

Re: Opposition to H.R. 8297, the “Ensuring Women’s Right to Reproductive Freedom Act”

July 13, 2022

Dear Representative:

The National Right to Life Committee (NRLC), the federation of state right-to-life organizations, strongly opposes the so-called “Ensuring Women’s Right to Reproductive Freedom Act” (H.R. 8297).

National Right to Life urges you to oppose the bill and will include House roll call vote(s) on this measure in our scorecard of key pro-life votes of the 117th Congress.

H.R. 8297 contains numerous provisions aimed at preventing enforcement of state laws, particularly when it comes to protective state laws regulating chemical abortion. Further, this legislation could affect state laws involving parental consent and the abortions of minors. Additionally, there are provisions that could be used to shield abusers and human traffickers from liability, perhaps even empowering them to bring civil actions against their victims or the state. Several, but not all, of the pro-life concerns with this legislation are discussed below.

Preventing States from Enforcing Protections Related to Chemical Abortion

Section 2(a)(5) prohibits any person acting under state law from preventing, restricting, impeding, or retaliating against “the movement in interstate commerce, in accordance with Federal law or regulation, of any drug approved or licensed by the Food and Drug Administration for the termination of a pregnancy.”

This provision is squarely aimed at attempting to prevent enforcement of state laws related to the process of obtaining a chemical abortion. While many states have begun protecting unborn children from the beginning of pregnancy, there are many states which still permit chemical abortion for elective abortion, but in some way regulate or limit chemical abortion drugs.

H.R. 8297 is attempting to limit enforcement of state laws including, but not limited to:

- State laws that protect women by requiring a physician be present when the chemical abortion drugs are administered, rather than permitting the appointment to be conducted via telemedicine. In-person visits are critical to ensure the patient does not have an ectopic pregnancy, which these drugs do not treat and pose a serious danger if they rupture. Also, it is essential to determine the gestational age of the child, as the

“effectiveness” of the abortion pill drops and the risk of complications increases as the pregnancy progresses.

- State laws that prohibit the mailing or delivery of chemical abortion drugs into their state.

In addition, Section 2(a)(1) prohibits any person acting under state law from preventing, restricting, impeding, or retaliating against “a health care provider’s ability to provide, initiate, or otherwise enable an abortion service that is lawful in the State in which the service is to be provided to a patient who does not reside in that State.”

This language purports to allow an abortion provider to initiate an abortion service in one state, and presumably leave the woman on her own to complete the abortion in her home state. Section 2(a)(1) raises serious concerns regarding the follow-up care of a woman.

Enforcement of many state’s protective laws related to chemical abortion would likely become significantly limited, if not impossible, under H.R. 8297.

Circumventing Parental Involvement Laws for Minors

Section 2(a)(3) prohibits any person acting under state law from preventing, restricting, impeding, or retaliating against “any person’s ability to travel across a State line for the purpose of obtaining an abortion service that is lawful in the State in which the service is to be provided.”

H.R. 8297 could be read as prohibiting parents from trying in any way to “impede” their minor child from seeking an out-of-state abortion. The term “impede” is not defined and is simply understood to mean “delay.” A parent who seeks to delay a minor by taking them for counseling or asking them to take a few days to consider other options could certainly be seen as delaying an abortion. This language leaves open the possibility that a parent would be open to prosecution or suit.

Potentially Shielding Abusers and Traffickers from Liability

Section 2(a)(4) prohibits any person acting under state law from preventing, restricting, impeding, or retaliating against “any person’s or entity’s ability to assist another person traveling across a State line for the purpose of obtaining an abortion service that is lawful in the State in which the service is to be provided.”

This broad and sweeping language is specifically shielding *any* person who assists another person from traveling out-of-state from any sort of recourse. This language can be interpreted to protect an adult abuser who has impregnated a minor victim and is taking her across state lines to procure an abortion in another state. A sex-trafficker could similarly be shielded from liability if they transport a victim to another state to obtain an abortion.

Section 2(a)(3) also raises the possibility that a referral to investigate child abuse, if it were to cause a delay in seeking an out-of-state abortion, could run afoul of the law.

For the above-reasons, National Right to Life strongly opposes this legislation and will include House roll call vote(s) on this measure in our scorecard of key pro-life votes of the 117th Congress.

Should you have any questions, please contact us at (202) 378-8863, or via e-mail at jpopik@nrlc.org. Thank you for your consideration of NRLC's position on this important legislation.

Respectfully submitted,



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