



Lift the Ban on Privately Funded Abortion Services for Military Women

- Women play a vital role in the U.S. military and currently constitute 16 percent of all active duty and reserve members of the military.¹ According to congressional sources, more than 200,000 women – active service members, spouses, and dependents of military personnel – live on military bases overseas and rely on military hospitals for their health care.²
- Since 1979, Congress has prohibited the use of public funds for abortion services at overseas military hospitals in almost all cases (only a life exception was made). In 1985, Congress made the ban permanent in the Department of Defense (DoD) authorization bill.³
- In 1988, DoD issued an administrative order – without congressional consultation – prohibiting women from obtaining abortion care with their own private funds at military facilities overseas.⁴ Before this order was issued, women were allowed to pay out of pocket for the procedure on military bases overseas.
- In 1993, President Clinton issued an executive order lifting the 1988 ban. The executive order allowed abortion services to be made available at military medical facilities overseas within the framework set up in *Roe v. Wade*, and in keeping with other laws and regulations governing military medical care.⁵
- In 1995, an anti-choice majority in Congress broadened the public-funding ban to forbid privately funded abortion care for servicewomen as well (except in cases of rape or incest).⁶
- Prohibiting women from using their own funds to obtain abortion services at military facilities is not only discriminatory but endangers their health and denies women a constitutionally protected right. Women stationed overseas depend on their base hospitals for medical care, and are often situated in areas where local facilities are inadequate, unsafe, or unavailable. A 2002 General Accountability Office (GAO) report confirms that "in overseas locations, DoD beneficiaries may face medical practice, language, and cultural differences with host nation care that may make them reluctant to seek care."⁷
- If the ban on privately funded abortion care is lifted, no taxpayer dollars would be spent covering the costs of abortion care at overseas military facilities. While NARAL Pro-Choice America supports public funding for abortion and hopes that one day every woman will have the right to choose regardless of her income or source of health insurance, public funding is not at issue here. Following DoD policy for elective procedures excluded from TRICARE insurance coverage, a woman is "responsible for all costs associated with the non-covered procedure," including institutional overhead costs. Furthermore, the woman would be required to prepay for her abortion care.⁸

- All branches of the military have refusal-clause provisions that permit medical personnel who have moral, religious, or ethical objections to abortion or family-planning services to opt-out of participating in the procedure.⁹ If women were allowed to use private funds for abortion care at an overseas military facility, these "conscience clauses" would remain intact.
- The current DoD policy shames and humiliates servicewomen by forcing them to seek the approval of their commanding officer in order to travel elsewhere for abortion services. According to the GAO report, many of these commanding officers "have not been adequately trained about the importance of women's basic health care...DoD officials said that, lacking this understanding, some commanders may be reluctant to allow active duty members – both men and women – time away from their duty station to obtain health-care services."¹⁰
- This dynamic may deter servicewomen from seeking basic health-care services. The GAO further reports that, "For active duty women, explaining their specific ailment to their commanding officer (usually male) or appearing like they need special treatment may make them reluctant to seek the care they need."¹¹
- For many deployed military women, seeking abortion in their country of deployment is not an option. In a survey of servicewomen facing unintended pregnancy overseas, respondents reported a number of barriers. Some women were stationed in countries in which dangerous conditions made travelling off her assigned military base too risky or prohibited outright. Even for those women in countries where safe and legal abortion services were available, logistical hurdles precluded them from travelling to get the medical care they want or need. Many women also reported fearing that leaving their deployment to get care would jeopardize—or even end—their military careers.¹²
- As a result of these factors, the current-law ban may cause a woman stationed overseas who is facing an unintended pregnancy to be forced to delay the procedure for several weeks until she can travel to a location where safe, adequate care is available. For each week abortion is delayed, the associated cost and potential risk to the woman's health increases.¹³
- To address the ban on privately funded abortion care, Sen. Kirsten Gillibrand (D-NY), and Rep. Louise Slaughter (D-NY) sponsored The Military Access to Reproductive Care and Health (MARCH) for Military Women Act, S.777 and H.R.1389 in the 113th Congress.¹⁴ Since the Shaheen amendment to the FY'13 DoD authorization bill successfully repealed the ban on military health-insurance coverage for sexual-assault survivors, this provision is no longer included in the MARCH Act. President Barack Obama issued a Statement of Administration Policy supporting the bill.¹⁵
- The Pentagon supports lifting this ban. In a letter to Senate Armed Services Committee Chairman Sen. Carl Levin (D-MI), Assistant Secretary of Defense for Legislative Affairs Elizabeth King wrote that the DoD supports the MARCH Act.¹⁶¹⁷

- Previous pro-choice administrations also have urged Congress to lift the abortion ban. In a letter to Congress, then-Assistant Secretary for Defense Dr. Sue Bailey stated, "The Department (of Defense) believes it is unfair for female service members, particularly those members assigned to overseas locations, to be denied their constitutional right to the full range of reproductive health care."¹⁸

A study published in the *Journal of Law, Medicine & Ethics* revealed the level of inadequate access that servicewomen receive from military treatment facilities, and stressed the need for improved services. One of several recommendations the study makes is to lift legislative restrictions on access to safe abortion. The article states, "Female military personnel have the same right to basic health-care services as their male counterparts, and reproductive-health care is a fundamental component of health care for women."¹⁹

FY'15 CONGRESSIONAL ACTION²⁰

- March 11, 2014: The House approves the FY'15 National Defense Authorization Act on a 410-0 roll call vote. No attempt is made to repeal the ban on privately funded abortion services for military women
- April 7, 2014: The Senate approves the FY'15 National Defense Authorization Act on a 59-38 roll call vote. No attempt is made to repeal the ban on privately funded abortion services for military women
- December 4, 2014: The House approves the Senate's amendment to the FY'15 National Defense Authorization Act on a vote of 300-119.
- December 12, 2014: The Senate approves the House's amendment to the Senate's amendment to FY'15 National Defense Authorization Act on a vote of 89-11.
- December 19, 2014: President Obama signs the bill into law — P.L.: 113-291.

FY'16 CONGRESSIONAL ACTION²¹

- May 14, 2015: The Senate approves the FY'16 National Defense Authorization Act by unanimous consent. No attempt is made to repeal the ban on privately funded abortion services for military women.
- November 5, 2015: The House approves the FY'16 National Defense Authorization Act as amended on a vote of 370-58. No attempt is made to repeal the ban on privately funded abortion services for military women.
- November 10, 2015: The Senate approves the House's amendment to FY'16 National Defense Authorization Act on a vote of 91-3.
- November 25, 2015: President Obama signs the bill into law — P.L.: 114-92.

January 1, 2016

Notes:

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- ¹ U.S. Department of Defense: *2012 Demographics: Profile of the Military Community* at http://www.militaryonesource.mil/12038/MOS/Reports/2012_Demographics_Report.pdf (last visited Dec. 4, 2015).
- ² Department of Defense, *Active Duty Personnel By Rank/Grade* (Sept. 30, 2009) at https://www.dmdc.osd.mil/appj/dwp/dwp_reports.jsp (last visited Dec. 4, 2012); Press Release, Rep. Jane Harman, *National Defense Authorization Act for Fiscal Year 2003* (May 9, 2003).
- ³ Congressional Research Service, *Abortion Services and Military Medical Facilities* (Apr. 24, 2002).
- ⁴ Congressional Research Service, *Abortion Services and Military Medical Facilities* (Apr. 24, 2002).
- ⁵ Congressional Research Service, *Abortion Services and Military Medical Facilities* (Apr. 24, 2002).
- ⁶ P.L. 104–106, 104th Cong. (1996).
- ⁷ United States General Accounting Office, *Defense Health Care; Health Care Benefit for Women Comparable to Other Plans* (May 2002).
- ⁸ Email from Richard P. Starrs, LTC OCLL, United States Army, to Patricia Zavala, Legislative Assistant to Rep. Susan Davis (May 15, 2006) (on file with NARAL Pro-Choice America).
- ⁹ Congressional Research Service, *Abortion Services and Military Medical Facilities* (Apr. 24, 2002).
- ¹⁰ United States General Accounting Office, *Defense Health Care; Health Care Benefit for Women Comparable to Other Plans* (May 2002).
- ¹¹ United States General Accounting Office, *Defense Health Care; Health Care Benefit for Women Comparable to Other Plans* (May 2002).
- ¹² Kate Grindlay, Susan Yanow, Kinga Jelinska, Rebecca Gomerts, Daniel Grossman, *Abortion Restrictions in the U.S. Military: Voices from Women Deployed Overseas*, 21(4) *Women's Health Issues*. 259-64 (2011).
- ¹³ Lawrence B. Finer, Lori F. Frohwirth, Lindsay A. Dauphinee, Susheela Singh, Ann M. Moore, *Timing of steps and reasons for delays obtaining abortions in the United States*, *CONTRACEPTION*, 10 Apr. 2006.
- ¹⁴ H.R.1389, 113th Cong. (2013); S.777, 113th Cong. (2013).
- ¹⁵ H.R.2085, 112th Cong. (2011); S.1214, 112th Cong. (2011).
- ¹⁶ H.R.2085, 112th Cong. (2011); S.1214, 112th Cong. (2011).
- ¹⁷ Letter from Elizabeth L. King, Assistant Secretary of Defense for Legislative Affairs, Department of Defense to Sen. Carl Levin, Chairman, Senate Committee on Armed Services (Dec. 1, 2011) (on file with NARAL Pro-Choice America).
- ¹⁸ Letter from Dr. Sue Bailey, Assistant Secretary of Defense for Health Affairs to The Honorable Loretta Sanchez (May 7, 1999) (on file with NARAL Pro-Choice America).
- ¹⁹ Kathryn L. Ponder & Melissa Nothnagle, *Damage Control: Unintended Pregnancy in the United States Military*, 38(2) *J.L. Med. & Ethics*. 386-95 (2010).
- ²⁰ H.R.3979, 113th Cong. (2014).
- ²¹ S.1356, 114th Cong. (2015).