

A motion to reconsider the vote whereby said bill was passed was, by unanimous consent, laid on the table.

Ordered, That the Clerk request the concurrence of the Senate in said bill.

44.10 WAIVING POINTS OF ORDER

AGAINST THE CONFERENCE REPORT ON S. 636

Ms. SLAUGHTER, by direction of the Committee on Rules, called up the following resolution (H. Res. 417):

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 636) to amend the Public Health Service Act to permit individuals to have freedom of access to certain medical clinics and facilities, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

When said resolution was considered. After debate,

On motion of Ms. SLAUGHTER, the previous question was ordered on the resolution to its adoption or rejection.

The question being put, *viva voce*,

Will the House agree to said resolution?

The SPEAKER pro tempore, Mr. MCNULTY, announced that the nays had it.

Ms. SLAUGHTER objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas 236
Nays 181

44.11 [Roll No. 157]
YEAS—236

Abercrombie	Darden	Hamilton
Ackerman	Deal	Harman
Andrews (ME)	DeFazio	Hastings
Andrews (NJ)	DeLauro	Hayes
Andrews (TX)	Dellums	Hefner
Applegate	Derrick	Hilliard
Bacchus (FL)	Deutsch	Hinchey
Baessler	Dicks	Hoagland
Barca	Dingell	Hochbrueckner
Barrett (WI)	Dixon	Horn
Becerra	Dooley	Houghton
Beilenson	Durbin	Hoyer
Berman	Edwards (CA)	Hughes
Bilbray	Edwards (TX)	Inslee
Bishop	Engel	Jacobs
Boehlert	English	Jefferson
Bonior	Eshoo	Johnson (CT)
Borski	Evans	Johnson (GA)
Boucher	Farr	Johnson (SD)
Brewster	Fazio	Johnson, E. B.
Brooks	Fields (LA)	Johnston
Brown (CA)	Filner	Kanjorski
Brown (FL)	Fingerhut	Kaptur
Brown (OH)	Flake	Kennedy
Bryant	Ford (MI)	Kennelly
Byrne	Ford (TN)	Klecicka
Cantwell	Frank (MA)	Klein
Cardin	Franks (CT)	Klug
Carr	Frost	Kolbe
Chapman	Furse	Kopetski
Clay	Gallo	Kreidler
Clayton	Gejdenson	Lambert
Clyburn	Gephardt	Lancaster
Coleman	Geren	Lantos
Collins (IL)	Gibbons	LaRocco
Collins (MI)	Gilman	Leach
Condit	Glickman	Lehman
Conyers	Gonzalez	Levin
Cooper	Gordon	Lewis (GA)
Coppersmith	Green	Lloyd
Coyne	Gutierrez	Lowey
Cramer	Hall (OH)	Machtley
Danner	Hamburg	Maloney

Mann	Payne (NJ)
Margolies-Mezvinsky	Payne (VA)
Markey	Pelosi
Martinez	Peterson (FL)
Matsui	Pickett
Mazzoli	Pickle
McCloskey	Pomeroy
McCurdy	Porter
McDermott	Pryce (OH)
McHale	Ramstad
McKinney	Rangel
McNulty	Reed
Meehan	Reynolds
Meek	Richardson
Menendez	Roemer
Mfume	Rostenkowski
Miller (CA)	Rowland
Mineta	Roybal-Allard
Minge	Rush
Mink	Sabo
Moakley	Sanders
Molinari	Sangmeister
Moran	Sawyer
Morella	Schenk
Murtha	Schroeder
Nadler	Schumer
Neal (NC)	Scott
Neal (NC)	Sharp
Oberstar	Shays
Obey	Shepherd
Olver	Sisisky
Orton	Skaggs
Owens	Slattery
Pallone	Slaughter
Pastor	Smith (IA)
	Snowe

NAYS—181

Allard	Goodling	Oxley
Archer	Goss	Packard
Armey	Grams	Parker
Bachus (AL)	Grandy	Paxon
Baker (CA)	Greenwood	Penny
Baker (LA)	Gunderson	Peterson (MN)
Ballenger	Hall (TX)	Petri
Barcia	Hancock	Pombo
Barlow	Hansen	Portman
Barrett (NE)	Hastert	Poshard
Bartlett	Hefley	Quillen
Barton	Hobson	Quinn
Bateman	Hoekstra	Rahall
Bentley	Hoke	Ravenel
Bereuter	Holden	Regula
Bilirakis	Huffington	Ridge
Bliley	Hunter	Roberts
Blute	Hutchinson	Rohrabacher
Boehner	Hutto	Ros-Lehtinen
Bonilla	Hyde	Roth
Browder	Inglis	Roukema
Bunning	Inhofe	Royce
Burton	Istook	Santorum
Buyer	Johnson, Sam	Sarpalius
Callahan	Kasich	Saxton
Calvert	Kildee	Schaefer
Camp	Kim	Schiff
Canady	King	Sensenbrenner
Castle	Kingston	Shaw
Cannity	Klink	Shuster
Clinger	Knollenberg	Skeen
Coble	Kyl	Skelton
Collins (GA)	LaFalce	Smith (MI)
Combest	Lazio	Smith (NJ)
Costello	Levy	Smith (OR)
Cox	Lewis (CA)	Smith (TX)
Crane	Lewis (FL)	Solomon
Crapo	Lightfoot	Spence
Cunningham	Linder	Stearns
de la Garza	Lipinski	Stenholm
DeLay	Diaz-Balart	Stump
Dick	Dickey	Stupak
Doolittle	Doolittle	Sundquist
Dornan	McCandless	Talent
Dreier	McCrery	Tauzin
Duncan	McDade	Taylor (MS)
Dunn	McHugh	Taylor (NC)
Ehlers	McInnis	Tejeda
Emerson	McKeon	Thomas (CA)
Everett	McMillan	Thomas (WY)
Ewing	Meyers	Upton
Fawell	Mica	Volkmer
Fields (TX)	Michel	Vucanovich
Fowler	Miller (FL)	Walker
Franks (NJ)	Mollohan	Walsh
Gallegly	Montgomery	Weldon
Gekas	Moorhead	Wolf
Gilchrist	Murphy	Young (AK)
Gillmor	Myers	Young (FL)
Gingrich	Nussle	
Goodlatte	Ortiz	

NOT VOTING—15

Bevill	Hegerl	Rogers
Blackwell	Laughlin	Rose
Clement	Long	Serrano
Fish	McCollum	Stark
Foglietta	Price (NC)	Swett

So the resolution was agreed to. A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

44.12 FREEDOM OF ACCESS TO CLINICS

Mr. BROOKS, pursuant to House Resolution 417, called up the following conference report (Rept. No. 103-488):

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 636), to amend the Public Health Service Act to permit individuals to have freedom of access to certain medical clinics and facilities, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Freedom of Access to Clinic Entrances Act of 1994".

SEC. 2. PURPOSE.

Pursuant to the affirmative power of Congress to enact this legislation under section 8 of article I of the Constitution, as well as under section 5 of the fourteenth amendment to the Constitution, it is the purpose of this Act to protect and promote the public safety and health and activities affecting interstate commerce by establishing Federal criminal penalties and civil remedies for certain violent, threatening, obstructive and destructive conduct that is intended to injure, intimidate or interfere with persons seeking to obtain or provide reproductive health services.

SEC. 3. FREEDOM OF ACCESS TO CLINIC ENTRANCES.

Chapter 13 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 248. Freedom of Access to Clinic Entrances.

"(a) PROHIBITED ACTIVITIES.—Whoever—

"(1) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person because that person is or has been, or in order to intimidate such person or any other person or any class of persons from, obtaining or providing reproductive health services;

"(2) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship; or

"(3) intentionally damages or destroys the property of a facility, or attempts to do so, because such facility provides reproductive health services, or intentionally damages or destroys the property of a place of religious worship,

shall be subject to the penalties provided in subsection (b) and the civil remedies provided in subsection (c), except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor.

“(b) PENALTIES.—Whoever violates this section shall—

“(1) in the case of a first offense, be fined in accordance with this title, or imprisoned not more than one year, or both; and

“(2) in the case of a second or subsequent offense after a prior conviction under this section, be fined in accordance with this title, or imprisoned not more than 3 years, or both;

except that for an offense involving exclusively a nonviolent physical obstruction, the fine shall be not more than \$10,000 and the length of imprisonment shall be not more than six months, or both, for the first offense; and the fine shall be not more than \$25,000 and the length of imprisonment shall be not more than 18 months, or both, for a subsequent offense; and except that if bodily injury results, the length of imprisonment shall be not more than 10 years, and if death results, it shall be for any term of years or for life.

“(c) CIVIL REMEDIES.—

“(1) RIGHT OF ACTION.—

“(A) IN GENERAL.—Any person aggrieved by reason of the conduct prohibited by subsection (a) may commence a civil action for the relief set forth in subparagraph (B), except that such an action may be brought under subsection (a)(1) only by a person involved in providing or seeking to provide, or obtaining or seeking to obtain, services in a facility that provides reproductive health services, and such an action may be brought under subsection (a)(2) only by a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship or by the entity that owns or operates such place of religious worship.

“(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for attorneys and expert witnesses. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of \$5,000 per violation.

“(2) ACTION BY ATTORNEY GENERAL OF THE UNITED STATES.—

“(A) IN GENERAL.—If the Attorney General of the United States has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, the Attorney General may commence a civil action in any appropriate United States District Court.

“(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, and compensatory damages to persons aggrieved as described in paragraph (1)(B). The court, to vindicate the public interest, may also assess a civil penalty against each respondent—

“(i) in an amount not exceeding \$10,000 for a nonviolent physical obstruction and \$15,000 for other first violations; and

“(ii) in an amount not exceeding \$15,000 for a nonviolent physical obstruction and \$25,000 for any other subsequent violation.

“(3) ACTIONS BY STATE ATTORNEYS GENERAL.—

“(A) IN GENERAL.—If the Attorney General of a State has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, such Attorney General may commence a civil action in the name of such State, as *parens patriae* on behalf of natural persons residing in such State, in any appropriate United States District Court.

“(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, compensatory damages, and civil penalties as described in paragraph (2)(B).

“(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

“(1) to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution;

“(2) to create new remedies for interference with activities protected by the free speech or free exercise clauses of the First Amendment to the Constitution, occurring outside a facility, regardless of the point of view expressed, or to limit any existing legal remedies for such interference;

“(3) to provide exclusive criminal penalties or civil remedies with respect to the conduct prohibited by this section, or to preempt State or local laws that may provide such penalties or remedies; or

“(4) to interfere with the enforcement of State or local laws regulating the performance of abortions or other reproductive health services.

“(e) DEFINITIONS.—As used in this section:

“(1) FACILITY.—The term ‘facility’ includes a hospital, clinic, physician’s office, or other facility that provides reproductive health services, and includes the building or structure in which the facility is located.

“(2) INTERFERE WITH.—The term ‘interfere with’ means to restrict a person’s freedom of movement.

“(3) INTIMIDATE.—The term ‘intimidate’ means to place a person in reasonable apprehension of bodily harm to him- or herself or to another.

“(4) PHYSICAL OBSTRUCTION.—The term ‘physical obstruction’ means rendering impassable ingress to or egress from a facility that provides reproductive health services or to or from a place of religious worship, or rendering passage to or from such a facility or place of religious worship unreasonably difficult or hazardous.

“(5) REPRODUCTIVE HEALTH SERVICES.—The term ‘reproductive health services’ means reproductive health services provided in a hospital, clinic, physician’s office, or other facility, and includes medical, surgical, counselling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.

“(6) STATE.—The term ‘State’ includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.”.

SEC. 4. CLERICAL AMENDMENT.

The table of sections at the beginning of chapter 13 of title 18, United States Code, is amended by adding at the end the following new item:

“248. Blocking access to reproductive health services.”.

SEC. 5. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any other person or circumstance shall not be affected thereby.

SEC. 6. EFFECTIVE DATE.

This Act takes effect on the date of the enactment of this Act, and shall apply only with respect to conduct occurring on or after such date.

And the House agree to the same.
That the Senate recede from its disagreement to the amendment of the House to the title of the bill, and agree to the same.

JACK BROOKS,
CHARLES SCHUMER,
DON EDWARDS,
JOHN CONYERS, Jr.,
PAT SCHROEDER,
JOHN D. DINGELL,
HENRY A. WAXMAN,
MIKE SYNAR.

Managers on the Part of the House.

TED KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
PAUL SIMON,
BARBARA A. MIKULSKI,
JIM JEFFORDS,

Managers on the Part of the Senate.

When said conference report was considered.

After debate,

On motion of Mr. BROOKS, the previous question was ordered on the conference report to its adoption or rejection.

Mr. SENSENBRENNER moved to recommit the conference report on the bill of the Senate (S. 636) to the committee of conference with instructions to adopt the House language on attorneys fees, that the court may award to the prevailing party, whether plaintiff or defendant, other than the United States, reasonable fees for attorneys and expert witnesses

By unanimous consent, the previous question was ordered on the motion to recommit.

The question being put, *viva voce*,

Will the House recommit said conference report?

The SPEAKER pro tempore, Mr. MCNULTY, announced that the nays had it.

Mr. SENSENBRENNER objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas 193
Nays 222

44.13

[Roll No. 158]

YEAS—193

Allard	Combest	Grandy
Applegate	Costello	Greenwood
Archer	Cox	Gunderson
Armey	Crane	Hall (OH)
Bachus (AL)	Crapo	Hall (TX)
Baker (CA)	Cunningham	Hamilton
Baker (LA)	de la Garza	Hancock
Ballenger	Deal	Hansen
Barcia	DeLay	Hastert
Barrett (NE)	Diaz-Balart	Hayes
Bartlett	Dickey	Hefley
Barton	Dornan	Hobson
Bateman	Dreier	Hoekstra
Bentley	Duncan	Hoke
Bereuter	Dunn	Holden
Bilirakis	Ehlers	Horn
Bliley	Emerson	Houghton
Blute	Everett	Huffington
Boehner	Ewing	Hunter
Bonilla	Fawell	Hutchinson
Borski	Fields (TX)	Hutto
Browder	Fowler	Hyde
Bunning	Gallegly	Inglis
Burton	Gekas	Inhofe
Buyer	Geran	Istook
Callahan	Gilchrest	Johnson (CT)
Calvert	Gillmor	Johnson, Sam
Camp	Gingrich	Kanjorski
Canady	Goodlatte	Kasich
Clinger	Goodling	Kildee
Coble	Goss	Kim
Collins (GA)	Grams	King