

After some further time,

136.12 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment in the nature of a substitute submitted by Mr. SMITH of New Jersey:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clinic Violence and Obstruction Prevention Act of 1993".

SEC. 2. PREVENTION OF VIOLENCE AND OBSTRUCTION AT REPRODUCTIVE HEALTH FACILITIES.

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

248. Preventing violence and obstruction at reproductive health facilities

(a) PROHIBITED ACTIVITIES.—Whoever—

(1) by force or threat of force, intentionally injures, intimidates, or physically obstructs any person, or attempts to do so, because that person or any other person is lawfully providing or obtaining reproductive health services;

(2) by force or threat of force, intentionally injures, intimidates, or physically obstructs any person who is lawfully engaging in activity protected by the first article of amendment to the Constitution, or attempts to do so—

(A) in or on, or within 500 feet of, a facility lawfully providing reproductive health services; or

(B) in or on, or within 300 feet of, the residence of a person lawfully providing or obtaining reproductive health services; or

(3) intentionally damages or destroys the property of a facility that is providing reproductive health services, or attempts to do so; shall be punished as provided in subsection (b) of this section and shall also be subject to the civil remedy provided in subsection (c) of this section, 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 subsection (a) of this section shall be fined under this title or imprisoned not more than 1 year, or both, 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 ACTIONS.—

(1) RIGHT OF ACTION GENERALLY.—Any person who is aggrieved by a violation of subsection (a) of this section may in a civil action obtain relief under this subsection.

(2) ACTION BY ATTORNEY GENERAL.—If the Attorney General 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, and such conduct raises an issue of general public importance, the Attorney General may commence a civil action and obtain relief under this subsection.

(3) RELIEF.—(A) In any action under this subsection, the court may award any appropriate relief, including temporary, preliminary, or permanent injunctive relief, subject to subparagraph (B), and compensatory damages for each person aggrieved by the violation.

(B) No court may issue a temporary, preliminary, or permanent injunction in any case involving or growing out of a demonstration within 500 feet of a facility providing reproductive health services or within 300 feet of the residence of a person lawfully

engaging in activity protected under subsection (a)(1), except—

(i) after hearing the testimony of witnesses in open court in support of the allegations of a complaint made under oath and the testimony offered in opposition thereto, and the granting to opposing parties of the right to cross-examine such witness; and

(ii) after the court has made and filed with the record in the case findings of fact to the effect that—

(I) unlawful acts have been threatened and will be committed, or have been committed and will be continued, unless restrained;

(II) substantial irreparable injury to complainant's person or property will follow;

(III) as to each item of relief granted, greater injury will be inflicted upon complainant by the denial of relief that will be inflicted upon defendants by the granting of relief; and

(IV) complainant has no adequate remedy at law.

No such restraining order or injunction maybe issued on account of any threat or unlawful act except against a person making the threat or committing the unlawful act or authorizing or ratifying the same with actual knowledge thereof. Every restraining order or injunction granted in a case involving or growing out of a demonstration within 500 feet of a facility providing reproductive health services or within 300 feet of the residence of a person lawfully engaging in activity protected under subsection (a)(1) shall include only a prohibition of such specific conduct as may be expressly complained of in the complaint filed in such case and as shall be expressly included in the findings of fact.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit or limit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the first article of amendment to the Constitution.

(e) NON-PREEMPTION.—Congress does not intend this section to provide the exclusive remedies with respect to the conduct prohibited by it, nor to preempt the legislation of the States that may provide such remedies.

(f) DEFINITIONS.—As used in this section, the following definitions apply:

(1) 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.

(2) FACILITY.—The term 'facility' includes the building or structure in which the facility is located.

(3) PHYSICALLY OBSTRUCTS.—The term 'physically obstructs' means rendering impassable—

(A) ingress or egress, or rendering passage unreasonably difficult; or

(B) public ways or traditional public fora or rendering passage through public ways or traditional public fora unreasonably difficult.

(4) 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. 3. 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.

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. Preventing violence and obstruction at reproductive health facilities."

It was decided in the negative { Yeas 177 Nays 255

136.13 [Roll No. 580] AYES—177

Table with 3 columns: Member Name, State, and Roll No. 580. Lists members such as Allard, Applegate, Archer, Army, Bachus (AL), Baker (CA), Baker (LA), Ballenger, Barcia, Barrett (NE), Bartlett, Barton, Bateman, Bentley, Bevill, Bilirakis, Bliley, Blute, Boehner, Borski, Browder, Bunning, Burton, Buyer, Callahan, Calvert, Camp, Canady, Castle, Coble, Collins (GA), Combest, Costello, Crane, Crapo, Cunningham, de la Garza, Deal, DeLay, Diaz-Balart, Doolittle, Dornan, Dreier, Duncan, Dunn, Emerson, Everett, Ewing, Fields (TX), Fish, Gallegly, Gekas, Gillmor, Gingrich, Goodlatte, Goodling, Goss, Grams, Hall (OH), etc.

NOES—255

Table with 3 columns: Member Name, State, and Roll No. 580. Lists members such as Abercrombie, Ackerman, Andrews (ME), Andrews (TX), Bacchus (FL), Baesler, Barca, Barlow, Barrett (WI), Becerra, Beilenson, Bereuter, Berman, Bilbray, Bishop, Blackwell, Boehlert, Bonilla, Bonior, Boucher, Brewster, Brooks, Brown (CA), Brown (FL), Brown (OH), Bryant, Byrne, Cantwell, Cardin, Carr, Chapman, Clay, Clayton, Clement, Clyburn, Coleman, Collins (IL), Collins (MI), Condit, Cooper, Coppersmith, Cox, Coyne, Cramer, Danner, Darden, de Lugo (VI), DeFazio, DeLauro, Dellums, Derrick, Deutsch, Dingell, Dixon, Dooley, Durbin, Edwards (CA), Edwards (TX), Engel, English (AZ), English (OK), Eshoo, Evans, Faleomavaega (AS), Farr, Fawell, Fazio, Fields (LA), Filner, Fingerhut, Flake, Foglietta, Ford (MI), Ford (TN), Fowler, Frank (MA), Franks (CT), Franks (NJ), Frost, Furse, Gallo, Gejdenson, Gephardt, Geren, Gibbons, Gilchrest, Gilman, Glickman, Gonzalez, Gordon, Grandy, Green, Greenwood, Gunderson, Gutierrez, Hamburg, Hamilton, Harman, etc.