

105TH CONGRESS
2D SESSION

H. R. 4670

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 HOUSE OF REPRESENTATIVES

OCTOBER 1, 1998

Mr. PITTS introduced the following bill; which was referred to the Committee on Commerce

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. FORMULA GRANTS TO STATES REGARDING ALTER-**
7 **NATIVES TO ABORTION.**

8 In the case of each State that in accordance with sec-
9 tion 5 submits to the Secretary of Health and Human
10 Services an application for a fiscal year, the Secretary

1 shall make a grant to the State for the year for carrying
 2 out the purposes authorized in section 3(a) (subject to
 3 amounts being appropriated under section 10 for the
 4 year). The grant shall consist of the allotment determined
 5 for the State under section 6.

6 **SEC. 3. OPERATION OF PROGRAMS TO PROVIDE ALTER-**
 7 **NATIVES TO ABORTION; ADMINISTRATION OF**
 8 **PROGRAMS THROUGH CONTRACTS WITH EN-**
 9 **TITIES WITH NO ABORTION-RELATED HIS-**
 10 **TORY.**

11 (a) IN GENERAL.—A precondition for the receipt of
 12 a grant under section 2 (in this Act referred to as a “grant
 13 precondition” under such section) is that the State in-
 14 volved agree that the grant will be expended only for pur-
 15 poses of the establishment and operation of programs
 16 (carried out pursuant to contracts under subsection (d))
 17 that have the primary purpose of providing to eligible indi-
 18 viduals under subsection (b) information, education, and
 19 counseling on alternatives to abortion, and that in addition
 20 make available to such individuals the following services:

21 (1) Information, education, and counseling on
 22 maintaining abstinence from sexual activities.

23 (2) Testing for pregnancy, including follow-up
 24 services.

25 (3) Prenatal and postpartum health care.

1 (4) Information and education on the following:

2 (A) Prenatal and postpartum health, in-
3 cluding fetal development and the health and
4 nutritional needs of pregnant and postpartum
5 women.

6 (B) Childbirth.

7 (C) Parenting.

8 (D) Pregnancy during adolescence.

9 (E) Substance abuse.

10 (F) Sexually transmitted diseases, includ-
11 ing infection with the human immunodeficiency
12 virus (commonly known as HIV).

13 (G) Adoption.

14 (5) Referrals for services, items, and assistance
15 regarding health, mental health, food, clothing,
16 housing, education, vocational training, and other
17 appropriate services, items, and assistance, including
18 under programs under title V of the Social Security
19 Act (relating to maternal and child health); section
20 17 of the Child Nutrition Act of 1966 (relating to
21 women, infants, and children); title XIX of the So-
22 cial Security Act (relating to the Medicaid program,
23 including the program for early and periodic screen-
24 ing, diagnostic, and treatment services described in
25 section 1905(r) of such Act); title IV of such Act

(relating to child and family services, foster care and adoption, and job opportunities); and title XIX of the Public Health Service Act (relating to public health programs, mental health programs, and programs for the prevention and treatment of substance abuse).

(b) ELIGIBLE INDIVIDUALS.—

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

(A) the individual is pregnant (or has reasonable grounds for believing she may be pregnant);

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

(C) the individual is the spouse or other partner of an individual described in subparagraph (A) or (B).

(2) LIMITATION.—A grant precondition under section 2 is that the State involved agree that programs under subsection (a) will expend the grant under such section to provide the services of the program to an individual only if the income of the individual does not exceed an amount equal to 185 per-

1 cent of the official poverty line (as established by the
2 Director of the Office of Management and Budget
3 and revised by the Secretary in accordance with sec-
4 tion 673(2) of the Omnibus Budget Reconciliation
5 Act of 1981).

6 (c) ADDITIONAL PROVISIONS REGARDING SERV-
7 ICES.—

8 (1) RESTRICTIONS REGARDING ABORTIONS.—A
9 grant precondition under section 2 is that the State
10 involved agree that programs under subsection (a)
11 will be operated in accordance with the following:

12 (A) The programs will not perform or
13 make referrals for abortions.

14 (B) The programs will not provide or make
15 referrals for information, education, or counsel-
16 ing that presents abortion as a pregnancy-man-
17 agement option;

18 (C) The programs will not provide contra-
19 ceptive services or contraceptive drugs or de-
20 vices, or recommend the use of contraceptives.

21 (2) SCOPE OF PRENATAL AND POSTPARTUM
22 HEALTH CARE.—The Secretary may establish limita-
23 tions on the expenditure of a grant under section 2
24 to provide prenatal and postpartum health care
25 under subsection (a)(3), including limitations on the

1 amount of the grant that may be expended for such
2 care and limitations on the type or extent of services
3 that may be provided with the grant.

4 (3) OTHER ASSISTANCE.—The Secretary may,
5 subject to subsection (b)(2), authorize a State to
6 permit programs under subsection (a) to expend the
7 grant under section 2 to provide food, clothing, and
8 furniture for infants of eligible individuals, subject
9 to the infants being under 12 months of age.

10 (d) ADMINISTRATION OF PROGRAMS THROUGH CON-
11 TRACTS WITH ENTITIES WITH NO ABORTION-RELATED
12 HISTORY; OTHER ABORTION-RELATED RESTRICTIONS.—
13 A grant precondition under section 2 is that the State in-
14 volved agree that programs under subsection (a) will be
15 operated in accordance with the following:

16 (1) The State will enter into contracts with one
17 or more nonprofit private entities under which such
18 entities have the principal responsibility for operat-
19 ing such programs and acting as prime contractors
20 on behalf of the State.

21 (2) An entity will not receive such a contract if,
22 during the five-year period preceding the date on
23 which the entity applies to receive the contract, the
24 entity performed or made referrals for abortions, or
25 provided or made referrals for information, edu-

1 cation, or counseling that presented abortion as a
2 pregnancy-management option.

3 (3) An entity will not receive such a contract
4 unless the entity is physically, legally, and financially
5 separate from entities that, during the five-year pe-
6 riod referred to in paragraph (2), performed or
7 made referrals for abortions, or provided or made re-
8 ferrals for information, education, or counseling that
9 presented abortion as a pregnancy-management op-
10 tion.

11 (4) The State will permit entities receiving such
12 contracts to carry out such programs directly and
13 through entering into contracts with subcontractors.

14 (5) Paragraphs (2) and (3) apply to a person
15 applying to serve as such a subcontractor to the
16 same extent and in the same manner as the para-
17 graphs apply to entities serving as the prime con-
18 tractors.

19 (6) A person will not receive a subcontract to
20 provide any service under such a program unless the
21 person has not less than one year of experience in
22 providing the service.

23 (e) MISCELLANEOUS PROVISIONS.—A grant pre-
24 condition under section 2 is that the State involved agree

1 that programs under subsection (a) will be operated in ac-
2 cordance with the following:

3 (1) The programs will provide information to
4 the public on the availability of the services of the
5 program, including providing information through
6 the establishment and operation of toll-free tele-
7 communications.

8 (2) With respect to the expenditure of the grant
9 pursuant to subsection (b)(2), the grant will not be
10 expended to make payment for a service of the pro-
11 gram that is provided to an eligible individual to the
12 extent that payment has been made, or can reason-
13 ably be expected to be made, with respect to the
14 service—

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) For the fiscal year in which a program is
21 established and for the two subsequent fiscal years,
22 there will be no limit on the amount of the grant
23 that may be expended for administrative expenses.
24 For all other fiscal years, the program will not ex-
25 pend the grant for administrative expenses in excess

1 of an amount equal to 15 percent of the grant made
2 to the State for the fiscal year.

3 (4)(A) Providers of services in the program will
4 be reimbursed (as applicable) \$10 for every 10 min-
5 utes of counseling for eligible individuals; \$10 for
6 every 10 minutes of referral time spent on behalf of
7 such individuals; \$20 per class per hour of instruc-
8 tion taught to such individuals; \$10 for each self-ad-
9 ministered pregnancy test kit provided to such indi-
10 viduals; and \$10 for every pantry visit where such
11 individuals receive free food, clothing, or furniture
12 for their infants.

13 (B) For fiscal year 2000 and subsequent fiscal
14 years, each of the dollar amounts specified in sub-
15 paragraph (A) will be adjusted to offset the effects
16 of inflation occurring after the beginning of fiscal
17 year 1999.

18 (5) The programs will not expend the grant—

19 (A) to provide inpatient hospital services;

20 (B) to makes cash payments to intended
21 recipients of services;

22 (C) to purchase or improve land, purchase,
23 construct, or permanently improve (other than
24 minor remodeling) any building or other facil-
25 ity; or

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

4 **SEC. 4. SERVICES PROVIDED BY RELIGIOUS ORGANIZA-**
5 **TIONS.**

6 (a) IN GENERAL.—With respect to contracts under
7 section 3(d) (relating to entities that will carry out pro-
8 grams under section 3(a)), a State may award such con-
9 tracts to religious organizations that meet the criteria
10 under section 3(d) for receiving such awards.

11 (b) RELIGIOUS ORGANIZATIONS.—The purpose of
12 this section is to allow States to contract with religious
13 organizations under section 3(d) on the same basis as any
14 other nongovernmental provider without impairing the re-
15 ligious character of such organizations, and without di-
16 minishing the religious freedom of beneficiaries of assist-
17 ance funded under such program.

18 (c) NONDISCRIMINATION AGAINST RELIGIOUS ORGA-
19 NIZATIONS.—In the event a State exercises its authority
20 under subsection (a), religious organizations are eligible
21 for contracts under section 3(d) on the same basis as any
22 other nonprofit private entity as long as the programs are
23 implemented consistent with the Establishment Clause of
24 the United States Constitution. Except as provided in sub-
25 section (k), neither the Federal Government nor a State

1 receiving a grant under section 2 shall discriminate
2 against an organization that is or applies to be a contrac-
3 tor under section 3(d) on the basis that the organization
4 has a religious character.

5 (d) RELIGIOUS CHARACTER AND FREEDOM.—

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

12 (2) ADDITIONAL SAFEGUARDS.—Neither the
13 Federal Government nor a State receiving a grant
14 under section 2 shall require a religious organiza-
15 tion—

16 (A) to alter its form of internal govern-
17 ance; or

18 (B) to remove religious art, icons, scrip-
19 ture, or other symbols;

20 in order to be eligible for a contract under section
21 3(d).

22 (e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

23 (1) IN GENERAL.—If an individual described in
24 paragraph (2) has an objection to the religious char-
25 acter of the organization from which the individual

1 receives services pursuant to a contract under sec-
2 tion 3(d), a State receiving a grant under section 2
3 shall provide such individual (if an eligible individual
4 under section 3(b)), within a reasonable period of
5 time after the date of such objection, with services
6 from an alternative provider that is accessible to the
7 individual and the value of which is not less than the
8 value of the services that the individual would have
9 received from such organization.

10 (2) INDIVIDUAL DESCRIBED.—An individual de-
11 scribed in this paragraph is an individual who re-
12 ceives, applies for, or requests to apply for, services
13 under a program under section 3(a).

14 (f) EMPLOYMENT PRACTICES.—A religious organiza-
15 tion's exemption provided under section 702 of the Civil
16 Rights Act of 1964 (42 U.S.C. 2000e–1a) regarding em-
17 ployment practices shall not be affected by the receipt of
18 a contract under section 3(d).

19 (g) NONDISCRIMINATION AGAINST BENE-
20 FICIARIES.—Except as otherwise provided in law, a reli-
21 gious organization shall not discriminate against an indi-
22 vidual in regard to providing services under section 3(a)
23 on the basis of religion, a religious belief, or refusal to
24 actively participate in a religious practice.

25 (h) FISCAL ACCOUNTABILITY.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), any religious organization receiving a con-
3 tract under section 3(d) shall be subject to the same
4 regulations as other contractors to account in accord
5 with generally accepted auditing principles for the
6 expenditure of a grant under section 2.

7 (2) LIMITED AUDIT.—If such organization seg-
8 regates funds received from a grant under section 2
9 into separate accounts, then only services provided
10 with such funds shall be subject to audit.

11 (i) COMPLIANCE.—Any party seeking to enforce its
12 rights under this section may commence a civil action for
13 injunctive relief exclusively in an appropriate State court
14 against the entity or agency that allegedly committed such
15 violation.

16 (j) LIMITATIONS ON USE OF FUNDS FOR CERTAIN
17 PURPOSES.—A grant under section 2 may not be ex-
18 pended for sectarian worship, instruction, or proselytiza-
19 tion.

20 (k) PREEMPTION.—Nothing in this section shall be
21 construed to preempt any provision of a State constitution
22 or State statute that prohibits or restricts the expenditure
23 of State funds in or by religious organizations.

24 (l) SUBCONTRACTORS.—This section applies to
25 awards under section 3(d) made by prime contractors to

1 subcontractors to the same extent and in the same manner
2 as this section applies to awards under such section by
3 States to prime contractors.

4 **SEC. 5. STATE APPLICATION FOR GRANT.**

5 For purposes of section 2, an application for a grant
6 under such section for a fiscal year is in accordance with
7 this section if—

8 (1) the State involved submits the application
9 not later than the date specified by the Secretary;

10 (2) the application demonstrates compliance
11 with the grant preconditions specified in section 3;
12 and

13 (3) the application is in such form, is made in
14 such manner, and contains such agreements, assur-
15 ances, and information as the Secretary determines
16 to be necessary to carry out this Act.

17 **SEC. 6. DETERMINATION OF AMOUNT OF STATE ALLOT-**
18 **MENT.**

19 For purposes of section 2, the allotment determined
20 under this section for a State for a fiscal year is the prod-
21 uct of—

22 (1) the amount available under section 10 for
23 the fiscal year; and

24 (2) the percentage constituted by the ratio of—

25 (A) a number equal to the sum of—

1 (i) the number of children born in the
2 State to women who were not married to
3 the fathers of the children at the time of
4 the births of the children; and

5 (ii) the number of abortions per-
6 formed in the State; to

7 (B) the sum of the respective numbers de-
8 termined under subparagraph (A) for all States.

9 **SEC. 7. BIENNIAL REPORTS TO CONGRESS.**

10 The Secretary shall submit to the Congress periodic
11 reports on the programs carried out under section 3(a).
12 The first report shall be submitted not later than Feb-
13 ruary 1, 2000, and subsequent reports shall be submitted
14 biennially thereafter.

15 **SEC. 8. DEFINITIONS.**

16 For purposes of this Act:

17 (1)(A) The term “administrative expenses”,
18 with respect to programs under section 3(a), means
19 expenditures for costs associated with administering
20 such programs, including salaries, taxes, benefits,
21 job placement costs, postage and shipping costs,
22 travel and lodging, office, rent, telephone and fax
23 costs, insurance and office supplies, professional de-
24 velopment for staff and ongoing legal, accounting,

1 and computer consulting. Such term does not in-
2 clude expenditures for start-up costs or service costs.

3 (B) The term “service costs”, with respect to
4 programs under section 3(a), includes the costs of
5 salaries for technical support, taxes, benefits, job
6 placement costs, professional development and ongo-
7 ing training, educational and informational material
8 for eligible individuals and counselors, program ad-
9 vertising costs, travel for technical support staff,
10 billing and database computer consulting, seminars
11 for counseling training, meetings for recurring pro-
12 gram training, minor equipment purchases for stor-
13 age of files regarding eligible individuals, new pro-
14 gram development, pregnancy test kit reimburse-
15 ment, counseling and referral time, and toll-free re-
16 ferral telephone operations.

17 (C) The term “start-up costs”, with respect to
18 programs under section 3(a), means costs necessary
19 for establishing the programs, including the cost of
20 obtaining furniture, computers and accessories, copy
21 machines, consulting services, telephones, and other
22 office equipment and supplies.

23 (2) The term “grant precondition” has the
24 meaning indicated for such term in section 3(a).

1 (3) The term “Secretary” means the Secretary
2 of Health and Human Services.

3 (4) The term “State” means each of the several
4 States, the District of Columbia, and each of the
5 Commonwealth of Puerto Rico, American Samoa,
6 Guam, the Commonwealth of the Northern Mariana
7 Islands, the Virgin Islands, and the Trust Territory
8 of the Pacific Islands.

9 **SEC. 9. REGULATIONS.**

10 No head of a Federal department or agency other
11 than the Secretary may promulgate regulations to carry
12 out this Act.

13 **SEC. 10. FUNDING.**

14 For the purpose of carrying out this Act, there is au-
15 thorized to be appropriated \$85,000,000 for each of the
16 fiscal years 1999 through 2003.

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