

106TH CONGRESS  
1ST SESSION

# H. R. 2901

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

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 1999

Mr. PITTS (for himself, Mrs. BONO, Mrs. MYRICK, Mrs. EMERSON, Mrs. NORTHUP, Ms. ROS-LEHTINEN, Mrs. CHENOWETH, Mr. DELAY, Mr. CANADY of Florida, Mr. DEMINT, Mr. FLETCHER, Mr. BARCIA, Mr. SMITH of New Jersey, and Mr. GARY MILLER of California) introduced the following bill; which was referred to the Committee on Commerce

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## 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:

1           (1) Women confronted with unplanned or crisis  
2 pregnancy often are left with the impression that  
3 abortion is the only choice that they have in dealing  
4 with their difficult circumstances.

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

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

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

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

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

1           (3) to maximize the effectiveness of this Act by  
 2           providing funds only to those entities and projects  
 3           that have a stated policy of actively promoting child-  
 4           birth instead of abortion and that have experience in  
 5           providing alternative-to-abortion services.

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

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

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

21          (a) IN GENERAL.—Grant funds provided under this  
 22          Act may be expended only for purposes of the establish-  
 23          ment and operation of a State program (carried out pursu-  
 24          ant to contracts under subsection (c)) designed to provide

1 alternative-to-abortion services (as defined in section 9) to  
2 eligible individuals as described in subsection (b).

3 (b) ELIGIBLE INDIVIDUALS.—

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

7 (A) the individual is pregnant (or has rea-  
8 sonable grounds to believe she may be preg-  
9 nant);

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

13 (C) the individual is the spouse or other  
14 partner of an individual described in subpara-  
15 graph (A) or (B).

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

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

22 (B) will not impose a charge on any eligi-  
23 ble individual from a low-income family except  
24 to the extent that payment will be made by a  
25 third party (including a government agency)

1           that is authorized or is under legal obligation to  
2           pay such charge.

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

9           (1) ESTABLISHMENT AND OPERATION OF PRO-  
10 GRAM.—

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

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

24           (C) EXPENDITURES OF GRANT.—The  
25 prime contractor shall be authorized to expend

1 funds to administer the State program, reim-  
2 burse service providers, and to provide addi-  
3 tional supportive services to assist such pro-  
4 viders in providing alternative-to-abortion serv-  
5 ices to eligible individuals consistent with the  
6 purposes of this Act, including but not limited  
7 to providing for a toll-free referral system, ad-  
8 vertising of alternative-to-abortion services, pur-  
9 chase of educational materials, and grants for  
10 new sites and new project development.

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

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

19 (i) for the five-year period preceding  
20 the date on which the entity applies to re-  
21 ceive the contract, it has been engaged pri-  
22 marily in the provision of core services or  
23 it has operated a project that provides  
24 such services;

(ii) it already serves as a prime contractor pursuant to a State appropriation designed to fund alternative-to-abortion services; or

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

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

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

(ii) its project has been providing alternative-to-abortion services to clients for at least one year; and

(iii) its project is physically and financially separate from any entity that advocates, performs, counsels for or refers for abortion.

(G) RESTRICTION.—No prime contractor or service provider project may perform abortion, counsel for or refer for abortion, or advocate abortion.

(2) EXPENDITURES UNDER THE PROGRAM.—

1           (A)   EXPENDITURES    FOR    START-UP  
2           COSTS.—For the first full fiscal year in which  
3           a State program has received grant funds pur-  
4           suant to this Act, the State shall disburse grant  
5           funds to the prime contractor for start-up costs,  
6           not to exceed 10 percent of the amount of the  
7           total grant made to the State for that fiscal  
8           year.

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

21          (C)   EXPENDITURES    FOR    SERVICE  
22          COSTS.—

23               (i) DISBURSEMENT TO PRIME CON-  
24               TRACTOR FOR SERVICE COSTS.—For each  
25               fiscal year, the State shall disburse to the



1 prime contractor for service costs all re-  
2 maining grant funds not expended on per-  
3 missible administrative or start-up costs.

4 (ii) SERVICE PROVIDER REIMBURSE-  
5 MENT RATES.—The prime contractor shall  
6 reimburse service providers for alternative-  
7 to-abortion services provided to eligible in-  
8 dividuals at the following fee-for-service  
9 rates: \$10 for every 10 minutes of coun-  
10 seling for eligible individuals; \$10 for every  
11 10 minutes of referral time spent; \$20 per  
12 individual per hour of class instruction  
13 provided; \$10 for each self-administered  
14 pregnancy test kit provided; and \$10 for  
15 every pantry visit. For fiscal year 2001  
16 and subsequent fiscal years, each of the  
17 dollar amounts specified in the preceding  
18 sentence shall be adjusted to offset the ef-  
19 fects of inflation occurring after the begin-  
20 ning of fiscal year 2000.

21 (d) ADDITIONAL RESTRICTIONS REGARDING EX-  
22 PENDITURE OF GRANT FUNDS.—A State applying for re-  
23 ceipt of a grant under this Act must provide assurances,  
24 in its grant application, as follows:

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

3           (A) Performing abortion, counseling for or  
4     referring for abortion, or advocating abortion.

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

8           (2) Grant funds may not be expended to make  
9     payment for a service that is provided to an eligible  
10    individual if payment for such service has already  
11    been made, or can reasonably be expected to be  
12    made—

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

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

18           (3) Grant funds may not be expended—

19           (A) to provide inpatient hospital services;

20           (B) to make cash payments to intended re-  
21    cipients 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. 5. SERVICES PROVIDED BY RELIGIOUS ORGANIZA-**  
5 **TIONS.**

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

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

24 (c) RELIGIOUS CHARACTER AND FREEDOM.—

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

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

11                   (A) alter its form of internal governance;

12                   or

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

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

17          (d) EMPLOYMENT PRACTICES.—

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

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

7           (e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

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

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

21          (f) NONDISCRIMINATION AGAINST BENEFICIARIES.—

22          A religious organization shall not discriminate against an  
23          eligible individual in regard to providing alternative-to-  
24          abortion services on the basis of religion, a religious belief,  
25          or refusal to actively participate in a religious practice.

1 (g) FISCAL ACCOUNTABILITY.—

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

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

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

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

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

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

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

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

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

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

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

19 **SEC. 7. DETERMINATION OF AMOUNT OF STATE ALLOT-**  
20 **MENT.**

21       (a) IN GENERAL.—The allotment of funds to be  
22 granted to each State for a fiscal year is to be the State-  
23 calculated percentage of the total amount available under  
24 section 11 for the fiscal year.

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

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

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

12 (c) UNALLOTTED FUNDS FOR FIRST THREE FISCAL  
13 YEARS.—For the first three fiscal years, if excess funds  
14 are available due to the failure of any State to apply for  
15 grant funds under this Act, additional funds shall be allot-  
16 ted to participating States in an amount equal to a per-  
17 centage of the excess funds determined by dividing—

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

22 (2) the number of children born in all partici-  
23 pating States to women who were not married at the  
24 time of the birth plus the number of abortions per-



1       formed in all participating States as last reported by  
2       the Centers for Disease Control and Prevention.

3       (d) UNALLOTTED FUNDS FOR SUBSEQUENT FISCAL  
4 YEARS.—For years subsequent to the first three fiscal  
5 years, if excess funds are available due to the failure of  
6 any State to apply for grant funds under this Act, addi-  
7 tional funds shall be allotted to participating States in an  
8 amount equal to a percentage of the total excess funds  
9 determined by dividing—

10           (1) the amount of service costs expended by an  
11       individual participating State under this Act during  
12       the previous calendar year; by

13           (2) the total amount of service costs expended  
14       by all participating States under this Act during the  
15       previous calendar year.

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

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

22 **SEC. 9. DEFINITIONS.**

23       For purposes of this Act, the following terms shall  
24 have these meanings:

1           “Administrative costs”. Expenditures for costs  
2       associated with administration of the State program  
3       by the prime contractor, including salaries of admin-  
4       istrative office staff, taxes, employee benefits, job  
5       placement costs, postage and shipping costs, travel  
6       and lodging for administrative staff, office rent, tele-  
7       phone and fax costs, insurance and office supplies,  
8       professional development for administrative staff  
9       and ongoing legal, accounting, and computer con-  
10      sulting for the program. Such term does not include  
11      expenditures for start-up costs or service costs.

12           “Alternative-to-abortion services.” Core services  
13      and support services as defined in this section.

14           “Core services.” The provision of information  
15      and counseling that promotes childbirth instead of  
16      abortion and assists pregnant women in making an  
17      informed decision regarding the alternatives of adop-  
18      tion or parenting with respect to their child.

19           “Low-income family.” Such term has the mean-  
20      ing given such term under section 1006(c) of the  
21      Public Health Service Act.

22           “Support services.” Additional services and as-  
23      sistance designed to assist eligible individuals to  
24      carry their child to term and to support eligible indi-  
25      viduals in their parenting or adoption decision.

1       These support services include the provision of (A)  
2       self-administered pregnancy testing; (B) baby food,  
3       maternity and baby clothing, and baby furniture; (C)  
4       information and education, including classes, regard-  
5       ing prenatal care, childbirth, adoption, parenting,  
6       chastity (or abstinence); and (D) referrals for serv-  
7       ices consistent with the purposes of this Act.

8               “Pantry visit.” A visit by an eligible individual  
9       to a service provider during which baby food, mater-  
10      nity or baby clothing, and/or baby furniture are  
11      made available to the individual free of charge.

12              “Referral time.” The time taken to research  
13      and set up an appointment on behalf of an eligible  
14      individual to secure support through a referral.

15              “Referrals.” Action taken on behalf of an eligi-  
16      ble individual to secure additional support from a so-  
17      cial service agency or other entity. Referral may be  
18      for services, items and assistance regarding physical  
19      and mental health (prenatal, postnatal, and  
20      postpartum), food, clothing, housing, education, vo-  
21      cational training, and for other services designed to  
22      assist pregnant women and infants in need.

23              “Secretary.” The Secretary of Health and  
24      Human Services.

1           “Service costs.” Expenditures for costs incurred  
2       by the prime contractor to provide support for serv-  
3       ice provider projects, including salaries for technical  
4       support staff, taxes, employee benefits, job place-  
5       ment costs, professional development and ongoing  
6       training, educational and informational material for  
7       eligible individuals and counselors, advertising costs,  
8       operation of a toll-free referral system, travel for  
9       technical support staff, billing and database com-  
10      puter consulting, seminars for counseling training,  
11      meetings regarding program compliance require-  
12      ments, minor equipment purchases for service pro-  
13      vider projects, new project development, and service  
14      provider reimbursements for alternative-to-abortion  
15      services.

16           “Service provider.” A nongovernmental entity  
17      that operates a service provider project and which  
18      enters into a subcontract with the prime contractor  
19      that provides for the reimbursement for alternative-  
20      to-abortion services provided to eligible individuals.

21           “Service provider project.” A project or pro-  
22      gram operated by a service provider that provides al-  
23      ternative-to-abortion services. All service provider  
24      projects must provide core services and may also  
25      provide support services.

1           “Start-up costs.” Expenditures associated with  
2           the initial establishment of the State program, in-  
3           cluding the cost of obtaining furniture, computers  
4           and accessories, copy machines, consulting services,  
5           telephones, and other office equipment and supplies.

6           “State.” Each of the several States, the Dis-  
7           trict of Columbia, the Commonwealth of Puerto  
8           Rico, American Samoa, Guam, the Commonwealth  
9           of the Northern Mariana Islands, the Virgin Islands,  
10          and the Trust Territory of the Pacific Islands.

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

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

17 **SEC. 11. FUNDING.**

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

21 **SEC. 12. OFFSET.**

22          It is the sense of the House of Representatives that  
23          overall funding for the Department of Health and Human  
24          Services should not be increased under this Act.

○