

109TH CONGRESS  
1ST SESSION

# H. R. 1409

To amend the Foreign Assistance Act of 1961 to provide assistance for orphans and other vulnerable children in developing countries, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2005

Ms. LEE (for herself, Mr. HYDE, Mr. LANTOS, Mr. LEACH, and Ms. MCCOLLUM of Minnesota) introduced the following bill; which was referred to the Committee on International Relations

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## A BILL

To amend the Foreign Assistance Act of 1961 to provide assistance for orphans and other vulnerable children in developing countries, 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 “Assistance for Orphans  
5 and Other Vulnerable Children in Developing Countries  
6 Act of 2005”.

7 **SEC. 2. FINDINGS.**

8 Congress makes the following findings:

1           (1) As of July 2004, there were more than  
2           143,000,000 children living in sub-Saharan Africa,  
3           Asia, Latin America, and the Caribbean who were  
4           identified as orphans, having lost one or both of  
5           their parents. Of this number, approximately  
6           16,200,000 children were identified as double or-  
7           phans, having lost both parents—the vast majority  
8           of whom died of AIDS. These children often are dis-  
9           advantaged in numerous and devastating ways and  
10          most households with orphans cannot meet the basic  
11          needs of health care, food, clothing, and educational  
12          expenses.

13          (2) It is estimated that 121,000,000 children  
14          worldwide do not attend school and that the major-  
15          ity of such children are young girls. According to the  
16          United Nations Children’s Fund (UNICEF), or-  
17          phans are less likely to be in school and more likely  
18          to be working full time.

19          (3) School food programs, including take-home  
20          rations, in developing countries provide strong incen-  
21          tives for children to remain in school and continue  
22          their education. School food programs can reduce  
23          short-term hunger, improve cognitive functions, and  
24          enhance learning, behavior, and achievement.

1           (4) Financial barriers, such as school fees and  
2 other costs of education, prevent many orphans and  
3 other vulnerable children in developing countries  
4 from attending school. Providing children with free  
5 primary school education, while simultaneously en-  
6 suring that adequate resources exist for teacher  
7 training and infrastructure, would help more or-  
8 phans and other vulnerable children obtain a quality  
9 education.

10           (5) The trauma that results from the loss of a  
11 parent can trigger behavior problems of aggression  
12 or emotional withdrawal and negatively affect a  
13 child's performance in school and the child's social  
14 relations. Children living in families affected by  
15 HIV/AIDS or who have been orphaned by AIDS  
16 often face stigmatization and discrimination. Pro-  
17 viding culturally appropriate psychosocial support to  
18 such children can assist them in successfully accept-  
19 ing and adjusting to their circumstances.

20           (6) Orphans and other vulnerable children in  
21 developing countries routinely are denied their inher-  
22 itance or encounter difficulties in claiming the land  
23 and other property which they have inherited. Even  
24 when the inheritance rights of women and children  
25 are spelled out in law, such rights are difficult to

1 claim and are seldom enforced. In many countries it  
2 is difficult or impossible for a widow, even if she has  
3 young children, to claim property after the death of  
4 her husband.

5 (7) The HIV/AIDS pandemic has had a dev-  
6 astating affect on children and is deepening poverty  
7 in entire communities and jeopardizing the health,  
8 safety, and survival of all children in affected areas.

9 (8) The HIV/AIDS pandemic has increased the  
10 number of orphans worldwide and has exacerbated  
11 the poor living conditions of the world's poorest and  
12 most vulnerable children. AIDS has created an un-  
13 precedented orphan crisis, especially in sub-Saharan  
14 Africa, where children have been hardest hit. An es-  
15 timated 14,000,000 orphans have lost 1 or both par-  
16 ents to AIDS. By 2010, it is estimated that over  
17 25,000,000 children will have been orphaned by  
18 AIDS.

19 (9) Approximately 2,500,000 children under the  
20 age of 15 worldwide have HIV/AIDS. Every day an-  
21 other 2,000 children under the age of 15 are in-  
22 fected with HIV. Without treatment, most children  
23 born with HIV can expect to die by age two, but  
24 with sustained drug treatment through childhood,

1 the chances of long-term survival and a productive  
2 adulthood improve dramatically.

3 (10) Few international development programs  
4 specifically target the treatment of children with  
5 HIV/AIDS in developing countries. Reasons for this  
6 include the perceived low priority of pediatric treat-  
7 ment, a lack of pediatric health care professionals,  
8 lack of expertise and experience in pediatric drug  
9 dosing and monitoring, the perceived complexity of  
10 pediatric treatment, and mistaken beliefs regarding  
11 the risks and benefits of pediatric treatment.

12 (11) Although a number of organizations seek  
13 to meet the needs of orphans or other vulnerable  
14 children, extended families and local communities  
15 continue to be the primary providers of support for  
16 such children.

17 (12) The HIV/AIDS pandemic is placing huge  
18 burdens on communities and is leaving many or-  
19 phans with little support. Alternatives to traditional  
20 orphanages, such as community-based resource cen-  
21 ters, continue to evolve in response to the massive  
22 number of orphans that has resulted from the pan-  
23 demic.

24 (13) The AIDS orphans crisis in sub-Saharan  
25 Africa has implications for political stability, human

1 welfare, and development that extend far beyond the  
2 region, affecting governments and people worldwide,  
3 and this crisis requires an accelerated response from  
4 the international community.

5 (14) Although section 403(b) of the United  
6 States Leadership Against HIV/AIDS, Tuberculosis,  
7 and Malaria Act of 2003 (22 U.S.C. 7673(b)) estab-  
8 lishes the requirement that not less than 10 percent  
9 of amounts appropriated for HIV/AIDS assistance  
10 for each of fiscal years 2006 through 2008 shall be  
11 expended for assistance for orphans and other vul-  
12 nerable children affected by HIV/AIDS, there is an  
13 urgent need to provide assistance to such children  
14 prior to 2006.

15 (15) Numerous United States and indigenous  
16 private voluntary organizations, including faith-  
17 based organizations, provide assistance to orphans  
18 and other vulnerable children in developing coun-  
19 tries. Many of these organizations have submitted  
20 applications for grants to the Administrator of the  
21 United States Agency for International Development  
22 to provide increased levels of assistance for orphans  
23 and other vulnerable children in developing coun-  
24 tries.

1           (16) Increasing the amount of assistance that is  
2           provided by the Administrator of the United States  
3           Agency for International Development through  
4           United States and indigenous private voluntary or-  
5           ganizations, including faith-based organizations, will  
6           provide greater protection for orphans and other vul-  
7           nerable children in developing countries.

8           (17) It is essential that the United States Gov-  
9           ernment adopt a comprehensive approach for the  
10          provision of assistance to orphans and other vulner-  
11          able children in developing countries. A comprehen-  
12          sive approach would ensure that important services,  
13          such as basic care, psychosocial support, school food  
14          programs, increased educational opportunities and  
15          employment training and related services, the pro-  
16          tection and promotion of inheritance rights for such  
17          children, and the treatment of orphans and other  
18          vulnerable children with HIV/AIDS, are made more  
19          accessible.

20          (18) Assistance for orphans and other vulner-  
21          able children can best be provided by a comprehen-  
22          sive approach of the United States Government  
23          that—

24                        (A) ensures that Federal agencies and the  
25                        private sector coordinate efforts to prevent and

1 eliminate duplication of efforts and waste in the  
2 provision of such assistance; and

3 (B) to the maximum extent possible, fo-  
4 cuses on community-based programs that allow  
5 orphans and other vulnerable children to re-  
6 main connected to the traditions and rituals of  
7 their families and communities.

8 **SEC. 3. ASSISTANCE FOR ORPHANS AND OTHER VULNER-**  
9 **ABLE CHILDREN IN DEVELOPING COUN-**  
10 **TRIES.**

11 Chapter 1 of part I of the Foreign Assistance Act  
12 of 1961 (22 U.S.C. 2151 et seq.) is amended by adding  
13 at the end the following section:

14 **“SEC. 135. ASSISTANCE FOR ORPHANS AND OTHER VUL-**  
15 **NERABLE CHILDREN.**

16 “(a) FINDINGS.—Congress finds the following:

17 “(1) There are more than 143,000,000 orphans  
18 living sub-Saharan Africa, Asia, Latin America, and  
19 the Caribbean. Of this number, approximately  
20 16,200,000 children have lost both parents.

21 “(2) The HIV/AIDS pandemic has created an  
22 unprecedented orphan crisis, especially in sub-Saha-  
23 ran Africa, where children have been hardest hit.  
24 The pandemic is deepening poverty in entire commu-  
25 nities, and is jeopardizing the health, safety, and

1 survival of all children in affected countries. It is es-  
2 timated that 14,000,000 children have lost one or  
3 both parents to AIDS.

4 “(3) The orphans crisis in sub-Saharan Africa  
5 has implications for human welfare, development,  
6 and political stability that extend far beyond the re-  
7 gion, affecting governments and people worldwide.

8 “(4) Extended families and local communities  
9 are struggling to meet the basic needs of orphans  
10 and vulnerable children by providing food, health  
11 care including treatment of children living with HIV/  
12 AIDS, education expenses, and clothing.

13 “(5) Famines, natural disasters, chronic pov-  
14 erty, ongoing conflicts, and civil wars in developing  
15 countries are adversely affecting children in these  
16 countries, the vast majority of whom currently do  
17 not receive humanitarian assistance or other support  
18 from the United States.

19 “(6) The United States Government admin-  
20 isters various assistance programs for orphans and  
21 other vulnerable children in developing countries. In  
22 order to improve targeting and programming of re-  
23 sources, the United States Agency for International  
24 Development should develop methods to adequately  
25 track the overall number of orphans and other vul-

1       nerable children receiving assistance, the kinds of  
2       programs for such children by sector and location,  
3       and any other such related data and analysis.

4               “(7) The United States Agency for Inter-  
5       national Development should improve its capabilities  
6       to deliver assistance to orphans and other vulnerable  
7       children in developing countries through partner-  
8       ships with private volunteer organizations, including  
9       community and faith-based organizations.

10              “(8) The United States Agency for Inter-  
11       national Development should be the primary United  
12       States Government agency responsible for identi-  
13       fying and assisting orphans and other vulnerable  
14       children in developing countries.

15              “(9) Providing assistance to such children is an  
16       important expression of the humanitarian concern  
17       and tradition of the people of the United States.

18       “(b) DEFINITIONS.—In this section:

19              “(1) AIDS.—The term ‘AIDS’ has the meaning  
20       given the term in section 104A(g)(1) of this Act.

21              “(2) CHILDREN.—The term ‘children’ means  
22       persons who have not attained 18 years of age.

23              “(3) HIV/AIDS.—The term ‘HIV/AIDS’ has the  
24       meaning given the term in section 104A(g)(3) of  
25       this Act.

1           “(4) ORPHAN.—The term ‘orphan’ means a  
2 child deprived by death of one or both parents.

3           “(5) PSYCHOSOCIAL SUPPORT.—The term ‘psy-  
4 chosocial support’ includes care that addresses the  
5 ongoing psychological and social problems that affect  
6 individuals, their partners, families, and caregivers  
7 in order to alleviate suffering, strengthen social ties  
8 and integration, provide emotional support, and pro-  
9 mote coping strategies.

10          “(c) ASSISTANCE.—The President is authorized to  
11 provide assistance, including providing such assistance  
12 through international or nongovernmental organizations,  
13 for programs in developing countries to provide basic care  
14 and services for orphans and other vulnerable children.  
15 Such programs should provide assistance—

16           “(1) to support families and communities to  
17 mobilize their own resources through the establish-  
18 ment of community-based organizations to provide  
19 basic care for orphans and other vulnerable children;

20           “(2) for school food programs, including the  
21 purchase of local or regional foodstuffs where appro-  
22 priate;

23           “(3) to increase primary school enrollment  
24 through the elimination of school fees, where appro-  
25 priate, or other barriers to education while ensuring

1 that adequate resources exist for teacher training  
2 and infrastructure;

3 “(4) to provide employment training and re-  
4 lated services for orphans and other vulnerable chil-  
5 dren who are of legal working age;

6 “(5) to protect and promote the inheritance  
7 rights of orphans, other vulnerable children, and  
8 widows;

9 “(6) to provide culturally appropriate psycho-  
10 social support to orphans and other vulnerable chil-  
11 dren; and

12 “(7) to treat orphans and other vulnerable chil-  
13 dren with HIV/AIDS through the provision of phar-  
14 maceuticals, the recruitment and training of individ-  
15 uals to provide pediatric treatment, and the pur-  
16 chase of pediatric-specific technologies.

17 “(d) MONITORING AND EVALUATION.—

18 “(1) ESTABLISHMENT.—To maximize the sus-  
19 tainable development impact of assistance authorized  
20 under this section, and pursuant to the strategy re-  
21 quired in section 4 of the Assistance for Orphans  
22 and Other Vulnerable Children in Developing Coun-  
23 tries Act of 2005, the President shall establish a  
24 monitoring and evaluation system to measure the ef-

1       fectiveness of United States assistance to orphans  
2       and other vulnerable children.

3           “(2) REQUIREMENTS.—The monitoring and  
4       evaluation system shall—

5           “(A) establish performance goals for the  
6       assistance and expresses such goals in an objec-  
7       tive and quantifiable form, to the extent fea-  
8       sible;

9           “(B) establish performance indicators to be  
10      used in measuring or assessing the achievement  
11      of the performance goals described in subpara-  
12      graph (A); and

13          “(C) provide a basis for recommendations  
14      for adjustments to the assistance to enhance  
15      the impact of assistance.

16      “(e) SPECIAL ADVISOR FOR ASSISTANCE TO VUL-  
17      NERABLE POPULATIONS.—

18          “(1) APPOINTMENT.—

19           “(A) IN GENERAL.—The Secretary of  
20      State, in consultation with the Administrator of  
21      the United States Agency for International De-  
22      velopment, shall appoint a Special Advisor for  
23      Assistance to Vulnerable Populations.

24           “(B) DELEGATION.—At the discretion of  
25      the Secretary of State, the authority to appoint

1 a Special Advisor under subparagraph (A) may  
2 be delegated by the Secretary of State to the  
3 Administrator of the United States Agency for  
4 International Development.

5 “(2) DUTIES.—The duties of the Special Advi-  
6 sor for Assistance to Vulnerable Populations shall  
7 include the following:

8 “(A) Coordinate assistance to orphans and  
9 other vulnerable children among the various of-  
10 fices, bureaus, and field missions within the  
11 United States Agency for International Devel-  
12 opment.

13 “(B) Advise the various offices, bureaus,  
14 and field missions within the United States  
15 Agency for International Development to ensure  
16 that programs approved for assistance under  
17 this section are consistent with best practices,  
18 meet the requirements of this Act, and conform  
19 to the strategy outlined in section 4 of the As-  
20 sistance for Orphans and Other Vulnerable  
21 Children in Developing Countries Act of 2005.

22 “(C) Advise the various offices, bureaus,  
23 and field missions within the United States  
24 Agency for International Development in devel-  
25 oping any component of their annual plan, as it

1 relates to assistance for orphans or other vul-  
2 nerable children in developing countries, to en-  
3 sure that each program, project, or activity re-  
4 lating to such assistance is consistent with best  
5 practices, meets the requirements of this Act,  
6 and conforms to the strategy outlined in section  
7 4 of the Assistance for Orphans and Other Vul-  
8 nerable Children in Developing Countries Act of  
9 2005.

10 “(D) Coordinate all United States assist-  
11 ance to orphans and other vulnerable children  
12 among United States departments and agen-  
13 cies, including the provision of assistance relat-  
14 ing to HIV/AIDS authorized under the United  
15 States Leadership Against HIV/AIDS, Tubercu-  
16 losis, and Malaria Act of 2003 (Public Law  
17 108–25), and the amendments made by such  
18 Act (including section 102 of such Act, and the  
19 amendments made by such section, relating to  
20 the coordination of HIV/AIDS programs).

21 “(E) Establish priorities that promote the  
22 delivery of assistance to the most vulnerable  
23 populations of orphans and children, particu-  
24 larly in those countries with a high rate of HIV  
25 infection among women.

1           “(F) Disseminate a collection of best prac-  
2           tices to field missions of the United States  
3           Agency for International Development to guide  
4           the development and implementation of pro-  
5           grams to assist orphans and vulnerable chil-  
6           dren.

7           “(G) Administer the monitoring and eval-  
8           uation system established in subsection (d).

9           “(H) Prepare the annual report required  
10          by section 5 of the Assistance for Orphans and  
11          Other Vulnerable Children in Developing Coun-  
12          tries Act of 2005.

13         “(f) AUTHORIZATION OF APPROPRIATIONS.—

14                 “(1) IN GENERAL.—There is authorized to be  
15                 appropriated to the President to carry out this sec-  
16                 tion such sums as may be necessary for each of the  
17                 fiscal years 2005 and 2006.

18                 “(2) AVAILABILITY OF FUNDS.—Amounts made  
19                 available under paragraph (1) are authorized to re-  
20                 main available until expended and are in addition to  
21                 amounts otherwise available for such purposes.

22                 “(3) RELATIONSHIP TO OTHER LAWS.—  
23                 Amounts made available for assistance pursuant to  
24                 this subsection, and amounts made available for  
25                 such assistance pursuant to any other provision of

1 law, may be used to provide such assistance notwith-  
2 standing any other provision of law.”.

3 **SEC. 4. STRATEGY OF THE UNITED STATES.**

4 (a) REQUIREMENT FOR STRATEGY.—Not later than  
5 180 days after the date of enactment of this Act, the  
6 President shall develop, and transmit to the appropriate  
7 congressional committees, a strategy for coordinating, im-  
8 plementing, and monitoring assistance programs for or-  
9 phans and vulnerable children.

10 (b) CONSULTATION.—The strategy described in sub-  
11 section (a) should be developed in consultation with the  
12 Special Advisor for Assistance to Vulnerable Populations  
13 (appointed pursuant to section 135(e)(1) of the Foreign  
14 Assistance Act of 1961 (as added by section 3 of this Act))  
15 and with employees of the field missions of the United  
16 States Agency for International Development to ensure  
17 that the strategy—

18 (1) will not impede the efficiency of imple-  
19 menting assistance programs for orphans and vul-  
20 nerable children; and

21 (2) addresses the specific needs of indigenous  
22 populations.

23 (c) CONTENT.—The strategy required by subsection  
24 (a) shall include—

1           (1) the identity of each agency or department  
2 of the Federal Government that is providing assist-  
3 ance for orphans and vulnerable children in foreign  
4 countries;

5           (2) a description of the efforts of the head of  
6 each such agency or department to coordinate the  
7 provision of such assistance with other agencies or  
8 departments of the Federal Government or non-  
9 governmental entities;

10          (3) a description of a coordinated strategy, in-  
11 cluding coordination with other bilateral and multi-  
12 lateral donors, to provide the assistance authorized  
13 in section 135 of the Foreign Assistance Act of  
14 1961, as added by section 3 of this Act;

15          (4) an analysis of additional coordination mech-  
16 anisms or procedures that could be implemented to  
17 carry out the purposes of such section;

18          (5) a description of a monitoring system that  
19 establishes performance goals for the provision of  
20 such assistance and expresses such goals in an ob-  
21 jective and quantifiable form, to the extent feasible;  
22 and

23          (6) a description of performance indicators to  
24 be used in measuring or assessing the achievement  
25 of the performance goals described in paragraph (5).

1 **SEC. 5. ANNUAL REPORT.**

2 (a) REPORT.—Not later than one year after the date  
3 on which the President transmits to the appropriate con-  
4 gressional committees the strategy required by section  
5 4(a), and annually thereafter, the President shall transmit  
6 to the appropriate congressional committees a report on  
7 the implementation of this Act.

8 (b) CONTENTS.—The report shall contain the fol-  
9 lowing information for each grant, cooperative agreement,  
10 contract, contribution, or other form of assistance award-  
11 ed or entered into under this section:

12 (1) The amount of funding, the name of the re-  
13 cipient organization, the location the program or ac-  
14 tivity, the status of progress of the program or activ-  
15 ity, and the number of orphans and other vulnerable  
16 children who received direct or indirect assistance  
17 under the program or activity.

18 (2) The results of the monitoring and evalua-  
19 tion system with respect to the grant, cooperative  
20 agreement, contract, contribution, or other form of  
21 assistance.

22 (3) The percentage of assistance provided in  
23 support of orphans or other vulnerable children af-  
24 fected by HIV/AIDS.

25 (4) Any other appropriate information relating  
26 to the needs of orphans and other vulnerable chil-

