEY, Mr. MCGOVERN, Mrs. TRAHAN, Mr. HIMES, Ms. TOKUDA, Ms. KUSTER, Mrs. TORRES of California, Ms. WILSON of Florida, Mr. LANDSMAN, Mr. POCAN, Mr. VARGAS, Mr. JOHNSON of Georgia, Ms. WASSERMAN SCHULTZ, Mrs. CHERFILUS-McCORMICK, Ms. WILD, Ms. STEVENS, Mr. KIM of New Jersey, Mr. PETERS, Mr. CARBAJAL, Mr. LYNCH, Ms. SHERRILL, Ms. JAYAPAL, Mr. LARSON of Connecticut, Mr. PANETTA, Mr. EVANS, Ms. BROWNLEY, Mrs. RAMIREZ, Ms. CROCKETT, Mr. CARTER of Louisiana, Ms. ROSS, and Ms. MCCOLLUM) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to ensure that members of the Armed Forces and their families have access to the contraception they need in order to promote the health and readiness of all members of the Armed Forces, 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 “Access to Contracep-
3 tion for Servicemembers and Dependents Act of 2024”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Women are serving in the Armed Forces at
7 increasing rates, playing a critical role in the na-
8 tional security of the United States. Women com-
9 prise more than 18 percent of members of the
10 Armed Forces, and as of fiscal year 2019, over
11 390,000 women serve on active duty in the Armed
12 Forces or in the reserve components. An estimated
13 several thousand transgender men also serve on ac-
14 tive duty in the Armed Forces and in the reserve
15 components, in addition to non-binary members and
16 those who identify with a different gender.

17 (2) Ninety-five percent of women serving in the
18 Armed Forces are of reproductive age and as of
19 2019, more than 700,000 female spouses and de-
20 pendents of members of the Armed Forces on active
21 duty are of reproductive age.

22 (3) The TRICARE program covered more than
23 1,570,000 women of reproductive age in 2019, in-
24 cluding spouses and dependents of members of the
25 Armed Forces on active duty. Additionally, thou-
26 sands of transgender dependents of members of the

1 Armed Forces are covered by the TRICARE pro-
2 gram.

3 (4) Reproductive freedom, including the deci-
4 sion to use birth control, allows people to exercise
5 autonomy and make decisions about their health
6 care. Yet making meaningful decisions requires ac-
7 cess to the full spectrum of reproductive health care
8 ranging from contraception to abortion to maternity
9 care. Everyone should have access to the full range
10 of this care, free from unnecessary barriers.

11 (5) The right to access contraception is ground-
12 ed in the principle that contraception and the ability
13 to determine if and when to have children are inex-
14 tricably tied to one's well-being, equality, dignity,
15 and ability to determine the course of one's life.
16 These protections have helped access to contracep-
17 tion become a driving force in improving the health
18 and financial security of individuals and their fami-
19 lies.

20 (6) The Supreme Court has repeatedly recog-
21 nized the constitutional right to contraception, in-
22 cluding in *Griswold v. Connecticut* (381 U.S. 479
23 (1965)), *Eisenstadt v. Baird* (405 U.S. 438 (1972)),
24 and *Carey v. Population Services International* (431
25 U.S. 678 (1977)).

1 (7) Access to contraception is critical to the
2 health of every individual capable of becoming preg-
3 nant. This Act is intended to apply to all individuals
4 with the capacity for pregnancy, including cisgender
5 women, transgender men, non-binary individuals,
6 those who identify with a different gender, and oth-
7 ers.

8 (8) Studies have shown that when cost barriers
9 to the full range of contraceptives are eliminated,
10 patients are more likely to use the contraceptive that
11 meets their needs, and therefore use contraception
12 correctly and more consistently, reducing the risk of
13 unintended pregnancy. Moreover, cost barriers to
14 contraceptive care fall hardest on populations who
15 already face systemic barriers to achieving reproduc-
16 tive access, such as military families of color, and
17 families with lower incomes.

18 (9) Following the Supreme Court’s decision in
19 *Dobbs v. Jackson Women’s Health Organization*,
20 States have moved to enact bans and restrictions on
21 reproductive health care including abortion and con-
22 traception. The basic right to access reproductive
23 health care, including contraception, must be avail-
24 able to all people, regardless of where they live or
25 whether they serve.

1 (10) Under the TRICARE program, members
2 of the Armed Forces on active duty have full cov-
3 erage of all prescription drugs, including contracep-
4 tion, without cost-sharing requirements, in line with
5 the Patient Protection and Affordable Care Act
6 (Public Law 111–148), which requires coverage of
7 all Food and Drug Administration (FDA)-approved,
8 -granted, or -cleared contraceptives and related serv-
9 ices and education and counseling. However, mem-
10 bers not on active duty and dependents of members
11 do not have similar coverage of all FDA-approved,
12 -granted, or -cleared contraceptives without cost-
13 sharing when they obtain the contraceptive outside
14 of a military medical treatment facility.

15 (11) In order to fill gaps in coverage and access
16 to preventive care critical for women’s health, the
17 Patient Protection and Affordable Care Act (Public
18 Law 111–148) requires all non-grandfathered indi-
19 vidual and group health plans to cover without cost-
20 sharing preventive services, including a set of evi-
21 dence-based preventive services for women supported
22 by the Health Resources and Services Administra-
23 tion of the Department of Health and Human Serv-
24 ices. These women’s preventive services include the
25 full range of U.S. Food and Drug Administration

1 (FDA)-approved, -granted, or -cleared contracep-
2 tives, effective family planning practices, and steri-
3 lization procedures. The Health Resources and Serv-
4 ices Administration has affirmed that contraceptive
5 care includes contraceptive counseling, initiation of
6 contraceptive use, and follow-up care (such as man-
7 agement, evaluation, and changes to and removal or
8 discontinuation of the contraceptive).

9 (12) In July 2022, the Department of Defense
10 eliminated copayments for medical contraceptive
11 services (i.e., intrauterine devices, birth control shot,
12 birth control implant, and diaphragm measurement
13 and fitting), and effective January 2023, certain
14 TRICARE beneficiaries will no longer face cost-
15 sharing or copayments for tubal ligation (surgical
16 sterilization) services when obtaining care through a
17 civilian provider. However, congressional action is
18 needed to completely eliminate copayments for pre-
19 scription contraceptives and ensure that service
20 members and their loved ones have equitable access
21 to all methods of contraception.

22 (13) The Defense Advisory Committee on
23 Women in the Services has recommended that all
24 the Armed Forces, to the extent that they have not
25 already, implement initiatives that inform members

1 of the Armed Forces of the importance of family
2 planning, educate them on methods of contraception,
3 and make various methods of contraception avail-
4 able, based on the finding that family planning can
5 increase the overall readiness and quality of life of
6 all members of the Armed Forces.

7 (14) The military departments received more
8 than 8,866 reports of sexual assaults during fiscal
9 year 2021, an increase of over one thousand reports
10 compared to 2019. Through regulations, the Depart-
11 ment of Defense already supports a policy of ensur-
12 ing that members of the Armed Forces who are sex-
13 ually assaulted have access to emergency contracep-
14 tion, and the initiation of contraception if desired
15 and medically appropriate.

16 **SEC. 3. CONTRACEPTION COVERAGE PARITY UNDER THE**
17 **TRICARE PROGRAM.**

18 (a) PHARMACY BENEFITS PROGRAM.—Section
19 1074g(a)(6) of title 10, United States Code, is amended
20 by adding at the end the following new subparagraph:

21 “(D) Notwithstanding subparagraphs (A), (B), and
22 (C), cost-sharing may not be imposed or collected with re-
23 spect to any eligible covered beneficiary for any prescrip-
24 tion contraceptive on the uniform formulary provided
25 through a retail pharmacy described in paragraph

1 (2)(E)(ii) or through the national mail-order pharmacy
2 program.”.

3 (b) TRICARE SELECT.—Section 1075 of such title
4 is amended—

5 (1) in subsection (c), by adding at the end the
6 following new paragraph:

7 “(4)(A) Notwithstanding any other provision
8 under this section, cost-sharing may not be imposed
9 or collected with respect to any beneficiary under
10 this section for a service described in subparagraph
11 (B) that is provided by a network provider.

12 “(B) A service described in this subparagraph
13 is any Food and Drug Administration-approved,
14 -granted, or cleared- contraceptive, any contraceptive
15 care (including with respect to insertion, removal,
16 and follow up), any sterilization procedure, or any
17 patient education or counseling service provided in
18 connection with any such contraceptive, care, or pro-
19 cedure.”; and

20 (2) in subsection (f), by striking “calculated as”
21 and inserting “calculated (except as provided in sub-
22 section (c)(4)) as”.

23 (c) TRICARE PRIME.—Section 1075a of such title
24 is amended by adding at the end the following new sub-
25 section:

1 “(d) PROHIBITION ON COST-SHARING FOR CERTAIN
2 SERVICES.—(1) Notwithstanding subsections (a), (b), and
3 (c), cost-sharing may not be imposed or collected with re-
4 spect to any beneficiary under this section for a service
5 described in paragraph (2) that is provided under
6 TRICARE Prime.

7 “(2) A service described in this paragraph is any
8 Food and Drug Administration-approved, -granted, or
9 -cleared contraceptive, any contraceptive care (including
10 with respect to insertion, removal, and follow up), any
11 sterilization procedure, or any patient education or coun-
12 seling service provided in connection with any such contra-
13 ceptive, care, or procedure.”.

14 **SEC. 4. PREGNANCY PREVENTION ASSISTANCE AT MILI-**
15 **TARY MEDICAL TREATMENT FACILITIES FOR**
16 **SEXUAL ASSAULT SURVIVORS.**

17 (a) IN GENERAL.—Chapter 55 of title 10, United
18 States Code, is amended by inserting after section 1074o
19 the following new section:

20 **“§ 1074p. Provision of pregnancy prevention assist-**
21 **ance at military medical treatment facili-**
22 **ties**

23 “(a) INFORMATION AND ASSISTANCE.—The Sec-
24 retary of Defense shall promptly furnish to sexual assault

1 survivors at each military medical treatment facility the
2 following:

3 “(1) Comprehensive, medically and factually ac-
4 curate, and unbiased written and oral information
5 about all emergency contraceptives approved by the
6 Food and Drug Administration.

7 “(2) Notification of the right of the sexual as-
8 sault survivor to confidentiality with respect to the
9 information and care and services furnished under
10 this section.

11 “(3) Upon request by the sexual assault sur-
12 vivor, emergency contraception or, if applicable, a
13 prescription for emergency contraception.

14 “(b) INFORMATION.—The Secretary shall ensure that
15 information provided pursuant to subsection (a) is pro-
16 vided in language that—

17 “(1) is clear and concise;

18 “(2) is readily comprehensible; and

19 “(3) meets such conditions (including condi-
20 tions regarding the provision of information in lan-
21 guages other than English) as the Secretary may
22 prescribe in regulations to carry out this section.

23 “(c) DEFINITIONS.—In this section:

1 “(1) The term ‘sexual assault survivor’ means
2 any individual who presents at a military medical
3 treatment facility and—

4 “(A) states to personnel of the facility that
5 the individual experienced a sexual assault;

6 “(B) is accompanied by another person
7 who states that the individual experienced a
8 sexual assault; or

9 “(C) whom the personnel of the facility
10 reasonably believes to be a survivor of sexual
11 assault.

12 “(2) The term ‘sexual assault’ means the con-
13 duct described in section 1565b(c) of this title that
14 may result in pregnancy.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 at the beginning of such chapter is amended by inserting
17 after the item relating to section 1074o the following new
18 item:

 “1074p. Provision of pregnancy prevention assistance at military medical treat-
 ment facilities.”.

19 **SEC. 5. EDUCATION ON FAMILY PLANNING FOR MEMBERS**
20 **OF THE ARMED FORCES.**

21 (a) EDUCATION PROGRAMS.—

22 (1) IN GENERAL.—Not later than one year
23 after the date of the enactment of this Act, the Sec-
24 retary of Defense shall establish a uniform standard

1 curriculum to be used in education programs on
2 family planning for all members of the Armed
3 Forces.

4 (2) TIMING.—Education programs under para-
5 graph (1) shall be provided to members of the
6 Armed Forces as follows:

7 (A) During the first year of service of the
8 member.

9 (B) At such other times as each Secretary
10 of a military department determines appro-
11 priate with respect to members of the Armed
12 Forces under the jurisdiction of such Secretary.

13 (3) SENSE OF CONGRESS.—It is the sense of
14 Congress that the education programs under para-
15 graph (1) should be evidence-informed and use the
16 latest technology available to efficiently and effec-
17 tively deliver information to members of the Armed
18 Forces.

19 (b) ELEMENTS.—The uniform standard curriculum
20 under subsection (a) shall include the following:

21 (1) Information for members of the Armed
22 Forces on active duty to make informed decisions re-
23 garding family planning.

24 (2) Information about the prevention of unin-
25 tended pregnancy and sexually transmitted infec-

1 tions, including human immunodeficiency virus
2 (commonly known as “HIV”).

3 (3) Information on—

4 (A) the importance of providing com-
5 prehensive family planning for members of the
6 Armed Forces, including commanding officers;
7 and

8 (B) the positive impact family planning
9 can have on the health and readiness of the
10 Armed Forces.

11 (4) Current, medically accurate information.

12 (5) Clear, user-friendly information on—

13 (A) all Food and Drug Administration-ap-
14 proved, -granted, or -cleared contraceptives; and

15 (B) where members of the Armed Forces
16 can access their chosen contraceptive.

17 (6) Information on all applicable laws and poli-
18 cies so that members of the Armed Forces are in-
19 formed of their rights and obligations.

20 (7) Information on patients’ rights to confiden-
21 tiality.

22 (8) Information on the unique circumstances
23 encountered by members of the Armed Forces and

- 1 the effects of such circumstances on the use of con-
- 2 traception.

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