

117TH CONGRESS  
1ST SESSION

# H. R. 2709

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.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 2021

Ms. SPEIER (for herself, Ms. STRICKLAND, Ms. ESCOBAR, Mr. AGUILAR, Mr. AUCHINCLOSS, Mr. BERA, Mr. BISHOP of Georgia, Mr. BLUMENAUER, Ms. BLUNT ROCHESTER, Ms. BONAMICI, Mr. BROWN, Ms. BROWNLEY, Ms. BUSH, Mr. CÁRDENAS, Mr. CARSON, Ms. CASTOR of Florida, Ms. CHU, Mr. CICILLINE, Ms. CLARKE of New York, Mr. COHEN, Mr. CONNOLLY, Mr. COOPER, Mr. DANNY K. DAVIS of Illinois, Ms. DEAN, Mr. DEFazio, Ms. DEGETTE, Ms. DELAURO, Ms. DELBENE, Mr. DEUTCH, Mr. FOSTER, Ms. LOIS FRANKEL of Florida, Mr. GALLEG0, Mr. GRIJALVA, Mrs. HAYES, Mr. HIMES, Mr. HORSFORD, Ms. HOULAHAN, Mr. HUFFMAN, Ms. JACKSON LEE, Ms. JACOBS of California, Ms. JAYAPAL, Mr. JOHNSON of Georgia, Mr. JONES, Mr. KEATING, Mr. KHANNA, Mr. KILMER, Mrs. KIRKPATRICK, Ms. KUSTER, Mr. LARSEN of Washington, Mrs. LAWRENCE, Mr. LAWSON of Florida, Ms. LEE of California, Mr. LEVIN of California, Mr. LIEU, Mr. LOWENTHAL, Mr. MALINOWSKI, Mr. SEAN PATRICK MALONEY of New York, Mrs. CAROLYN B. MALONEY of New York, Mrs. MCBATH, Ms. MCCOLLUM, Mr. MCGOVERN, Ms. MENG, Ms. MOORE of Wisconsin, Mr. MORELLE, Mr. MOULTON, Mr. NADLER, Mrs. NAPOLITANO, Mr. NEGUSE, Ms. NEWMAN, Ms. NORTON, Ms. OMAR, Mr. PANETTA, Mr. PAPPAS, Mr. PAYNE, Mr. PETERS, Ms. PINGREE, Ms. PORTER, Ms. PRESSLEY, Mr. PRICE of North Carolina, Mr. QUIGLEY, Mr. RASKIN, Miss RICE of New York, Ms. ROSS, Mr. RYAN, Mr. SABLAN, Ms. SÁNCHEZ, Mr. SARBANES, Ms. SCANLON, Ms. SCHAKOWSKY, Mr. SCHIFF, Ms. SCHRIER, Mr. SHERMAN, Mr. SIRES, Mr. SWALWELL, Mr. TAKANO, Ms. TITUS, Mr. VEASEY, Ms. VELÁZQUEZ, Ms. WASSERMAN SCHULTZ, Mr. WELCH, Ms. WILLIAMS of Georgia, Mr. YARMUTH, Mr. KAHELE, Mr. O'HALLERAN, and Ms. WILSON of Florida) 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Access to Contracep-  
5 tion for Servicemembers and Dependents Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

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

19 (2) Ninety-five percent of women serving in the  
20 Armed Forces are of reproductive age and as of

1       2019, more than 700,000 female spouses and de-  
2       pendents of members of the Armed Forces on active  
3       duty are of reproductive age.

4           (3) The TRICARE program covered more than  
5       1,570,000 women of reproductive age in 2019, in-  
6       cluding spouses and dependents of members of the  
7       Armed Forces on active duty. Additionally, thou-  
8       sands of transgender dependents of members of the  
9       Armed Forces are covered by TRICARE.

10          (4) The right to access contraception is ground-  
11       ed in the principle that contraception and the ability  
12       to determine if and when to have children are inex-  
13       tricably tied to one's wellbeing, equality, and ability  
14       to determine the course of one's life. These protec-  
15       tions have helped access to contraception become a  
16       driving force in improving the health and financial  
17       security of individuals and their families.

18          (5) Access to contraception is critical to the  
19       health of every individual capable of becoming preg-  
20       nant. This Act is intended to apply to all individuals  
21       with the capacity for pregnancy, including cisgender  
22       women, transgender men, non-binary individuals,  
23       those who identify with a different gender, and oth-  
24       ers.

1           (6) Studies have shown that when cost barriers  
2           to the full range of methods of contraception are  
3           eliminated, patients are more likely to use the con-  
4           traceptive method that meets their needs, and there-  
5           fore use contraception correctly and more consist-  
6           ently, reducing the risk of unintended pregnancy.

7           (7) Under the TRICARE program, members of  
8           the Armed Forces on active duty have full coverage  
9           of all prescription drugs, including contraception,  
10          without cost-sharing requirements, in line with the  
11          Patient Protection and Affordable Care Act (Public  
12          Law 111–148), which requires coverage of all con-  
13          traceptive methods approved by the Food and Drug  
14          Administration for women and related services and  
15          education and counseling. However, members not on  
16          active duty and dependents of members do not have  
17          similar coverage of all methods of contraception ap-  
18          proved by the Food and Drug Administration with-  
19          out cost-sharing when they obtain the contraceptive  
20          outside of a military medical treatment facility.

21          (8) In order to fill gaps in coverage and access  
22          to preventive care critical for women’s health, the  
23          Patient Protection and Affordable Care Act (Public  
24          Law 111–148) requires all non-grandfathered indi-  
25          vidual and group health plans to cover without cost-

1 sharing preventive services, including a set of evi-  
2 dence-based preventive services for women supported  
3 by the Health Resources and Services Administra-  
4 tion of the Department of Health and Human Serv-  
5 ices. These women's preventive services include the  
6 full range of female-controlled contraceptive meth-  
7 ods, effective family planning practices, and steriliza-  
8 tion procedures, approved by the Food and Drug  
9 Administration. The Health Resources and Services  
10 Administration has affirmed that contraceptive care  
11 includes contraceptive counseling, initiation of con-  
12 traceptive use, and follow-up care (such as manage-  
13 ment, evaluation, and changes to and removal or dis-  
14 continuation of the contraceptive method).

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

1           (10) The military departments received more  
2           than 7,800 reports of sexual assaults involving mem-  
3           bers of the Armed Forces as victims or subjects dur-  
4           ing fiscal year 2019. Through regulations, the De-  
5           partment of Defense already supports a policy of en-  
6           suring that members of the Armed Forces who are  
7           sexually assaulted have access to emergency contra-  
8           ception, and the initiation of contraception if desired  
9           and medically appropriate.

10 **SEC. 3. CONTRACEPTION COVERAGE PARITY UNDER THE**  
11 **TRICARE PROGRAM.**

12           (a) PHARMACY BENEFITS PROGRAM.—Section  
13 1074g(a)(6) of title 10, United States Code, is amended  
14 by adding at the end the following new subparagraph:

15           “(D) Notwithstanding subparagraphs (A), (B),  
16           and (C), cost-sharing may not be imposed or col-  
17           lected with respect to any eligible covered beneficiary  
18           for any prescription contraceptive on the uniform  
19           formulary provided through a retail pharmacy de-  
20           scribed in paragraph (2)(E)(ii) or through the na-  
21           tional mail-order pharmacy program.”.

22           (b) TRICARE SELECT.—Section 1075 of such title  
23 is amended—

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

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

6           “(B) A service described in this subparagraph  
 7           is any method of contraception approved by the  
 8           Food and Drug Administration, any contraceptive  
 9           care (including with respect to insertion, removal,  
 10          and follow up), any sterilization procedure, or any  
 11          patient education or counseling service provided in  
 12          connection with any such method, care, or proce-  
 13          dure.”; 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 may not be imposed or collected with re-  
 23          spect to any beneficiary under this section for a service  
 24          described in paragraph (2) that is provided under  
 25          TRICARE Prime.

1       “(2) A service described in this paragraph is any  
 2 method of contraception approved by the Food and Drug  
 3 Administration, any contraceptive care (including with re-  
 4 spect to insertion, removal, and follow up), any steriliza-  
 5 tion procedure, or any patient education or counseling  
 6 service provided in connection with any such method, care,  
 7 or procedure.”.

8       **SEC. 4. PREGNANCY PREVENTION ASSISTANCE AT MILI-**  
 9                               **TARY MEDICAL TREATMENT FACILITIES FOR**  
 10                              **SEXUAL ASSAULT SURVIVORS.**

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

14       **“§ 1074p. Provision of pregnancy prevention assist-**  
 15                              **ance at military medical treatment facili-**  
 16                              **ties**

17       “(a) INFORMATION AND ASSISTANCE.—The Sec-  
 18 retary of Defense shall promptly furnish to sexual assault  
 19 survivors at each military medical treatment facility the  
 20 following:

21               “(1) Comprehensive, medically and factually ac-  
 22 curate, and unbiased written and oral information  
 23 about all methods of emergency contraception ap-  
 24 proved by the Food and Drug Administration.



1           “(2) Notification of the right of the sexual as-  
2           sault survivor to confidentiality with respect to the  
3           information and care and services furnished under  
4           this section.

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

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

11           “(1) is clear and concise;

12           “(2) is readily comprehensible; and

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

17          “(c) DEFINITIONS.—In this section:

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

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

23           “(B) is accompanied by another person  
24          who states that the individual experienced a  
25          sexual assault; or

1           “(C) whom the personnel of the facility  
2           reasonably believes to be a survivor of sexual  
3           assault.

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

7           (b) CLERICAL AMENDMENT.—The table of sections  
8           at the beginning of such chapter is amended by inserting  
9           after the item relating to section 1074o the following new  
10          item:

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

11   **SEC. 5. EDUCATION ON FAMILY PLANNING FOR MEMBERS**  
12                           **OF THE ARMED FORCES.**

13          (a) EDUCATION PROGRAMS.—

14               (1) IN GENERAL.—Not later than one year  
15           after the date of the enactment of this Act, the Sec-  
16           retary of Defense shall establish a uniform standard  
17           curriculum to be used in education programs on  
18           family planning for all members of the Armed  
19           Forces, including both men and women members.  
20           Such education programs shall be provided to mem-  
21           bers as follows:

22                       (A) During the first year of service of the  
23           member.

1 (B) At such other times as each Secretary  
2 of a military department determines appro-  
3 priate with respect to members of the Armed  
4 Forces under the jurisdiction of the respective  
5 military department.

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

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

14 (1) Information for members of the Armed  
15 Forces on active duty to make informed decisions re-  
16 garding family planning.

17 (2) Information about the prevention of unin-  
18 tended pregnancy and sexually transmitted infec-  
19 tions, including human immunodeficiency virus  
20 (commonly known as “HIV”).

21 (3) Information on—

22 (A) the importance of providing com-  
23 prehensive family planning for members of the  
24 Armed Forces, including commanding officers;  
25 and

1 (B) the positive impact family planning  
2 can have on the health and readiness of the  
3 Armed Forces.

4 (4) Current, medically accurate information.

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

6 (A) the full range of methods of contracep-  
7 tion approved by the Food and Drug Adminis-  
8 tration; and

9 (B) where members of the Armed Forces  
10 can access their chosen method of contracep-  
11 tion.

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

15 (7) Information on patients' rights to confiden-  
16 tiality.

17 (8) Information on the unique circumstances  
18 encountered by members of the Armed Forces and  
19 the effects of such circumstances on the use of con-  
20 traception.

