

118TH CONGRESS  
1ST SESSION

# S. 1231

To prohibit disinformation in the advertising of abortion services, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 20, 2023

Mr. MENENDEZ (for himself, Ms. WARREN, Mr. MERKLEY, Mrs. FEINSTEIN, Mr. SANDERS, Mr. WELCH, Mr. BLUMENTHAL, Mr. WARNER, Ms. HIRONO, Mr. WYDEN, Mr. BOOKER, Mr. MARKEY, Mrs. MURRAY, and Ms. CORTEZ MASTO) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To prohibit disinformation in the advertising of abortion services, 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 “Stop Antiabortion  
5 Disinformation Act” or the “SAD Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1           (1) Abortion services are an essential compo-  
2           nent of reproductive health care.

3           (2) On June 24, 2022, in *Dobbs v. Jackson*  
4           *Women’s Health Organization*, the Supreme Court  
5           overruled *Roe v. Wade*, reversing decades of prece-  
6           dent recognizing a constitutional right to abortion  
7           before fetal viability and permitting decimation of an  
8           already precarious landscape of abortion access.

9           (3) The effects were immediate and disastrous.  
10          As of January 2023, abortion is unavailable in 14  
11          States, leaving 17.8 million women of reproductive  
12          age (ages 15 to 49) and transgender and gender  
13          nonconforming individuals without abortion access in  
14          the home state of such individuals.

15          (4) Travel time to an abortion clinic, already  
16          burdensome under *Roe*, has more than tripled since  
17          the *Dobbs* decision, as scores of clinics in already  
18          underserved areas have been forced to close and  
19          more patients have been forced to travel to other  
20          States. As distance to an abortion facility increases,  
21          so do the accompanying burdens of time off from  
22          work or school, lost wages, transportation costs,  
23          lodging, child care costs, and other ancillary costs.

1           (5) The freedom to decide whether and when to  
2           have a child is key to the ability of an individual to  
3           participate fully in our democracy.

4           (6) Crisis pregnancy centers (CPCs) are anti-  
5           abortion organizations that present themselves as  
6           comprehensive reproductive health care providers  
7           with the intent of discouraging pregnant people from  
8           having abortions.

9           (7) According to the Journal of Medical Inter-  
10          net Research (JMIR) Public Health and Surveil-  
11          lance, there are more than 2,500 CPCs in the  
12          United States, though some antiabortion groups  
13          claim that the number is closer to 4,000.

14          (8) According to 2020 data from JMIR Public  
15          Health and Surveillance, on average, CPCs out-  
16          number abortion clinics nationwide by an average of  
17          3 to 1. In some States, this statistic is higher. For  
18          example, The Alliance: State Advocates for Women’s  
19          Rights & Gender Equality (The Alliance) found that  
20          in Pennsylvania, CPCs outnumber abortion clinics  
21          by 9 to 1. The Alliance also found that in Min-  
22          nesota, CPCs outnumber abortion clinics by 11 to 1.

23          (9) CPCs routinely engage in a variety of de-  
24          ceptive tactics, including making false claims about  
25          reproductive health care and providers, dissemi-

1 nating inaccurate, misleading, and stigmatizing in-  
2 formation about the risks of abortion and contracep-  
3 tion, and using illegitimate or false citations to  
4 imply that deceptive claims are supported by legiti-  
5 mate medical sources.

6 (10) CPCs typically advertise themselves as  
7 providers of comprehensive health care. However,  
8 most CPCs in the United States do not employ li-  
9 censed medical personnel or provide referrals for  
10 birth control or abortion care.

11 (11) By using these deceptive tactics, CPCs  
12 prevent people from accessing reproductive health  
13 care and intentionally delay access to time-sensitive  
14 abortion services. The harm of these delays is far  
15 greater in the wake of the Dobbs decision.

16 (12) CPCs target underresourced neighbor-  
17 hoods and communities of color, including Black,  
18 Latino, Indigenous, Asian-American, Pacific Is-  
19 lander, and immigrant communities, by locating  
20 their facilities near social services centers and com-  
21 prehensive reproductive health care providers. CPCs  
22 place advertisements in these neighborhoods that  
23 mislead and draw people away from nearby pro-  
24 viders that offer evidence-based sexual and reproduc-  
25 tive health care, including abortion care. This exac-

1       erbrates existing health barriers and delays access to  
2       time-sensitive care.

3           (13) People are entitled to honest, accurate,  
4       and timely information when seeking reproductive  
5       health care.

6       **SEC. 3. PROHIBITION ON DISINFORMATION OF ABORTION**  
7                               **SERVICES.**

8       (a) CONDUCT PROHIBITED.—

9           (1) PROHIBITION.—It shall be unlawful for any  
10       person to engage in deceptive advertising about the  
11       reproductive health services offered by the person,  
12       including advertising that deceptively states that the  
13       person—

14                   (A) offers or provides contraception or  
15       abortion services (or referrals for such contra-  
16       ception or abortion services); or

17                   (B) employs or offers access to licensed  
18       medical personnel.

19       (2) RULEMAKING.—The Commission may pro-  
20       mulgate regulations under section 553 of title 5,  
21       United States Code, to implement this section.

22       (3) ENFORCEMENT BY THE COMMISSION.—A  
23       violation of this section or a regulation promulgated  
24       under this section shall be treated as a violation of  
25       a regulation under section 18(a)(1)(B) of the Fed-

1       eral Trade Commission Act (15 U.S.C.  
2       57a(a)(1)(B)) regarding unfair or deceptive acts or  
3       practices. Except as otherwise provided in para-  
4       graphs (4) to (6), the Commission shall enforce this  
5       section and the regulations promulgated under this  
6       section in the same manner, by the same means, and  
7       with the same jurisdiction, powers, and duties as  
8       though all applicable terms and provisions of the  
9       Federal Trade Commission Act were incorporated  
10      into and made a part of this section. Any person  
11      who violates this section or a regulation promulgated  
12      under this section shall be subject to the penalties  
13      and entitled to the privileges and immunities pro-  
14      vided in the Federal Trade Commission Act (15  
15      U.S.C. 41 et seq.).

16           (4) NONPROFIT ORGANIZATIONS.—Notwith-  
17      standing section 4, 5(a)(2), or 6 of the Federal  
18      Trade Commission Act (15 U.S.C. 44, 45(a)(2), 46)  
19      or any jurisdictional limitation of the Commission,  
20      the Commission shall also enforce this section or a  
21      regulation promulgated under this section, in the  
22      same manner provided in paragraphs (1) and (3),  
23      with respect to organizations not organized to carry  
24      on business for their own profit or that of their  
25      members.

1           (5) CIVIL PENALTY.—In addition to any other  
2 penalty as may be prescribed by law, any person who  
3 violates this section or a regulation promulgated  
4 under this section shall be punishable by a civil pen-  
5 alty that shall not exceed the greater of—

6           (A) \$100,000; or

7           (B) 50 percent of the revenues earned by  
8 the ultimate parent entity of a person during  
9 the preceding 12-month period.

10          (6) INDEPENDENT LITIGATION AUTHORITY.—

11           (A) CIVIL ACTION BY COMMISSION.—If the  
12 Commission has reason to believe that a person  
13 has violated this section or a regulation promul-  
14 gated under this section, the Commission may  
15 bring a civil action in any appropriate United  
16 States district court for any of the following  
17 remedies:

18           (i) To enjoin any further such viola-  
19 tion by such person.

20           (ii) To enforce compliance with this  
21 section or a regulation promulgated under  
22 this section.

23           (iii) To obtain a permanent, tem-  
24 porary, or preliminary injunction.

25           (iv) To obtain civil penalties.

1 (v) To obtain damages, restitution, or  
2 other compensation on behalf of aggrieved  
3 consumers.

4 (vi) To obtain any other appropriate  
5 equitable relief.

6 (B) EXCLUSIVE AUTHORITY OF COMMIS-  
7 SION.—Except as otherwise provided in section  
8 16(a)(3) of the Federal Trade Commission Act  
9 (15 U.S.C. 56(a)(3)), the Commission shall  
10 have exclusive authority to commence or defend,  
11 and supervise the litigation of, any civil action  
12 under this section and any appeal of such ac-  
13 tion, in its own name by any of its attorneys,  
14 designated by it for such purpose, unless the  
15 Commission authorizes the Attorney General to  
16 do so. The Commission shall inform the Attor-  
17 ney General of the exercise of such authority,  
18 and such exercise shall not preclude the Attor-  
19 ney General from intervening on behalf of the  
20 United States in such action and any appeal of  
21 such action as may be otherwise provided by  
22 law.

23 (b) REPORTS.—Beginning 1 year after the date of  
24 the enactment of this Act, and every 2 years thereafter,  
25 the Commission shall submit to Congress a report that



1 includes, with respect to the previous year, a description  
2 of any enforcement action by the Commission under this  
3 Act, any regulation promulgated under this Act, and the  
4 outcomes of such actions.

5 (c) SAVINGS CLAUSE.—Nothing in this Act may be  
6 construed to limit the authority of the Commission under  
7 any other provision of law.

8 (d) DEFINITIONS.—In this Act:

9 (1) ABORTION SERVICES.—The term “abortion  
10 services” means an abortion or any medical or non-  
11 medical services related to or provided in conjunction  
12 with an abortion, whether or not provided at the  
13 same time or on the same day as the abortion.

14 (2) COMMISSION.—The term “Commission”  
15 means the Federal Trade Commission.

16 (3) PERSON.—The term “person” has the  
17 meaning given that term in section 551(2) of title 5,  
18 United States Code.

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