

117TH CONGRESS  
1ST SESSION

# S. 95

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

JANUARY 28, 2021

Mr. LANKFORD (for himself, Mr. INHOFE, Mr. RISCH, Mr. BARRASSO, Mr. MORAN, Mr. THUNE, Mr. CORNYN, Mr. CRUZ, Mr. TILLIS, Mr. BOOZMAN, Ms. LUMMIS, Mr. ROUNDS, Mr. RUBIO, Mr. COTTON, Ms. ERNST, Mr. SCOTT of South Carolina, Mr. MARSHALL, Mr. CRAMER, Mr. DAINES, Mr. BRAUN, Mr. SCOTT of Florida, Mrs. HYDE-SMITH, and Mr. HAWLEY) 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) is amended—

7 (1) in subsection (a)(23), by striking “sub-  
 8 section (g)” and inserting “subsections (g) and  
 9 (tt),”; and

10 (2) by adding at the end the following new sub-  
 11 section:

12 “(tt) RULES WITH RESPECT TO DETERMINATION OF  
 13 PARTICIPATION OF PROVIDERS WHO PERFORM, OR PAR-  
 14 TICIPATE IN THE PERFORMANCE OF, ABORTIONS.—

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

22 “(2) EXCEPTION.—Paragraph (1) shall not  
 23 apply to an abortion—

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

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

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

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