

# Calendar No. 78

109TH CONGRESS  
1ST SESSION

# S. 844

To expand access to preventive health care services that help reduce unintended pregnancy, reduce the number of abortions, and improve access to women's health care.

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## IN THE SENATE OF THE UNITED STATES

APRIL 19, 2005

Mrs. CLINTON (for herself and Mr. REID) introduced the following bill; which was read the first time

APRIL 20, 2005

Read the second time and placed on the calendar

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## A BILL

To expand access to preventive health care services that help reduce unintended pregnancy, reduce the number of abortions, and improve access to women's health care.

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. TABLE OF CONTENTS.**

4 The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—TITLE X OF PUBLIC HEALTH SERVICE ACT

- Sec. 101. Short title.  
 Sec. 102. Authorization of appropriations.

TITLE II—FAMILY PLANNING STATE EMPOWERMENT

- Sec. 201. Short title.  
 Sec. 202. State option to provide family planning services and supplies to additional low-income individuals.  
 Sec. 203. State option to extend the period of eligibility for provision of family planning services and supplies.

TITLE III—EQUITY IN PRESCRIPTION INSURANCE AND  
 CONTRACEPTIVE COVERAGE

- Sec. 301. Short title.  
 Sec. 302. Amendments to Employee Retirement Income Security Act of 1974.  
 Sec. 303. Amendments to Public Health Service Act relating to the group market.  
 Sec. 304. Amendment to Public Health Service Act relating to the individual market.

TITLE IV—EMERGENCY CONTRACEPTION EDUCATION AND  
 INFORMATION

- Sec. 401. Short title.  
 Sec. 402. Emergency contraception education and information programs.

TITLE V—COMPASSIONATE ASSISTANCE FOR RAPE  
 EMERGENCIES

- Sec. 501. Short title.  
 Sec. 502. Survivors of sexual assault; provision by hospitals of emergency contraceptives without charge.

TITLE VI—TEENAGE PREGNANCY PREVENTION

- Sec. 601. Short title.  
 Sec. 602. Teenage pregnancy prevention.

TITLE VII—ACCURACY OF CONTRACEPTIVE INFORMATION

- Sec. 701. Short title.  
 Sec. 702. Accuracy of contraceptive information.

**1 SEC. 2. FINDINGS.**

**2** The Congress finds as follows:

- 3** (1) Although the Centers for Disease Control  
**4** and Prevention (referred to in this section as the  
**5** “CDC”) included family planning in its published  
**6** list of the Ten Great Public Health Achievements in  
**7** the 20th Century, the United States still has one of

1 the highest rates of unintended pregnancies among  
2 industrialized nations.

3 (2) Each year, 3,000,000 pregnancies, nearly  
4 half of all pregnancies, in the United States are un-  
5 intended, and nearly half of unintended pregnancies  
6 end in abortion.

7 (3) In 2002, 34,000,000 women—half of all  
8 women of reproductive age (ages 15–44)—were in  
9 need of contraceptive services and supplies to help  
10 prevent unintended pregnancy, and half of those  
11 were in need of public support for such care.

12 (4) The United States also has the highest rate  
13 of infection with sexually transmitted diseases of any  
14 industrialized country. In 2003 there were approxi-  
15 mately 19,000,000 new cases of sexually transmitted  
16 diseases. According to the CDC (November 2004),  
17 these sexually transmitted diseases impose a tremen-  
18 dous economic burden with direct medical costs as  
19 high as \$15,500,000,000 per year.

20 (5) Increasing access to family planning serv-  
21 ices will improve women’s health and reduce the  
22 rates of unintended pregnancy, abortion, and infec-  
23 tion with sexually transmitted diseases. Contracep-  
24 tive use saves public health dollars. Every dollar  
25 spent on providing family planning services saves an

1 estimated \$3 in expenditures for pregnancy-related  
2 and newborn care for Medicaid alone.

3 (6) Contraception is basic health care that im-  
4 proves the health of women and children by enabling  
5 women to plan and space births.

6 (7) Women experiencing unintended pregnancy  
7 are at greater risk for physical abuse and women  
8 having closely spaced births are at greater risk of  
9 maternal death.

10 (8) The child born from an unintended preg-  
11 nancy is at greater risk of low birth weight, dying  
12 in the first year of life, being abused, and not receiv-  
13 ing sufficient resources for healthy development.

14 (9) The ability to control fertility also allows  
15 couples to achieve economic stability by facilitating  
16 greater educational achievement and participation in  
17 the workforce.

18 (10) The average American woman desires two  
19 children and spends five years of her life pregnant  
20 or trying to get pregnant and roughly 30 years try-  
21 ing to prevent pregnancy. Without contraception, a  
22 sexually active woman has an 85 percent chance of  
23 becoming pregnant within a year.

24 (11) The percentage of sexually active women  
25 ages 15 through 44 who were not using contracep-

1       tion increased from 5.4 percent to 7.4 percent in  
2       2002, an increase of 37 percent, according to the  
3       CDC. This represents an apparent increase of  
4       1,430,000 women and could raise the rate of unin-  
5       tended pregnancy.

6           (12) Many poor and low-income women cannot  
7       afford to purchase contraceptive services and sup-  
8       plies on their own. 12,100,000 or 20 percent of all  
9       women ages 15 through 24 were uninsured in 2002,  
10      and that proportion has increased by 10 percent  
11      since 1999.

12          (13) Public health programs like Medicaid and  
13      title X (of the Public Health Service Act), the na-  
14      tional family planning program, provide high-quality  
15      family planning services and other preventive health  
16      care to underinsured or uninsured individuals who  
17      may otherwise lack access to health care.

18          (14) Medicaid is the single largest source of  
19      public funding for family planning services and HIV/  
20      AIDS care in the United States. Half of all public  
21      dollars spent on contraceptive services and supplies  
22      in the United States are provided through Medicaid  
23      and approximately 5,500,000 women of reproductive  
24      age—nearly one in 10 women between the ages of

1 15 and 44—rely on Medicaid for their basic health  
2 care needs.

3 (15) Each year, title X services enable Ameri-  
4 cans to prevent approximately 1,000,000 unintended  
5 pregnancies, and one in three women of reproductive  
6 age who obtains testing or treatment for sexually  
7 transmitted diseases does so at a title X-funded clin-  
8 ic. In 2003, title X-funded clinics provided  
9 2,800,000 Pap tests, 5,100,000 sexually transmitted  
10 disease tests, and 526,000 HIV tests.

11 (16) The increasing number of uninsured, stag-  
12 nant funding, health care inflation, new and expen-  
13 sive contraceptive technologies, and improved but ex-  
14 pensive screening and treatment for cervical cancer  
15 and sexually transmitted diseases, have diminished  
16 the ability of title X funded clinics to adequately  
17 serve all those in need. Taking inflation into ac-  
18 count, funding for the title X program declined by  
19 58 percent between 1980 and 2003.

20 (17) While Medicaid remains the largest source  
21 of subsidized family planning services, States are  
22 facing significant budgetary pressures to cut their  
23 Medicaid programs, putting many women at risk of  
24 losing coverage for family planning services.

1           (18) In addition, eligibility for Medicaid in  
2           many States is severely restricted leaving family  
3           planning services financially out of reach for many  
4           poor women. Many States have demonstrated tre-  
5           mendous success with Medicaid family planning  
6           waivers that allow them to expand access to Med-  
7           icaid family planning services. However, the admin-  
8           istrative burden of applying for a waiver poses a sig-  
9           nificant barrier to States that would like to expand  
10          their coverage of family planning programs through  
11          Medicaid.

12          (19) As of January of 2005, 21 States offered  
13          expanded family planning benefits as a result of  
14          Medicaid family planning waivers. The cost-effective-  
15          ness of these waivers was affirmed by a recent eval-  
16          uation funded by the Centers for Medicare & Med-  
17          icaid. This evaluation of six waivers found that all  
18          such programs resulted in significant savings to both  
19          the Federal and State governments. Moreover, the  
20          researchers found measurable reductions in unin-  
21          tended pregnancy.

22          (20) Although employer-sponsored health plans  
23          have improved coverage of contraceptive services and  
24          supplies, largely in response to State contraceptive  
25          coverage laws, there is still significant room for im-

1       provement. The ongoing lack of coverage in health  
2       insurance plans, particularly in self-insured and indi-  
3       vidual plans, continues to place effective forms of  
4       contraception beyond the financial reach of many  
5       women.

6               (21) Including contraceptive coverage in private  
7       health care plans saves employers money. Not cov-  
8       ering contraceptives in employee health plans costs  
9       employers 15 to 17 percent more than providing  
10      such coverage.

11              (22) Approved for use by the Food and Drug  
12      Administration, emergency contraception is a safe  
13      and effective way to prevent unintended pregnancy  
14      after unprotected sex. It is estimated that the use of  
15      emergency contraception could cut the number of  
16      unintended pregnancies in half, thereby reducing the  
17      need for abortion. New research confirms that easier  
18      access to emergency contraceptives does not increase  
19      sexual risk-taking or sexually transmitted diseases.

20              (23) In 2000, 51,000 abortions were prevented  
21      by the use of emergency contraception. Increased  
22      use of emergency contraception accounted for up to  
23      43 percent of the total decline in abortions between  
24      1994 and 2000.

1           (24) A February 2004 CDC study of declining  
2 birth and pregnancy rates among teens concluded  
3 that the reduction in teen pregnancy between 1991  
4 and 2001 suggests that increased abstinence and in-  
5 creased use of contraceptives were equally respon-  
6 sible for the decline. As such, it is critically impor-  
7 tant that teens receive accurate, unbiased informa-  
8 tion about contraception.

9           (25) Thirteen percent of all teens give birth be-  
10 fore age 20. 88 percent of births to teens age 17 or  
11 younger were unintended. 24 percent of Hispanic fe-  
12 males gave birth before the age of 20. (CDC, De-  
13 cember 2004.)

14           (26) The American Medical Association, the  
15 American Nurses Association, the American Acad-  
16 emy of Pediatrics, the American College of Obstetri-  
17 cians and Gynecologists, the American Public Health  
18 Association, and the Society for Adolescent Medi-  
19 cine, support responsible sexuality education that in-  
20 cludes information about both abstinence and con-  
21 traception.

22           (27) Teens who receive sex education that in-  
23 cludes discussion of contraception are more likely  
24 than those who receive abstinence-only messages to

1 delay sex and to have fewer partners and use contra-  
2 ceptives when they do become sexually active.

3 (28) Government-funded abstinence only pro-  
4 grams are precluded from discussing contraception  
5 except to talk about failure rates. A December 2004  
6 review of federally-funded abstinence-only programs  
7 by the United States House of Representatives Com-  
8 mittee on Government Reform (Minority Staff)  
9 found that many federally-funded abstinence-only  
10 program curricula distort public health data and  
11 misrepresent the effectiveness of contraception. In-  
12 formation on the effectiveness of condoms, in pre-  
13 venting pregnancy and sexually transmitted diseases,  
14 including HIV, was often highly inaccurate.

15 **TITLE I—TITLE X OF PUBLIC**  
16 **HEALTH SERVICE ACT**

17 **SEC. 101. SHORT TITLE.**

18 This Act may be cited as the “Title X Family Plan-  
19 ning Services Act of 2005”.

20 **SEC. 102. AUTHORIZATION OF APPROPRIATIONS.**

21 For the purpose of making grants and contracts  
22 under section 1001 of the Public Health Service Act, there  
23 are authorized to be appropriated \$643,000,000 for fiscal  
24 year 2006, and such sums as may be necessary for each  
25 subsequent fiscal year.

1       **TITLE II—FAMILY PLANNING**  
 2       **STATE EMPOWERMENT**

3       **SEC. 201. SHORT TITLE.**

4           This Act may be cited as the “Family Planning State  
 5 Empowerment Act”.

6       **SEC. 202. STATE OPTION TO PROVIDE FAMILY PLANNING**  
 7                   **SERVICES AND SUPPLIES TO ADDITIONAL**  
 8                   **LOW-INCOME INDIVIDUALS.**

9           (a) IN GENERAL.—Title XIX of the Social Security  
 10 Act (42 U.S.C. 1396 et seq.) is amended—

11                   (1) by redesignating section 1936 as section  
 12                   1937; and

13                   (2) by inserting after section 1935 the fol-  
 14                   lowing:

15       “STATE OPTION TO PROVIDE FAMILY PLANNING SERV-  
 16       ICES AND SUPPLIES TO ADDITIONAL LOW-INCOME  
 17       INDIVIDUALS

18       “SEC. 1936.

19       “(a) IN GENERAL.—A State may elect (through a  
 20 State plan amendment) to make medical assistance de-  
 21 scribed in section 1905(a)(4)(C) available to any indi-  
 22 vidual not otherwise eligible for such assistance—

23                   “(1) whose family income does not exceed an  
 24                   income level (specified by the State) that does not  
 25                   exceed the greatest of—

1           “(A) 200 percent of the income official  
2 poverty line (as defined by the Office of Man-  
3 agement and Budget, and revised annually in  
4 accordance with section 673(2) of the Commu-  
5 nity Services Block Grant Act) applicable to a  
6 family of the size involved;

7           “(B) in the case of a State that has in ef-  
8 fect (as of the date of the enactment of this sec-  
9 tion) a waiver under section 1115 to provide  
10 such medical assistance to individuals based on  
11 their income level (expressed as a percent of the  
12 poverty line), the eligibility income level as pro-  
13 vided under such waiver; or

14           “(C) the eligibility income level (expressed  
15 as a percent of such poverty line) that has been  
16 specified under the plan (including under sec-  
17 tion 1902(r)(2)), for eligibility of pregnant  
18 women for medical assistance; and

19           “(2) at the option of the State, whose resources  
20 do not exceed a resource level specified by the State,  
21 which level is not more restrictive than the resource  
22 level applicable under the waiver described in para-  
23 graph (1)(B) or to pregnant women under para-  
24 graph (1)(C).

1       “(b) FLEXIBILITY.—A State may exercise the au-  
2       thority under subsection (a) with respect to one or more  
3       classes of individuals described in such subsection.”.

4       (b) CONFORMING AMENDMENT.—Section 1905(a) of  
5       such Act (42 U.S.C. 1396d(a)) is amended, in the matter  
6       before paragraph (1)—

7             (1) by striking “and” at the end of clause (xii);

8             (2) by adding “and” at the end of clause (xiii);

9       and

10            (3) by inserting after clause (xiii) the following  
11       new clause:

12            “(xiv) individuals described in section 1935, but  
13       only with respect to items and services described in  
14       paragraph (4)(C),”.

15       (c) EFFECTIVE DATE.—The amendments made by  
16       this section apply to medical assistance provided on and  
17       after October 1, 2005.

18       **SEC. 203. STATE OPTION TO EXTEND THE PERIOD OF ELIGI-**  
19                           **BILITY FOR PROVISION OF FAMILY PLAN-**  
20                           **NING SERVICES AND SUPPLIES.**

21       (a) IN GENERAL.—Section 1902(e) of the Social Se-  
22       curity Act (42 U.S.C. 1396a(e)) is amended by adding at  
23       the end the following new paragraph:

24            “(13) At the option of a State, the State plan may  
25       provide that, in the case of an individual who was eligible

1 for medical assistance described in section 1905(a)(4)(C),  
 2 but who no longer qualifies for such assistance because  
 3 of an increase in income or resources or because of the  
 4 expiration of a post-partum period, the individual may re-  
 5 main eligible for such assistance for such period as the  
 6 State may specify, but the period of extended eligibility  
 7 under this paragraph shall not exceed a continuous period  
 8 of 24 months for any individual. The State may apply the  
 9 previous sentence to one or more classes of individuals and  
 10 may vary the period of extended eligibility with respect  
 11 to different classes of individuals.”.

12 (b) EFFECTIVE DATE.—The amendments made by  
 13 subsection (a) apply to medical assistance provided on and  
 14 after October 1, 2005.

15 **TITLE III—EQUITY IN PRESCRIP-**  
 16 **TION INSURANCE AND CON-**  
 17 **TRACEPTIVE COVERAGE**

18 **SEC. 301. SHORT TITLE.**

19 This Act may be cited as the “Equity in Prescription  
 20 Insurance and Contraceptive Coverage Act”.

21 **SEC. 302. AMENDMENTS TO EMPLOYEE RETIREMENT IN-**  
 22 **COME SECURITY ACT OF 1974.**

23 (a) IN GENERAL.—Subpart B of part 7 of subtitle  
 24 B of title I of the Employee Retirement Income Security

1 Act of 1974 (29 U.S.C. 1185 et seq.) is amended by add-  
2 ing at the end the following:

3 **“SEC. 714. STANDARDS RELATING TO BENEFITS FOR CON-**  
4 **TRACEPTIVES.**

5 “(a) REQUIREMENTS FOR COVERAGE.—A group  
6 health plan, and a health insurance issuer providing health  
7 insurance coverage in connection with a group health plan,  
8 may not—

9 “(1) exclude or restrict benefits for prescription  
10 contraceptive drugs or devices approved by the Food  
11 and Drug Administration, or generic equivalents ap-  
12 proved as substitutable by the Food and Drug Ad-  
13 ministration, if such plan or coverage provides bene-  
14 fits for other outpatient prescription drugs or de-  
15 vices; or

16 “(2) exclude or restrict benefits for outpatient  
17 contraceptive services if such plan or coverage pro-  
18 vides benefits for other outpatient services provided  
19 by a health care professional (referred to in this sec-  
20 tion as ‘outpatient health care services’).

21 “(b) PROHIBITIONS.—A group health plan, and a  
22 health insurance issuer providing health insurance cov-  
23 erage in connection with a group health plan, may not—

24 “(1) deny to an individual eligibility, or contin-  
25 ued eligibility, to enroll or to renew coverage under

1 the terms of the plan because of the individual’s or  
2 enrollee’s use or potential use of items or services  
3 that are covered in accordance with the requirements  
4 of this section;

5 “(2) provide monetary payments or rebates to  
6 a covered individual to encourage such individual to  
7 accept less than the minimum protections available  
8 under this section;

9 “(3) penalize or otherwise reduce or limit the  
10 reimbursement of a health care professional because  
11 such professional prescribed contraceptive drugs or  
12 devices, or provided contraceptive services, described  
13 in subsection (a), in accordance with this section; or

14 “(4) provide incentives (monetary or otherwise)  
15 to a health care professional to induce such profes-  
16 sional to withhold from a covered individual contra-  
17 ceptive drugs or devices, or contraceptive services,  
18 described in subsection (a).

19 “(c) RULES OF CONSTRUCTION.—

20 “(1) IN GENERAL.—Nothing in this section  
21 shall be construed—

22 “(A) as preventing a group health plan  
23 and a health insurance issuer providing health  
24 insurance coverage in connection with a group  
25 health plan from imposing deductibles, coinsur-

1           ance, or other cost-sharing or limitations in re-  
2           lation to—

3                   “(i) benefits for contraceptive drugs  
4                   under the plan or coverage, except that  
5                   such a deductible, coinsurance, or other  
6                   cost-sharing or limitation for any such  
7                   drug shall be consistent with those imposed  
8                   for other outpatient prescription drugs oth-  
9                   erwise covered under the plan or coverage;

10                   “(ii) benefits for contraceptive devices  
11                   under the plan or coverage, except that  
12                   such a deductible, coinsurance, or other  
13                   cost-sharing or limitation for any such de-  
14                   vice shall be consistent with those imposed  
15                   for other outpatient prescription devices  
16                   otherwise covered under the plan or cov-  
17                   erage; and

18                   “(iii) benefits for outpatient contra-  
19                   ceptive services under the plan or coverage,  
20                   except that such a deductible, coinsurance,  
21                   or other cost-sharing or limitation for any  
22                   such service shall be consistent with those  
23                   imposed for other outpatient health care  
24                   services otherwise covered under the plan  
25                   or coverage;

1           “(B) as requiring a group health plan and  
2           a health insurance issuer providing health in-  
3           surance coverage in connection with a group  
4           health plan to cover experimental or investiga-  
5           tional contraceptive drugs or devices, or experi-  
6           mental or investigational contraceptive services,  
7           described in subsection (a), except to the extent  
8           that the plan or issuer provides coverage for  
9           other experimental or investigational outpatient  
10          prescription drugs or devices, or experimental  
11          or investigational outpatient health care serv-  
12          ices; or

13           “(C) as modifying, diminishing, or limiting  
14          the rights or protections of an individual under  
15          any other Federal law.

16          “(2) LIMITATIONS.—As used in paragraph (1),  
17          the term ‘limitation’ includes—

18           “(A) in the case of a contraceptive drug or  
19           device, restricting the type of health care pro-  
20           fessionals that may prescribe such drugs or de-  
21           vices, utilization review provisions, and limits on  
22           the volume of prescription drugs or devices that  
23           may be obtained on the basis of a single con-  
24           sultation with a professional; or

1           “(B) in the case of an outpatient contra-  
2           ceptive service, restricting the type of health  
3           care professionals that may provide such serv-  
4           ices, utilization review provisions, requirements  
5           relating to second opinions prior to the coverage  
6           of such services, and requirements relating to  
7           preauthorizations prior to the coverage of such  
8           services.

9           “(d) NOTICE UNDER GROUP HEALTH PLAN.—The  
10          imposition of the requirements of this section shall be  
11          treated as a material modification in the terms of the plan  
12          described in section 102(a)(1), for purposes of assuring  
13          notice of such requirements under the plan, except that  
14          the summary description required to be provided under the  
15          last sentence of section 104(b)(1) with respect to such  
16          modification shall be provided by not later than 60 days  
17          after the first day of the first plan year in which such  
18          requirements apply.

19          “(e) PREEMPTION.—Nothing in this section shall be  
20          construed to preempt any provision of State law to the  
21          extent that such State law establishes, implements, or con-  
22          tinues in effect any standard or requirement that provides  
23          coverage or protections for participants or beneficiaries  
24          that are greater than the coverage or protections provided  
25          under this section.

1       “(f) DEFINITION.—In this section, the term ‘out-  
 2 patient contraceptive services’ means consultations, exami-  
 3 nations, procedures, and medical services, provided on an  
 4 outpatient basis and related to the use of contraceptive  
 5 methods (including natural family planning) to prevent an  
 6 unintended pregnancy.”.

7       (b) CLERICAL AMENDMENT.—The table of contents  
 8 in section 1 of the Employee Retirement Income Security  
 9 Act of 1974 (29 U.S.C. 1001) is amended by inserting  
 10 after the item relating to section 713 the following:

“Sec. 714. Standards relating to benefits for contraceptives.”.

11       (c) EFFECTIVE DATE.—The amendments made by  
 12 this section shall apply with respect to plan years begin-  
 13 ning on or after January 1, 2006.

14 **SEC. 303. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT**  
 15 **RELATING TO THE GROUP MARKET.**

16       (a) IN GENERAL.—Subpart 2 of part A of title  
 17 XXVII of the Public Health Service Act (42 U.S.C.  
 18 300gg–4 et seq.) is amended by adding at the end the  
 19 following:

20 **“SEC. 2707. STANDARDS RELATING TO BENEFITS FOR CON-**  
 21 **TRACEPTIVES.**

22       “(a) REQUIREMENTS FOR COVERAGE.—A group  
 23 health plan, and a health insurance issuer providing health  
 24 insurance coverage in connection with a group health plan,  
 25 may not—

1           “(1) exclude or restrict benefits for prescription  
2           contraceptive drugs or devices approved by the Food  
3           and Drug Administration, or generic equivalents ap-  
4           proved as substitutable by the Food and Drug Ad-  
5           ministration, if such plan or coverage provides bene-  
6           fits for other outpatient prescription drugs or de-  
7           vices; or

8           “(2) exclude or restrict benefits for outpatient  
9           contraceptive services if such plan or coverage pro-  
10          vides benefits for other outpatient services provided  
11          by a health care professional (referred to in this sec-  
12          tion as ‘outpatient health care services’).

13          “(b) PROHIBITIONS.—A group health plan, and a  
14          health insurance issuer providing health insurance cov-  
15          erage in connection with a group health plan, may not—

16               “(1) deny to an individual eligibility, or contin-  
17               ued eligibility, to enroll or to renew coverage under  
18               the terms of the plan because of the individual’s or  
19               enrollee’s use or potential use of items or services  
20               that are covered in accordance with the requirements  
21               of this section;

22               “(2) provide monetary payments or rebates to  
23               a covered individual to encourage such individual to  
24               accept less than the minimum protections available  
25               under this section;

1           “(3) penalize or otherwise reduce or limit the  
2 reimbursement of a health care professional because  
3 such professional prescribed contraceptive drugs or  
4 devices, or provided contraceptive services, described  
5 in subsection (a), in accordance with this section; or

6           “(4) provide incentives (monetary or otherwise)  
7 to a health care professional to induce such profes-  
8 sional to withhold from covered individual contracep-  
9 tive drugs or devices, or contraceptive services, de-  
10 scribed in subsection (a).

11       “(c) RULES OF CONSTRUCTION.—

12           “(1) IN GENERAL.—Nothing in this section  
13 shall be construed—

14           “(A) as preventing a group health plan  
15 and a health insurance issuer providing health  
16 insurance coverage in connection with a group  
17 health plan from imposing deductibles, coinsur-  
18 ance, or other cost-sharing or limitations in re-  
19 lation to—

20           “(i) benefits for contraceptive drugs  
21 under the plan or coverage, except that  
22 such a deductible, coinsurance, or other  
23 cost-sharing or limitation for any such  
24 drug shall be consistent with those imposed

1 for other outpatient prescription drugs oth-  
2 erwise covered under the plan or coverage;

3 “(ii) benefits for contraceptive devices  
4 under the plan or coverage, except that  
5 such a deductible, coinsurance, or other  
6 cost-sharing or limitation for any such de-  
7 vice shall be consistent with those imposed  
8 for other outpatient prescription devices  
9 otherwise covered under the plan or cov-  
10 erage; and

11 “(iii) benefits for outpatient contra-  
12 ceptive services under the plan or coverage,  
13 except that such a deductible, coinsurance,  
14 or other cost-sharing or limitation for any  
15 such service shall be consistent with those  
16 imposed for other outpatient health care  
17 services otherwise covered under the plan  
18 or coverage;

19 “(B) as requiring a group health plan and  
20 a health insurance issuer providing health in-  
21 surance coverage in connection with a group  
22 health plan to cover experimental or investiga-  
23 tional contraceptive drugs or devices, or experi-  
24 mental or investigational contraceptive services,  
25 described in subsection (a), except to the extent

1 that the plan or issuer provides coverage for  
2 other experimental or investigational outpatient  
3 prescription drugs or devices, or experimental  
4 or investigational outpatient health care serv-  
5 ices; or

6 “(C) as modifying, diminishing, or limiting  
7 the rights or protections of an individual under  
8 any other Federal law.

9 “(2) LIMITATIONS.—As used in paragraph (1),  
10 the term ‘limitation’ includes—

11 “(A) in the case of a contraceptive drug or  
12 device, restricting the type of health care pro-  
13 fessionals that may prescribe such drugs or de-  
14 vices, utilization review provisions, and limits on  
15 the volume of prescription drugs or devices that  
16 may be obtained on the basis of a single con-  
17 sultation with a professional; or

18 “(B) in the case of an outpatient contra-  
19 ceptive service, restricting the type of health  
20 care professionals that may provide such serv-  
21 ices, utilization review provisions, requirements  
22 relating to second opinions prior to the coverage  
23 of such services, and requirements relating to  
24 preauthorizations prior to the coverage of such  
25 services.

1       “(d) NOTICE.—A group health plan under this part  
2 shall comply with the notice requirement under section  
3 714(d) of the Employee Retirement Income Security Act  
4 of 1974 with respect to the requirements of this section  
5 as if such section applied to such plan.

6       “(e) PREEMPTION.—Nothing in this section shall be  
7 construed to preempt any provision of State law to the  
8 extent that such State law establishes, implements, or con-  
9 tinues in effect any standard or requirement that provides  
10 coverage or protections for enrollees that are greater than  
11 the coverage or protections provided under this section.

12       “(f) DEFINITION.—In this section, the term ‘out-  
13 patient contraceptive services’ means consultations, exami-  
14 nations, procedures, and medical services, provided on an  
15 outpatient basis and related to the use of contraceptive  
16 methods (including natural family planning) to prevent an  
17 unintended pregnancy.”.

18       (b) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply with respect to group health plans  
20 for plan years beginning on or after January 1, 2006.

21 **SEC. 304. AMENDMENT TO PUBLIC HEALTH SERVICE ACT**  
22 **RELATING TO THE INDIVIDUAL MARKET.**

23       (a) IN GENERAL.—Part B of title XXVII of the Pub-  
24 lic Health Service Act (42 U.S.C. 300gg–41 et seq.) is  
25 amended—

1 (1) by redesignating the first subpart 3 (relat-  
2 ing to other requirements) as subpart 2; and

3 (2) by adding at the end of subpart 2 the fol-  
4 lowing:

5 **“SEC. 2753. STANDARDS RELATING TO BENEFITS FOR CON-**  
6 **TRACEPTIVES.**

7 “The provisions of section 2707 shall apply to health  
8 insurance coverage offered by a health insurance issuer  
9 in the individual market in the same manner as they apply  
10 to health insurance coverage offered by a health insurance  
11 issuer in connection with a group health plan in the small  
12 or large group market.”.

13 (b) EFFECTIVE DATE.—The amendment made by  
14 this section shall apply with respect to health insurance  
15 coverage offered, sold, issued, renewed, in effect, or oper-  
16 ated in the individual market on or after January 1, 2006.

17 **TITLE IV—EMERGENCY CONTRA-**  
18 **CEPTION EDUCATION AND IN-**  
19 **FORMATION**

20 **SEC. 401. SHORT TITLE.**

21 This Act may be cited as the “Emergency Contracep-  
22 tion Education Act”.

23 **SEC. 402. EMERGENCY CONTRACEPTION EDUCATION AND**  
24 **INFORMATION PROGRAMS.**

25 (a) DEFINITIONS.—For purposes of this section:

1           (1) EMERGENCY CONTRACEPTION.—The term  
2 “emergency contraception” means a drug or device  
3 (as the terms are defined in section 201 of the Fed-  
4 eral Food, Drug, and Cosmetic Act (21 U.S.C. 321))  
5 or a drug regimen that is—

6                   (A) used after sexual relations;

7                   (B) prevents pregnancy, by preventing ovu-  
8 lation, fertilization of an egg, or implantation of  
9 an egg in a uterus; and

10                  (C) approved by the Food and Drug Ad-  
11 ministration.

12           (2) HEALTH CARE PROVIDER.—The term  
13 “health care provider” means an individual who is li-  
14 censed or certified under State law to provide health  
15 care services and who is operating within the scope  
16 of such license.

17           (3) INSTITUTION OF HIGHER EDUCATION.—The  
18 term “institution of higher education” has the same  
19 meaning given such term in section 1201(a) of the  
20 Higher Education Act of 1965 (20 U.S.C. 1141(a)).

21           (4) SECRETARY.—The term “Secretary” means  
22 the Secretary of Health and Human Services.

23           (b) EMERGENCY CONTRACEPTION PUBLIC EDU-  
24 CATION PROGRAM.—

1           (1) IN GENERAL.—The Secretary, acting  
2 through the Director of the Centers for Disease  
3 Control and Prevention, shall develop and dissemi-  
4 nate to the public information on emergency contra-  
5 ception.

6           (2) DISSEMINATION.—The Secretary may dis-  
7 seminate information under paragraph (1) directly  
8 or through arrangements with nonprofit organiza-  
9 tions, consumer groups, institutions of higher edu-  
10 cation, Federal, State, or local agencies, clinics and  
11 the media.

12           (3) INFORMATION.—The information dissemi-  
13 nated under paragraph (1) shall include, at a min-  
14 imum, a description of emergency contraception, and  
15 an explanation of the use, safety, efficacy, and avail-  
16 ability of such contraception.

17           (c) EMERGENCY CONTRACEPTION INFORMATION  
18 PROGRAM FOR HEALTH CARE PROVIDERS.—

19           (1) IN GENERAL.—The Secretary, acting  
20 through the Administrator of the Health Resources  
21 and Services Administration and in consultation  
22 with major medical and public health organizations,  
23 shall develop and disseminate to health care pro-  
24 viders information on emergency contraception.

1           (2) INFORMATION.—The information dissemi-  
2           nated under paragraph (1) shall include, at a min-  
3           imum—

4                   (A) information describing the use, safety,  
5                   efficacy and availability of emergency contra-  
6                   ception;

7                   (B) a recommendation regarding the use of  
8                   such contraception in appropriate cases; and

9                   (C) information explaining how to obtain  
10                  copies of the information developed under sub-  
11                  section (b), for distribution to the patients of  
12                  the providers.

13           (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
14           authorized to be appropriated to carry out this section  
15           \$10,000,000 for each of the fiscal years 2006 through  
16           2010.

17 **TITLE V—COMPASSIONATE AS-**  
18 **SISTANCE FOR RAPE EMER-**  
19 **GENCIES**

20 **SEC. 501. SHORT TITLE.**

21           This Act may be cited as the “Compassionate Assist-  
22           ance for Rape Emergencies Act”.

1 **SEC. 502. SURVIVORS OF SEXUAL ASSAULT; PROVISION BY**  
2 **HOSPITALS OF EMERGENCY CONTRACEP-**  
3 **TIVES WITHOUT CHARGE.**

4 (a) IN GENERAL.—Federal funds may not be pro-  
5 vided to a hospital under any health-related program, un-  
6 less the hospital meets the conditions specified in sub-  
7 section (b) in the case of—

8 (1) any woman who presents at the hospital  
9 and states that she is a victim of sexual assault, or  
10 is accompanied by someone who states she is a vic-  
11 tim of sexual assault; and

12 (2) any woman who presents at the hospital  
13 whom hospital personnel have reason to believe is a  
14 victim of sexual assault.

15 (b) ASSISTANCE FOR VICTIMS.—The conditions spec-  
16 ified in this subsection regarding a hospital and a woman  
17 described in subsection (a) are as follows:

18 (1) The hospital promptly provides the woman  
19 with medically and factually accurate and unbiased  
20 written and oral information about emergency con-  
21 traception, including information explaining that—

22 (A) emergency contraception does not  
23 cause an abortion; and

24 (B) emergency contraception is effective in  
25 most cases in preventing pregnancy after un-  
26 protected sex.

1           (2) The hospital promptly offers emergency  
2           contraception to the woman, and promptly provides  
3           such contraception to her on her request.

4           (3) The information provided pursuant to para-  
5           graph (1) is in clear and concise language, is readily  
6           comprehensible, and meets such conditions regarding  
7           the provision of the information in languages other  
8           than English as the Secretary may establish.

9           (4) The services described in paragraphs (1)  
10          through (3) are not denied because of the inability  
11          of the woman or her family to pay for the services.

12          (c) DEFINITIONS.—For purposes of this section:

13           (1) The term “emergency contraception” means  
14          a drug, drug regimen, or device that—

15                   (A) is used postcoitally;

16                   (B) prevents pregnancy by delaying ovula-  
17                   tion, preventing fertilization of an egg, or pre-  
18                   venting implantation of an egg in a uterus; and

19                   (C) is approved by the Food and Drug Ad-  
20                   ministration.

21          (2) The term “hospital” has the meanings given  
22          such term in title XVIII of the Social Security Act,  
23          including the meaning applicable in such title for  
24          purposes of making payments for emergency services

1 to hospitals that do not have agreements in effect  
2 under such title.

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

5 (4) The term “sexual assault” means coitus in  
6 which the woman involved does not consent or lacks  
7 the legal capacity to consent.

8 (d) EFFECTIVE DATE; AGENCY CRITERIA.—This sec-  
9 tion takes effect upon the expiration of the 180-day period  
10 beginning on the date of enactment of this Act. Not later  
11 than 30 days prior to the expiration of such period, the  
12 Secretary shall publish in the Federal Register criteria for  
13 carrying out this section.

14 **TITLE VI—TEENAGE**  
15 **PREGNANCY PREVENTION**

16 **SEC. 601. SHORT TITLE.**

17 This title may be cited as the “Preventing Teen Preg-  
18 nancy Act”.

19 **SEC. 602. TEENAGE PREGNANCY PREVENTION.**

20 Part P of title III of the Public Health Service Act  
21 (42 U.S.C. 280g et seq.) is amended by inserting after  
22 section 399N the following section:

23 **“SEC. 399N-1. TEENAGE PREGNANCY PREVENTION GRANTS.**

24 “(a) AUTHORITY.—The Secretary may award on a  
25 competitive basis grants to public and private entities to

1 establish or expand teenage pregnancy prevention pro-  
2 grams.

3       “(b) GRANT RECIPIENTS.—Grant recipients under  
4 this section may include State and local not-for-profit coa-  
5 litions working to prevent teenage pregnancy, State, local,  
6 and tribal agencies, schools, entities that provide after-  
7 school programs, and community and faith-based groups.

8       “(c) PRIORITY.—In selecting grant recipients under  
9 this section, the Secretary shall give—

10           “(1) highest priority to applicants seeking as-  
11 sistance for programs targeting communities or pop-  
12 ulations in which—

13                   “(A) teenage pregnancy or birth rates are  
14 higher than the corresponding State average; or

15                   “(B) teenage pregnancy or birth rates are  
16 increasing; and

17           “(2) priority to applicants seeking assistance  
18 for programs that—

19                   “(A) will benefit underserved or at-risk  
20 populations such as young males or immigrant  
21 youths; or

22                   “(B) will take advantage of other available  
23 resources and be coordinated with other pro-  
24 grams that serve youth, such as workforce de-  
25 velopment and after school programs.

1       “(d) USE OF FUNDS.—Funds received by an entity  
2 as a grant under this section shall be used for programs  
3 that—

4           “(1) replicate or substantially incorporate the  
5 elements of one or more teenage pregnancy preven-  
6 tion programs that have been proven (on the basis  
7 of rigorous scientific research) to delay sexual inter-  
8 course or sexual activity, increase condom or contra-  
9 ceptive use (without increasing sexual activity), or  
10 reduce teenage pregnancy; and

11           “(2) incorporate one or more of the following  
12 strategies for preventing teenage pregnancy: encour-  
13 aging teenagers to delay sexual activity; sex and  
14 HIV education; interventions for sexually active  
15 teenagers; preventive health services; youth develop-  
16 ment programs; service learning programs; and out-  
17 reach or media programs.

18       “(e) COMPLETE INFORMATION.—Programs receiving  
19 funds under this section that choose to provide informa-  
20 tion on HIV/AIDS or contraception or both must provide  
21 information that is complete and medically accurate.

22       “(f) RELATION TO ABSTINENCE-ONLY PROGRAMS.—  
23 Funds under this section are not intended for use by absti-  
24 nence-only education programs. Abstinence-only education  
25 programs that receive Federal funds through the Maternal

1 and Child Health Block Grant, the Administration for  
2 Children and Families, the Adolescent Family Life Pro-  
3 gram, and any other program that uses the definition of  
4 ‘abstinence education’ found in section 510(b) of the So-  
5 cial Security Act are ineligible for funding.

6 “(g) APPLICATIONS.—Each entity seeking a grant  
7 under this section shall submit an application to the Sec-  
8 retary at such time and in such manner as the Secretary  
9 may require.

10 “(h) MATCHING FUNDS.—

11 “(1) IN GENERAL.—The Secretary may not  
12 award a grant to an applicant for a program under  
13 this section unless the applicant demonstrates that  
14 it will pay, from funds derived from non-Federal  
15 sources, at least 25 percent of the cost of the pro-  
16 gram.

17 “(2) APPLICANT’S SHARE.—The applicant’s  
18 share of the cost of a program shall be provided in  
19 cash or in kind.

20 “(i) SUPPLEMENTATION OF FUNDS.—An entity that  
21 receives funds as a grant under this section shall use the  
22 funds to supplement and not supplant funds that would  
23 otherwise be available to the entity for teenage pregnancy  
24 prevention.

25 “(j) EVALUATIONS.—

1 “(1) IN GENERAL.—The Secretary shall—

2 “(A) conduct or provide for a rigorous  
3 evaluation of 10 percent of programs for which  
4 a grant is awarded under this section;

5 “(B) collect basic data on each program  
6 for which a grant is awarded under this section;  
7 and

8 “(C) upon completion of the evaluations  
9 referred to in subparagraph (A), submit to the  
10 Congress a report that includes a detailed state-  
11 ment on the effectiveness of grants under this  
12 section.

13 “(2) COOPERATION BY GRANTEES.—Each grant  
14 recipient under this section shall provide such infor-  
15 mation and cooperation as may be required for an  
16 evaluation under paragraph (1).

17 “(k) DEFINITION.—For purposes of this section, the  
18 term ‘rigorous scientific research’ means based on a pro-  
19 gram evaluation that:

20 “(1) Measured impact on sexual or contracep-  
21 tive behavior, pregnancy or childbearing.

22 “(2) Employed an experimental or quasi-experi-  
23 mental design with well-constructed and appropriate  
24 comparison groups.

1           “(3) Had a sample size large enough (at least  
2           100 in the combined treatment and control group)  
3           and a follow-up interval long enough (at least six  
4           months) to draw valid conclusions about impact.

5           “(1) AUTHORIZATION OF APPROPRIATIONS.—There  
6           are authorized to be appropriated to carry out this section  
7           \$20,000,000 for fiscal year 2006, and such sums as may  
8           be necessary for each subsequent fiscal year. In addition,  
9           there are authorized to be appropriated for evaluations  
10          under subsection (j) such sums as may be necessary for  
11          fiscal year 2006 and each subsequent fiscal year.”.

12           **TITLE VII—ACCURACY OF**  
13          **CONTRACEPTIVE INFORMATION**

14          **SEC. 701. SHORT TITLE.**

15          This title may be cited as the “Truth in Contracep-  
16          tion Act”.

17          **SEC. 702. ACCURACY OF CONTRACEPTIVE INFORMATION.**

18          Notwithstanding any other provision of law, any in-  
19          formation concerning the use of a contraceptive provided  
20          through any federally-funded sex education, family life  
21          education, abstinence education, comprehensive health  
22          education, or character education program shall be medi-  
23          cally accurate and shall include health benefits and failure  
24          rates relating to the use of such contraceptive.

**Calendar No. 78**

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 844**

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**A BILL**

To expand access to preventive health care services that help reduce unintended pregnancy, reduce the number of abortions, and improve access to women's health care.

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APRIL 20, 2005

Read the second time and placed on the calendar