

106TH CONGRESS
1ST SESSION

S. 1605

To establish a program of formula grants to the States for programs to provide pregnant women with alternatives to abortion, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 1999

Mr. SANTORUM introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To establish a program of formula grants to the States for programs to provide pregnant women with alternatives to abortion, 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 “Women and Children’s
5 Resources Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds as follows:

8 (1) Women confronted with unplanned or crisis
9 pregnancy often are left with the impression that

1 abortion is the only choice that they have in dealing
2 with their difficult circumstances.

3 (2) Women often lack accurate information,
4 supportive counseling and other assistance regarding
5 adoption and parenting alternatives to abortion.

6 (3) Organizations that provide accurate infor-
7 mation, supportive counseling and other assistance
8 regarding adoption and parenting alternatives to
9 abortion often lack sufficient resources to reach
10 women in need of their services and to provide for
11 their needs.

12 (b) PURPOSE.—The purpose of this Act is—

13 (1) to promote childbirth as a viable and posi-
14 tive alternative to abortion and to empower those
15 facing unplanned or crisis pregnancies to choose
16 childbirth rather than abortion;

17 (2) to carry out paragraph (1) by supporting
18 entities and projects that provide information, coun-
19 seling, and support services that assist women to
20 choose childbirth and to make informed decisions re-
21 garding the choice of adoption or parenting with re-
22 spect to their children; and

23 (3) to maximize the effectiveness of this Act by
24 providing funds only to those entities and projects
25 that have a stated policy of actively promoting child-

1 birth instead of abortion and that have experience in
 2 providing alternative-to-abortion services.

3 **SEC. 3. FORMULA GRANTS TO STATES FOR ALTERNATIVE-**
 4 **TO-ABORTION SERVICES PROGRAMS.**

5 In the case of each State that in accordance with sec-
 6 tion 6 submits to the Secretary of Health and Human
 7 Services an application for a fiscal year, the Secretary
 8 shall make a grant to the State for the year for carrying
 9 out the purposes authorized in section 4(a) (subject to
 10 amounts being appropriated under section 11 for the
 11 year). The grant shall consist of the allotment determined
 12 for the State under section 7.

13 **SEC. 4. ESTABLISHMENT AND OPERATION OF STATE PRO-**
 14 **GRAMS TO PROVIDE ALTERNATIVE-TO-ABOR-**
 15 **TION SERVICES; ADMINISTRATION OF PRO-**
 16 **GRAMS THROUGH CONTRACTS WITH ENTI-**
 17 **TIES.**

18 (a) IN GENERAL.—Grant funds provided under this
 19 Act may be expended only for purposes of the establish-
 20 ment and operation of a State program (carried out pursu-
 21 ant to contracts under subsection (c)) designed to provide
 22 alternative-to-abortion services (as defined in section 9) to
 23 eligible individuals as described in subsection (b).

24 (b) ELIGIBLE INDIVIDUALS.—

1 (1) IN GENERAL.—Subject to paragraph (2), an
2 individual is an eligible individual for purposes of
3 subsection (a) if—

4 (A) the individual is pregnant (or has rea-
5 sonable grounds to believe she may be preg-
6 nant);

7 (B) the individual (male or female) is the
8 parent or legal guardian of an infant under 12
9 months of age; or

10 (C) the individual is the spouse or other
11 partner of an individual described in subpara-
12 graph (A) or (B).

13 (2) PRIORITY FOR LOW-INCOME INDIVID-
14 UALS.—Grant funds provided under this Act shall be
15 awarded only to States that submit a grant applica-
16 tion that assures that the State program—

17 (A) will give priority to serving eligible in-
18 dividuals who are from low-income families; and

19 (B) will not impose a charge on any eligi-
20 ble individual from a low-income family except
21 to the extent that payment will be made by a
22 third party (including a government agency)
23 that is authorized or is under legal obligation to
24 pay such charge.

1 (c) ADMINISTRATION OF PROGRAMS THROUGH CON-
2 TRACTS WITH EXPERIENCED ENTITIES AND SERVICE
3 PROVIDERS.—Grant funds provided under this Act shall
4 be awarded only to States that submit a grant application
5 that assures that the State program will be established
6 and operated in accordance with the following:

7 (1) ESTABLISHMENT AND OPERATION OF PRO-
8 GRAM.—

9 (A) PRIME CONTRACTOR.—The State shall
10 enter into a contract with a nonprofit private
11 entity that, under the contract, shall be des-
12 ignated as the “prime contractor” and shall
13 have the principal responsibility for admin-
14 istering the State program, including subcon-
15 tracting with service providers.

16 (B) SUBCONTRACTS WITH SERVICE PRO-
17 VIDERS.—The prime contractor shall enter into
18 subcontracts with service providers for reim-
19 bursement of alternative-to-abortion services
20 provided to eligible individuals on a fee-for-serv-
21 ice basis, as provided in paragraph (2)(C)(ii).

22 (C) EXPENDITURES OF GRANT.—The
23 prime contractor shall be authorized to expend
24 funds to administer the State program, reim-
25 burse service providers, and to provide addi-

1 tional supportive services to assist such pro-
2 viders in providing alternative-to-abortion serv-
3 ices to eligible individuals consistent with the
4 purposes of this Act, including providing for a
5 toll-free referral system, advertising of alter-
6 native-to-abortion services, purchase of edu-
7 cational materials, and grants for new sites and
8 new project development.

9 (D) REQUIREMENT FOR PRIME CONTRAC-
10 TORS.—An entity may not become a prime con-
11 tractor unless, consistent with the overall pur-
12 pose of this Act, it has a stated policy of ac-
13 tively promoting childbirth instead of abortion.

14 (E) ADDITIONAL REQUIREMENTS FOR
15 PRIME CONTRACTORS.—An entity may not be-
16 come a prime contractor unless—

17 (i) for the 5-year period preceding the
18 date on which the entity applies to receive
19 the contract, it has been engaged primarily
20 in the provision of core services or it has
21 operated a project that provides such serv-
22 ices;

23 (ii) it already serves as a prime con-
24 tractor pursuant to a State appropriation

1 designed to fund alternative-to-abortion
2 services; or

3 (iii) it is a subsidiary of an entity that
4 meets the criteria under clause (i) or (ii).

5 (F) REQUIREMENTS FOR SUBCONTRACTORS.—An entity may not become a service
6 provider unless—

8 (i) it operates a service provider
9 project that has a stated policy of actively
10 promoting childbirth instead of abortion;

11 (ii) its project has been providing al-
12 ternative-to-abortion services to clients for
13 at least 1 year; and

14 (iii) its project is physically and finan-
15 cially separate from any entity that advo-
16 cates, performs, counsels for or refers for
17 abortion.

18 (G) RESTRICTION.—No prime contractor
19 or service provider project may perform abor-
20 tion, counsel for or refer for abortion, or advo-
21 cate abortion.

22 (2) EXPENDITURES UNDER THE PROGRAM.—

23 (A) EXPENDITURES FOR START-UP
24 COSTS.—For the first full fiscal year in which
25 a State program has received grant funds pur-

1 suant to this Act, the State shall disburse grant
2 funds to the prime contractor for start-up costs,
3 in an amount not to exceed 10 percent of the
4 total amount of the grant made to the State for
5 that fiscal year.

6 (B) EXPENDITURES FOR ADMINISTRATIVE
7 COSTS.—For the first full fiscal year in which
8 a State program has received grant funds pur-
9 suant to this Act and for the 2 subsequent fis-
10 cal years, the State shall disburse grant funds
11 to the prime contractor for administrative costs,
12 in an amount not to exceed 20 percent of the
13 total amount of the grant made to the State for
14 those fiscal years. For all other fiscal years, the
15 State shall disburse grant funds for administra-
16 tive costs, in an amount not to exceed 15 per-
17 cent of the total amount of the grant made to
18 the State for the fiscal year.

19 (C) EXPENDITURES FOR SERVICE
20 COSTS.—

21 (i) DISBURSEMENT TO PRIME CON-
22 TRACTOR FOR SERVICE COSTS.—For each
23 fiscal year, the State shall disburse to the
24 prime contractor for service costs all re-

1 maintaining grant funds not expended on per-
2 missible administrative or start-up costs.

3 (ii) SERVICE PROVIDER REIMBURSE-
4 MENT RATES.—The prime contractor shall
5 reimburse service providers for alternative-
6 to-abortion services provided to eligible in-
7 dividuals at the following fee-for-service
8 rates:

9 (I) \$10 for every 10 minutes of
10 counseling for eligible individuals.

11 (II) \$10 for every 10 minutes of
12 referral time spent.

13 (III) \$20 per individual per hour
14 of class instruction provided.

15 (IV) \$10 for each self-adminis-
16 tered pregnancy test kit provided.

17 (V) \$10 for every pantry visit.

18 For fiscal year 2001 and subsequent fiscal
19 years, each of the dollar amounts specified
20 in this clause shall be adjusted to offset
21 the effects of inflation occurring after the
22 beginning of fiscal year 2000.

23 (d) ADDITIONAL RESTRICTIONS REGARDING EX-
24 PENDITURE OF GRANT FUNDS.—A State applying for a

1 grant under this Act shall provide assurances, in its grant
2 application, as follows:

3 (1) No grant funds will be expended for any of
4 the following:

5 (A) Performing abortion, counseling for or
6 referring for abortion, or advocating abortion.

7 (B) Providing, referring for, or advocating
8 the use of contraceptive services, drugs, or de-
9 vices.

10 (2) No grant funds will be expended to make
11 payment for a service that is provided to an eligible
12 individual if payment for such service has already
13 been made, or can reasonably be expected to be
14 made—

15 (A) under any State compensation pro-
16 gram, under an insurance policy, or under any
17 Federal or State health benefits program; or

18 (B) by an entity that provides health serv-
19 ices on a prepaid basis.

20 (3) No grant funds will be expended—

21 (A) to provide inpatient hospital services;

22 (B) to make cash payments to intended re-
23 cipients of services;

24 (C) to purchase or improve land, purchase,
25 construct, or permanently improve (other than

1 minor remodeling) any building or other facil-
2 ity; or

3 (D) to satisfy any requirement that non-
4 Federal funds be expended as a precondition of
5 the receipt of Federal funds.

6 **SEC. 5. SERVICES PROVIDED BY RELIGIOUS ORGANIZA-**
7 **TIONS.**

8 (a) **PURPOSE.**—The purpose of this section is to allow
9 States to contract with religious organizations pursuant
10 to section 4(c) on the same basis as any other nongovern-
11 mental provider without impairing the religious character
12 of such organizations, and without diminishing the reli-
13 gious freedom of eligible individuals served under the
14 State program.

15 (b) **NONDISCRIMINATION AGAINST RELIGIOUS ORGA-**
16 **NIZATIONS.**—Religious organizations are eligible, on the
17 same basis as any other nongovernmental organization, as
18 contractors to provide services under a State program de-
19 scribed in section 4(c) so long as the program is imple-
20 mented consistent with the Establishment Clause of the
21 United States Constitution. Neither the Federal Govern-
22 ment nor a State receiving a grant under this Act shall
23 discriminate against an organization which is or applies
24 to be a contractor under section 4(c) on the basis that
25 the organization has a religious character.

1 (c) RELIGIOUS CHARACTER AND FREEDOM.—

2 (1) RELIGIOUS ORGANIZATIONS.—A religious
3 organization receiving a contract under section 4(c)
4 shall retain its independence from Federal, State,
5 and local governments, including such organization's
6 control over the definition, development, practice,
7 and expression of its religious beliefs.

8 (2) ADDITIONAL SAFEGUARDS.—Neither the
9 Federal Government nor a State receiving a grant
10 under section 2 shall require a religious organization
11 to—

12 (A) alter its form of internal governance;

13 or

14 (B) remove religious art, icons, scripture,
15 or other symbols;

16 in order to be eligible for a contract under section
17 4(c).

18 (d) EMPLOYMENT PRACTICES.—

19 (1) TENETS AND TEACHINGS.—A religious or-
20 ganization that provides services under a program
21 described in section 4(c) may require that its em-
22 ployees providing assistance under such program ad-
23 here to the religious tenets and teachings of such or-
24 ganization, and such organization may require that

1 those employees adhere to rules forbidding the use
2 of drugs or alcohol.

3 (2) TITLE VII EXEMPTION.—A religious organi-
4 zation’s exemption provided under section 702 of the
5 Civil Rights Act of 1964 (42 U.S.C. 2000e–1,
6 2000e–2(e)(2)) regarding employment practices shall
7 not be affected by the receipt of a contract under
8 section 4(c).

9 (e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

10 (1) IN GENERAL.—If an eligible individual has
11 an objection to the religious character of the organi-
12 zation from which the individual receives, or would
13 receive, alternative-to-abortion services, the State
14 shall provide such individual within a reasonable pe-
15 riod of time after the date of such objection with the
16 names and addresses of alternative service providers
17 that offer a range of services similar to those offered
18 by the original service provider.

19 (2) NOTICE.—A State receiving a grant under
20 this Act shall ensure that notice is provided to indi-
21 viduals described in paragraph (1) of the rights of
22 such individuals under this section.

23 (f) NONDISCRIMINATION AGAINST BENEFICIARIES.—
24 A religious organization shall not discriminate against an
25 eligible individual in regard to providing alternative-to-

1 abortion services on the basis of religion, a religious belief,
2 or refusal to actively participate in a religious practice.

3 (g) FISCAL ACCOUNTABILITY.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), any religious organization receiving a con-
6 tract under section 4(c) shall be subject to the same
7 regulations as other contractors to account in ac-
8 cordance with generally accepted accounting prin-
9 ciples for the use of such funds under this Act.

10 (2) LIMITED AUDIT.—If such organization seg-
11 regates funds received under this Act into separate
12 accounts, then only such funds shall be subject to
13 audit by the government.

14 (h) COMPLIANCE.—Any party which seeks to enforce
15 its rights under this section may assert a civil action for
16 injunctive relief exclusively in an appropriate State court
17 against the entity or agency that allegedly commits such
18 violation.

19 (i) LIMITATIONS ON USE OF FUNDS FOR CERTAIN
20 PURPOSES.—No grant funds obtained pursuant to this
21 Act shall be expended for sectarian worship, instruction,
22 or proselytization.

23 (j) PREEMPTION.—Nothing in this section shall be
24 construed to preempt any provision of a State constitution

1 or State statute that prohibits or restricts the expenditure
2 of State funds in or by religious organizations.

3 (k) TREATMENT OF SERVICE PROVIDERS.—This sec-
4 tion applies to awards under section 4(c) made by prime
5 contractors to service providers to the same extent and
6 in the same manner as this section applies to awards
7 under such section by States to prime contractors.

8 **SEC. 6. STATE APPLICATION FOR GRANT.**

9 An application for a grant under this Act is in accord-
10 ance with this section if—

11 (1) the State submits the application not later
12 than the date specified by the Secretary;

13 (2) the application demonstrates that the State
14 program for which grant funds are sought will be es-
15 tablished and operated in compliance with all of the
16 requirements of this Act; and

17 (3) the application is in such form, is made in
18 such manner, and contains such agreements, assur-
19 ances, and information as the Secretary determines
20 are necessary to carry out this Act.

21 **SEC. 7. DETERMINATION OF AMOUNT OF STATE ALLOT-**
22 **MENT.**

23 (a) IN GENERAL.—The allotment of funds to be
24 granted to each State for a fiscal year is to be the State-

1 calculated percentage of the total amount available under
2 section 11 for the fiscal year.

3 (b) STATE-CALCULATED PERCENTAGE.—The State-
4 calculated percentage shall be determined by dividing—

5 (1) the number of children born in the State to
6 women who were not married at the time of the
7 birth plus the number of abortions performed in the
8 State; by

9 (2) the number of children born in all States to
10 women who were not married at the time of the
11 birth plus the number of abortions performed in all
12 States as last reported by the Centers for Disease
13 Control and Prevention.

14 (c) UNALLOTTED FUNDS FOR FIRST THREE FISCAL
15 YEARS.—For the first 3 fiscal years for which funds are
16 appropriated under section 11, if excess funds are avail-
17 able due to the failure of any State to apply for grant
18 funds under this Act, such excess funds shall be allotted
19 to participating States in an amount equal to a percentage
20 of the excess funds determined by dividing—

21 (1) the number of children born in the partici-
22 pating State to women who were not married at the
23 time of the birth plus the number of abortions per-
24 formed in the participating State; by

1 (2) the number of children born in all partici-
2 pating States to women who were not married at the
3 time of the birth plus the number of abortions per-
4 formed in all participating States as last reported by
5 the Centers for Disease Control and Prevention.

6 (d) UNALLOTTED FUNDS FOR SUBSEQUENT FISCAL
7 YEARS.—For years subsequent to the first 3 fiscal years
8 for which funds are appropriated under section 11, if ex-
9 cess funds are available due to the failure of any State
10 to apply for grant funds under this Act, such excess funds
11 shall be allotted to participating States in an amount
12 equal to a percentage of the total excess funds determined
13 by dividing—

14 (1) the amount of service costs expended by an
15 individual participating State under this Act during
16 the previous calendar year; by

17 (2) the total amount of service costs expended
18 by all participating States under this Act during the
19 previous calendar year.

20 **SEC. 8. BIENNIAL REPORTS TO CONGRESS.**

21 The Secretary shall submit to the Congress periodic
22 reports on the State programs carried out pursuant to this
23 Act. The first report shall be submitted not later than
24 February 1, 2001, and subsequent reports shall be sub-
25 mitted biennially thereafter.

1 **SEC. 9. DEFINITIONS.**

2 In this Act:

3 (1) ADMINISTRATIVE COSTS.—The term “ad-
4 ministrative costs” means expenditures for costs as-
5 sociated with the administration of the State pro-
6 gram by the prime contractor, including salaries of
7 administrative office staff, taxes, employee benefits,
8 job placement costs, postage and shipping costs,
9 travel and lodging for administrative staff, office
10 rent, telephone and fax costs, insurance and office
11 supplies, professional development for administrative
12 staff and ongoing legal, accounting, and computer
13 consulting for the program. Such term does not in-
14 clude expenditures for start-up costs or service costs.

15 (2) ALTERNATIVE-TO-ABORTION SERVICES.—
16 The term “alternative-to-abortion services” means
17 core services and support services as defined in this
18 section.

19 (3) CORE SERVICES.—The term “core services”
20 means the provision of information and counseling
21 that promotes childbirth instead of abortion and as-
22 sists pregnant women in making an informed deci-
23 sion regarding the alternatives of adoption or par-
24 enting with respect to their child.

25 (4) LOW-INCOME FAMILY.—The term “low-in-
26 come family” has the meaning given such term

1 under section 1006(c) of the Public Health Service
2 Act (42 U.S.C. 300a-4(c)).

3 (5) SUPPORT SERVICES.—The term “support
4 services” means additional services and assistance
5 designed to assist eligible individuals to carry their
6 child to term and to support eligible individuals in
7 their parenting or adoption decision. These support
8 services include the provision of—

9 (A) self-administered pregnancy testing;

10 (B) baby food, maternity and baby cloth-
11 ing, and baby furniture;

12 (C) information and education, including
13 classes, regarding prenatal care, childbirth,
14 adoption, parenting, chastity (or abstinence);
15 and

16 (D) referrals for services consistent with
17 the purposes of this Act.

18 (6) PANTRY VISIT.—The term “pantry visit”
19 means a visit by an eligible individual to a service
20 provider during which baby food, maternity or baby
21 clothing, or baby furniture are made available to the
22 individual free of charge.

23 (7) REFERRAL TIME.—The term “referral
24 time” means the time taken to research and set up

1 an appointment on behalf of an eligible individual to
2 secure support through a referral.

3 (8) REFERRALS.—The term “referrals” means
4 action taken on behalf of an eligible individual to se-
5 cure additional support from a social service agency
6 or other entity. Referral may be for services, items
7 and assistance regarding physical and mental health
8 (prenatal, postnatal, and postpartum), food, cloth-
9 ing, housing, education, vocational training, and for
10 other services designed to assist pregnant women
11 and infants in need.

12 (9) SECRETARY.—The term “Secretary” means
13 the Secretary of Health and Human Services.

14 (10) SERVICE COSTS.—The term “service
15 costs” means expenditures for costs incurred by the
16 prime contractor to provide support for service pro-
17 vider projects, including salaries for technical sup-
18 port staff, taxes, employee benefits, job placement
19 costs, professional development and ongoing train-
20 ing, educational and informational material for eligi-
21 ble individuals and counselors, advertising costs, op-
22 eration of a toll-free referral system, travel for tech-
23 nical support staff, billing and database computer
24 consulting, seminars for counseling training, meet-
25 ings regarding program compliance requirements,

1 minor equipment purchases for service provider
2 projects, new project development, and service pro-
3 vider reimbursements for alternative-to-abortion
4 services.

5 (11) SERVICE PROVIDER.—The term “service
6 provider” means a nongovernmental entity that op-
7 erates a service provider project and which enters
8 into a subcontract with the prime contractor that
9 provides for the reimbursement for alternative-to-
10 abortion services provided to eligible individuals.

11 (12) SERVICE PROVIDER PROJECT.—The term
12 “service provider project” means a project or pro-
13 gram operated by a service provider that provides al-
14 ternative-to-abortion services. All service provider
15 projects must provide core services and may also
16 provide support services.

17 (13) START-UP COSTS.—The term “start-up
18 costs” means expenditures associated with the initial
19 establishment of the State program, including the
20 cost of obtaining furniture, computers and acces-
21 sories, copy machines, consulting services, tele-
22 phones, and other office equipment and supplies.

23 (14) STATE.—The term “State” means each of
24 the several States, the District of Columbia, the
25 Commonwealth of Puerto Rico, American Samoa,

1 Guam, the Commonwealth of the Northern Mariana
2 Islands, the Virgin Islands, and the Trust Territory
3 of the Pacific Islands.

4 **SEC. 10. DATE CERTAIN FOR INITIAL GRANTS.**

5 The Secretary shall begin making grants under this
6 Act not later than 180 days after the date on which
7 amounts are first appropriated under section 11, subject
8 to the receipt of State applications in accordance with sec-
9 tion 6.

10 **SEC. 11. FUNDING.**

11 For the purpose of carrying out this Act, there is au-
12 thorized to be appropriated \$85,000,000 for each of the
13 fiscal years 2000 through 2004.

14 **SEC. 12. OFFSET.**

15 It is the sense of the Senate that overall funding for
16 the Department of Health and Human Services should not
17 be increased under this Act.

○