

118TH CONGRESS
1ST SESSION

S. _____

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 SENATE OF THE UNITED STATES

Mrs. SHAHEEN (for herself, Ms. COLLINS, Ms. HIRONO, Ms. WARREN, Ms. STABENOW, Mr. MENENDEZ, Ms. HASSAN, Mrs. GILLIBRAND, Mr. BENNET, Mr. TESTER, Mr. BLUMENTHAL, Mr. KELLY, Ms. BALDWIN, Mr. KAINE, Mrs. MURRAY, Mr. DURBIN, Mr. BROWN, Mr. SANDERS, Ms. SMITH, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on _____

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Access to Contracep-
5 tion for Servicemembers and Dependents Act of 2023”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

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

14 (2) Ninety-five percent of women serving in the
15 Armed Forces are of reproductive age and as of
16 2019, more than 700,000 female spouses and de-
17 pendents of members of the Armed Forces on active
18 duty are of reproductive age.

19 (3) The TRICARE program covered more than
20 1,570,000 women of reproductive age in 2019, in-
21 cluding spouses and dependents of members of the
22 Armed Forces on active duty. Additionally, thou-
23 sands of transgender dependents of members of the
24 Armed Forces are covered by the TRICARE pro-
25 gram.

1 (4) The right to access contraception is ground-
2 ed in the principle that contraception and the ability
3 to determine if and when to have children are inex-
4 tricably tied to one's wellbeing, equality, dignity, and
5 ability to determine the course of one's life. Those
6 protections have helped access to contraception be-
7 come a driving force in improving the health and fi-
8 nancial security of individuals and their families.

9 (5) Access to contraception is critical to the
10 health of every individual capable of becoming preg-
11 nant. This Act is intended to apply to all individuals
12 with the capacity for pregnancy, including cisgender
13 women, transgender men, non-binary individuals,
14 those who identify with a different gender, and oth-
15 ers.

16 (6) Studies have shown that when cost barriers
17 to the full range of methods of contraception are
18 eliminated, patients are more likely to use the con-
19 traceptive method that meets their needs, and there-
20 fore use contraception correctly and more consist-
21 ently, reducing the risk of unintended pregnancy.

22 (7) Under the TRICARE program, members of
23 the Armed Forces on active duty have full coverage
24 of all prescription drugs, including contraception,
25 without cost-sharing requirements, in line with the

1 Patient Protection and Affordable Care Act (Public
2 Law 111–148), which requires coverage of all con-
3 traceptive methods approved, cleared, or authorized
4 under section 505, 510(k), 513(f)(2), or 515 of the
5 Federal Food, Drug, and Cosmetic Act (21 U.S.C.
6 355, 360(k), 360c(f)(2), 360e) and related services
7 and education and counseling. However, members
8 not on active duty and dependents of members do
9 not have similar coverage of all contraceptive meth-
10 ods approved, cleared, or authorized under section
11 505, 510(k), 513(f)(2), or 515 of the Federal Food,
12 Drug, and Cosmetic Act (21 U.S.C. 355, 360(k),
13 360c(f)(2), 360e) without cost-sharing when they ob-
14 tain the contraceptive outside of a military medical
15 treatment facility.

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

1 full range of contraceptive methods approved,
2 cleared, or authorized under section 505, 510(k),
3 513(f)(2), or 515 of the Federal Food, Drug, and
4 Cosmetic Act (21 U.S.C. 355, 360(k), 360c(f)(2),
5 360e), education on effective family planning prac-
6 tices, and sterilization procedures. The Health Re-
7 sources and Services Administration has affirmed
8 that contraceptive care includes contraceptive coun-
9 seling, initiation of contraceptive use, and follow-up
10 care (such as management, evaluation, and changes
11 to and removal or discontinuation of the contracep-
12 tive).

13 (9) The Defense Advisory Committee on
14 Women in the Services has recommended that all
15 the Armed Forces, to the extent that they have not
16 already, implement initiatives that inform members
17 of the Armed Forces of the importance of family
18 planning, educate them on methods of contraception,
19 and make various methods of contraception avail-
20 able, based on the finding that family planning can
21 increase the overall readiness and quality of life of
22 all members of the Armed Forces.

23 (10) The military departments received more
24 than 8,866 reports of sexual assaults during fiscal
25 year 2021, an increase of more than 1,000 reports

1 compared to fiscal year 2019. Through regulations,
2 the Department of Defense already supports a policy
3 of ensuring that members of the Armed Forces who
4 are sexually assaulted have access to emergency con-
5 traception, and the initiation of contraception if de-
6 sired and medically appropriate.

7 **SEC. 3. CONTRACEPTION COVERAGE PARITY UNDER THE**
8 **TRICARE PROGRAM.**

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

12 “(D) Notwithstanding subparagraphs (A), (B), and
13 (C), cost-sharing requirements may not be imposed and
14 cost-sharing amounts may not be collected with respect
15 to any eligible covered beneficiary for any prescription con-
16 traceptive on the uniform formulary provided through a
17 retail pharmacy described in paragraph (2)(E)(ii) or
18 through the national mail-order pharmacy program.”.

19 (b) TRICARE SELECT.—Section 1075 of such title
20 is amended—

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

23 “(4)(A) Notwithstanding any other provision of
24 this section, cost-sharing requirements may not be
25 imposed and cost-sharing amounts may not be col-

1 lected with respect to any beneficiary under this sec-
2 tion for a service described in subparagraph (B) that
3 is provided by a network provider.

4 “(B) A service described in this subparagraph
5 is any contraceptive method approved, cleared, or
6 authorized under section 505, 510(k), 513(f)(2), or
7 515 of the Federal Food, Drug, and Cosmetic Act
8 (21 U.S.C. 355, 360(k), 360c(f)(2), 360e), any con-
9 traceptive care (including with respect to insertion,
10 removal, and follow up), any sterilization procedure,
11 or any patient education or counseling service pro-
12 vided in connection with any such contraceptive,
13 care, or procedure.”; and

14 (2) in subsection (f), by striking “calculated as”
15 and inserting “calculated (except as provided in sub-
16 section (c)(4)) as”.

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

20 “(d) PROHIBITION ON COST-SHARING FOR CERTAIN
21 SERVICES.—(1) Notwithstanding subsections (a), (b), and
22 (c), cost-sharing requirements may not be imposed and
23 cost-sharing amounts may not be collected with respect
24 to any beneficiary enrolled in TRICARE Prime for a serv-

1 ice described in paragraph (2) that is provided under
2 TRICARE Prime.

3 “(2) A service described in this paragraph is any con-
4 traceptive method approved, cleared, or authorized under
5 section 505, 510(k), 513(f)(2), or 515 of the Federal
6 Food, Drug, and Cosmetic Act (21 U.S.C. 355, 360(k),
7 360c(f)(2), 360e), any contraceptive care (including with
8 respect to insertion, removal, and follow up), any steriliza-
9 tion procedure, or any patient education or counseling
10 service provided in connection with any such contraceptive,
11 care, or procedure.”.

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

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

18 **“§ 1074p. Provision of pregnancy prevention assist-**
19 **ance at military medical treatment facili-**
20 **ties**

21 “(a) INFORMATION AND ASSISTANCE.—The Sec-
22 retary of Defense shall promptly furnish to sexual assault
23 survivors at each military medical treatment facility the
24 following:

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

5 “(2) Upon request by the sexual assault sur-
6 vivor, emergency contraceptives or, if applicable, a
7 prescription for emergency contraceptives.

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

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

15 “(1) is clear and concise;

16 “(2) is readily comprehensible; and

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

21 “(c) DEFINITIONS.—In this section:

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

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

4 (A) During the first year of service of the
5 member.

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

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

16 (b) ELEMENTS.—The uniform standard curriculum
17 for education programs under subsection (a) shall include
18 the following:

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

22 (2) Information about the prevention of unin-
23 tended pregnancy and sexually transmitted infec-
24 tions, including human immunodeficiency virus
25 (commonly known as “HIV”).

1 (3) Information on—

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

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

9 (4) Current, medically accurate information.

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

11 (A) all contraceptive methods approved,
12 cleared, or authorized under section 505,
13 510(k), 513(f)(2), or 515 of the Federal Food,
14 Drug, and Cosmetic Act (21 U.S.C. 355,
15 360(k), 360c(f)(2), 360e); and

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

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

21 (7) Information on the rights of patients to
22 confidentiality.

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

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