

104TH CONGRESS
1ST SESSION

H. R. 1191

To prohibit insurers from denying health insurance coverage or benefits or varying premiums based on the status of an individual as a victim of domestic violence, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 1995

Mr. SCHUMER introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on the Judiciary, and Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit insurers from denying health insurance coverage or benefits or varying premiums based on the status of an individual as a victim of domestic violence, 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 “Victims of Abuse Ac-
5 cess to Health Insurance Act”.

1 **SEC. 2. PROHIBITION OF HEALTH INSURANCE DISCRIMINA-**
2 **TION RELATING TO VICTIMS OF CERTAIN**
3 **CRIMES.**

4 (a) IN GENERAL.—No insurer may engage in a prac-
5 tice that has the effect of denying, canceling, or limiting
6 health insurance coverage or health benefits, or establish-
7 ing, increasing, or varying the premium charged for the
8 coverage or benefits—

9 (1) to or for an individual on the basis that the
10 individual is, has been, or may be the victim of do-
11 mestic violence; or

12 (2) to or for a group or employer on the basis
13 that the group includes or the employer employs, or
14 provides or subsidizes insurance for, an individual
15 described in paragraph (1).

16 (b) PRE-EXISTING CONDITIONS.—

17 (1) IN GENERAL.—A health benefit plan may
18 not consider a condition or injury that occurred as
19 a result of domestic violence as a pre-existing condi-
20 tion.

21 (2) PREEXISTING CONDITION.—As used in
22 paragraph (1), the term “preexisting condition”
23 means, with respect to coverage under a health bene-
24 fit plan, a condition which was diagnosed, or which
25 was treated, prior to the first date of such coverage
26 (without regard to any waiting period).

1 **SEC. 3. CIVIL AND CRIMINAL REMEDIES AND PENALTIES.**

2 (a) IN GENERAL.—Whoever violates the provisions of
3 this Act shall be—

4 (1) subject to a fine in an amount provided for
5 under title 18, United States Code, for a class A
6 misdemeanor not resulting in death;

7 (2) subject to the imposition of a civil monetary
8 penalty; and

9 (3) subject to the commencement by the ag-
10 grievied party of a civil action under subsection (b).

11 (b) CIVIL REMEDIES.—

12 (1) IN GENERAL.—Any individual aggrieved by
13 reason of the conduct prohibited in this Act may
14 commence a civil action for the relief set forth in
15 paragraph (2).

16 (2) RELIEF.—In any action under paragraph
17 (1), the court may award appropriate relief, includ-
18 ing temporary, preliminary, or permanent injunctive
19 relief and compensatory and punitive damages, as
20 well as the costs of suit and reasonable fees for
21 plaintiffs attorneys and expert witnesses. With re-
22 spect to compensatory damages, the plaintiff may
23 elect, at any time prior to the rendering of final
24 judgment, to recover, in lieu of actual damages, an
25 award of statutory damages in the amount of \$5,000
26 per violation.

1 (3) CONCURRENT JURISDICTION.—Both Fed-
2 eral and State courts shall have concurrent jurisdic-
3 tion over actions brought pursuant to this section.

4 **SEC. 4. DEFINITIONS.**

5 For purposes of this Act:

6 (1) DOMESTIC VIOLENCE.—The term “domestic
7 violence” means the occurrence of one or more of
8 the following acts between household or family (in-
9 cluding in-laws or extended family) members,
10 spouses or former spouses, or individuals engaged in
11 or formerly engaged in a sexually intimate relation-
12 ship:

13 (A) Attempting to cause or intentionally,
14 knowingly, or recklessly causing bodily injury,
15 rape, assault, sexual assault, or involuntary sex-
16 ual intercourse.

17 (B) Knowingly engaging in a course of
18 conduct or repeatedly committing acts toward
19 another individual, including following the indi-
20 vidual, without proper authority, under cir-
21 cumstances that place the individual in reason-
22 able fear of bodily injury.

23 (C) Subjecting another to false imprison-
24 ment.

25 (2) INSURER.—

1 (A) IN GENERAL.—The term “insurer”
2 means a health benefit plan, a health care pro-
3 vider, an entity that self-insures, or a Federal
4 or State agency or entity that conducts activi-
5 ties related to the protection of public health.

6 (B) HEALTH BENEFIT PLAN.—The term
7 “health benefit plan” means any public or pri-
8 vate entity or program that provides for pay-
9 ments for health care, including—

10 (i) a group health plan (as defined in
11 section 607 of the Employee Retirement
12 Income Security Act of 1974) or a multiple
13 employer welfare arrangement (as defined
14 in section 3(40) of such Act) that provides
15 health benefits;

16 (ii) any other health insurance ar-
17 rangement, including any arrangement
18 consisting of a hospital or medical expense
19 incurred policy or certificate, hospital or
20 medical service plan contract, or health
21 maintenance organization subscriber con-
22 tract;

23 (iii) workers’ compensation or similar
24 insurance to the extent that it relates to
25 workers’ compensation medical benefits (as

1 defined by the Secretary of Health and
2 Human Services); and

3 (iv) automobile medical insurance to
4 the extent that it relates to medical bene-
5 fits (as defined by the Secretary of Health
6 and Human Services).

7 **SEC. 5. INAPPLICABILITY OF MCCARRAN-FERGUSON ACT.**

8 For purposes of section 2(b) of the Act of March 9,
9 1945 (15 U.S.C. 1012(b); commonly known as the
10 McCarran-Ferguson Act), this Act shall be considered to
11 specifically relate to the business of insurance.

12 **SEC. 6. REGULATIONS.**

13 The Secretary of Health and Human Services shall
14 issue regulations to carry out this Act.

15 **SEC. 7. EFFECTIVE DATE.**

16 This Act shall take effect 90 days after the date of
17 the enactment of this Act.

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