#### 110TH CONGRESS 1ST SESSION

# S. 2415

To require the President and the Office of the Global AIDS Coordinator to establish a comprehensive and integrated HIV prevention strategy to address the vulnerabilities of women and girls in countries for which the United States provides assistance to combat HIV/AIDS, and for other purposes.

### IN THE SENATE OF THE UNITED STATES

**DECEMBER 5, 2007** 

Mr. Reid (for Mrs. Clinton) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

## A BILL

To require the President and the Office of the Global AIDS Coordinator to establish a comprehensive and integrated HIV prevention strategy to address the vulnerabilities of women and girls in countries for which the United States provides assistance to combat HIV/AIDS, 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 "Protection Against
- 5 Transmission of HIV for Women and Youth Act of 2007".

#### SEC. 2. FINDINGS.

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2	Congress	finds	the	$\pm 0110$	wing:
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- (1) The United Nations Joint Program on AIDS (referred to in this Act as "UNAIDS") estimates that more than 33,000,000 people were infected with HIV/AIDS at the end of 2007, the vast majority of whom are living in the developing world.
- (2) According to the World Health Organization, unprotected heterosexual sex is a major factor in the spread of HIV infections worldwide.
- (3) According to UNAIDS, women and adolescent girls account for about 50 percent of all HIV infections worldwide. In sub-Saharan Africa, women and girls make up about 60 percent of all infections and 76 percent of infections among those who are between 15 and 24 years of age.
- (4) Women and girls are biologically, socially, and economically more vulnerable to HIV infection. Gender disparities in the rate of HIV infection are the result of a number of factors, including—
  - (A) cross generational sex with older men who are more likely to be infected with HIV, a lack of choice regarding when and whom to marry, leading to early marriages and high rates of child marriages with older men, and the fact, according to UNICEF, that about 42

percent of all adolescent females in Africa and about 48 percent of adolescent females in South Asia are married by age 18;

- (B) high rates of infection within marriage because married girls are more likely to have unprotected sex and have far more frequent sex than their unmarried peers, indicating that marriage cannot be considered a protective factor against HIV infection;
- (C) an inability to negotiate safe sex in marriage or with regular partners, the fact that married women and married and unmarried adolescent females often are unable to negotiate the frequency and timing of sexual intercourse, ensure their partner's faithfulness, or insist on condom use, and the fact that women often run the risk of being infected by husbands or male partners in societies in which it is common or accepted for men to have more than 1 partner;
- (D) social and economic inequalities based largely on gender which limit access for women and girls to education and employment opportunities and which prevent them from asserting their inheritance and property rights, including, for many women, a lack of independent eco-

- nomic means sustains their fear of abandonment, eviction, or ostracism from their homes and communities, and can leave many more of them trapped within relationships where they are vulnerable to HIV infection;
  - (E) a lack of educational opportunities for women and girls, since access to education is linked to delayed intercourse, increased age-atmarriage, delayed childbearing, increased child survival, improved nutrition, and reduced risk of HIV infection, among other positive outcomes;
  - (F) high rates of gender-based violence, rape, and sexual coercion within and outside of marriage, including, according to the World Health Organization, between ½ and ¾ of women in various countries and settings have experienced some form of physical or sexual violence since age 15;
  - (G) fear of domestic violence and the continuing stigma and discrimination associated with HIV/AIDS prevents many women from accessing information about HIV/AIDS, getting tested, disclosing their HIV status, accessing services to prevent mother-to-child trans-

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mission, or receiving treatment and counseling even when they already know they have been infected with HIV;

- (H) an increase in commercial sex for survival, due to pervasive poverty, social dislocation, war and internal conflicts, and other factors, including, according to UNAIDS, the vulnerability of sex workers to HIV infection is heightened by stigmatization and marginalization, limited economic options, limited access to health, social, and legal services, limited access to information and prevention means, gender-related differences and inequalities, sexual exploitation and trafficking, harmful or nonprotective legislation and policies, and exposure to risks associated with commercial sex such as violence, substance use, and increased mobility;
- (I) lack of access to basic HIV prevention information, education, and services, and lack of coordination with existing reproductive health services to reduce stigma and maximize coverage;
- (J) lack of access to currently available female-controlled HIV prevention methods, such

- 1 as the female condom, and lack of training on 2 proper use of either male or female condoms;
  - (K) high rates of other sexually transmitted infections, unintended pregnancy, and complications during pregnancy and childbirth; and
    - (L) an absence of legal frameworks designed to protect the rights of women and girls and the lack of accountable and effective enforcement of such frameworks, where they exist.
  - (5) Efforts to increase women's access to comprehensive prevention information and services, address gender violence, increase women's economic and social status, and foster equitable partnerships between women and men are all central to reducing the spread of HIV/AIDS worldwide and to enhancing the success of effective treatment and care programs supported by the United States.
  - (6) The comprehensive, integrated, 5-year strategy to combat global HIV/AIDS submitted to Congress on February 23, 2004 (as required by section 101 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25; 22 U.S.C. 7611)), does not adequately focus or provide sufficient details on how the

- 1 United States Government plans to address the fac-
- 2 tors that lead to gender disparities in the rate of
- 3 HIV infection in order to successfully prevent HIV
- 4 infection among both married and unmarried women
- 5 and girls. The March 2007 Institute of Medicine re-
- 6 port, entitled "PEPFAR Implementation: Progress
- 7 and Promise", affirms that additional programming
- 8 is required to address the factors that put women
- 9 and girls at risk of contracting HIV.
- 10 SEC. 3. STRATEGY TO PREVENT HIV INFECTIONS AMONG
- 11 MARRIED AND UNMARRIED WOMEN AND
- 12 GIRLS.
- 13 (a) STATEMENT OF POLICY.—In order to meet the
- 14 stated goal of preventing 7,000,000 new HIV infections
- 15 worldwide, as announced by President George W. Bush
- 16 in his address to Congress on January 28, 2003, it is the
- 17 policy of the United States to pursue a global HIV preven-
- 18 tion strategy that emphasizes the immediate and ongoing
- 19 needs of married and unmarried women and girls and ad-
- 20 dresses the factors that lead to gender disparities in the
- 21 rate of HIV infection.
- 22 (b) Strategy.—Not later than 180 days after the
- 23 date of the enactment of this Act, the President shall for-
- 24 mulate, submit to the appropriate congressional commit-
- 25 tees, and make available to the public, a comprehensive,

- 1 integrated, and culturally relevant global HIV prevention
- 2 strategy that addresses the vulnerabilities of married and
- 3 unmarried women and girls to HIV infection and seeks
- 4 to reduce the factors that lead to gender disparities in the
- 5 rate of HIV infection. The strategy shall encompass com-
- 6 prehensive health and HIV prevention education at the in-
- 7 dividual and population level beyond the ABC model ("Ab-
- 8 stain, Be faithful, use Condoms") as a means to reduce
- 9 HIV infections and shall include the following strategies:
- 10 (1) Empowering women and girls to avoid
- 11 cross-generational sex and to decide when and whom
- to marry in order to reduce the incidence of early-
- or child-marriage.
- 14 (2) Dramatically increasing access to currently
- available female-controlled prevention methods and
- including investments in training to increase the ef-
- fective and consistent use of both male and female
- 18 condoms.
- 19 (3) Accelerating the destigmatization of HIV/
- AIDS, as women are generally at a disadvantage in
- 21 combating stigma.
- 22 (4) Addressing and preventing the consequences
- of gender based violence and rape against women
- and girls.

- (5) Promoting male attitudes and behavior that respect the human rights of women and girls and that support and foster gender equality.
  - (6) Supporting the development of micro-enterprise initiatives, job training programs, and other such efforts to assist women in developing and retaining independent economic means.
  - (7) Supporting expanded educational opportunities for women and girls.
  - (8) Protecting the property and inheritance rights of women.
  - (9) Coordinating HIV prevention information and education services and programs for all people, including people living with HIV/AIDS, with existing health care services targeted to women and girls, such as family planning, comprehensive reproductive health services, and programs to reduce the transmission of HIV between parents and children, and expanding the reach of such health services.
  - (10) Promoting gender equality by supporting the development of civil society organizations focused on the needs of women and utilizing such organizations that are already empowering women and girls at the community level.

- 1 (11) Encouraging the creation and effective en-2 forcement of legal frameworks that guarantee 3 women equal rights and equal protection under the 4 law.
- 5 (12) Encouraging the participation and involve-6 ment of women in drafting, coordinating, and imple-7 menting the national HIV/AIDS strategic plans of 8 their countries.
- 9 (13) Responding to other economic and social 10 factors that increase the vulnerability of women and 11 girls to HIV infection.
- 12 (c) Coordination.—In formulating and imple13 menting the global HIV prevention strategy pursuant to
  14 subsection (b), the President shall ensure that the United
  15 States coordinates its overall HIV/AIDS policy and pro16 grams with the national governments of the countries for
  17 which the United States provides assistance to combat
  18 HIV/AIDS and with international organizations, other
  19 donor countries, and indigenous organizations, includ-
- 21 (1) organizations focused on or providing serv-22 ices to expanding and enforcing women's rights, im-23 proving women's health, and expanding education 24 for women and girls; and

20 ing—

1	(2) organizations providing services to, and ad-
2	vocating on behalf of, individuals living with and af-
3	fected by HIV/AIDS.
4	(d) Guidance.—The President shall—
5	(1) provide clear guidance to field missions of
6	the United States Government in countries for which
7	the United States provides assistance to combat
8	HIV/AIDS, based on the strategies specified under
9	subsection (b); and
10	(2) submit the guidance described in paragraph
11	(1) to the appropriate congressional committees and
12	make the guidance available to the public.
13	(e) Country Operational Plans.—In formulating
14	and implementing the global HIV prevention strategy re-
15	quired under subsection (b), the President, acting through
16	the Office of the Global AIDS Coordinator and field mis-
17	sions of the Federal Government in countries for which
18	the United States provides assistance to combat HIV/
19	AIDS, shall consult with appropriate local and national
20	organizations regarding the vulnerability of women and
21	girls at risk of, or living or affected by, HIV and AIDS
22	as part of the development of country operational plans.
23	(f) Report.—
24	(1) In general.—Not later than 1 year after
25	the date of the enactment of this Act, and annually

1	thereafter as part of the annual report required
2	under section 104A(e) of the Foreign Assistance Act
3	of 1961 (22 U.S.C. 2151b–2(e)), the President
4	shall—
5	(A) submit a report on the implementation
6	of this Act during the prior fiscal year to the
7	appropriate congressional committees; and
8	(B) make the report described in para-
9	graph (1) available to the public.
10	(2) Contents.—The report prepared under
11	paragraph (1) shall include—
12	(A) a description of the prevention pro-
13	grams designed to address the vulnerabilities to
14	HIV/AIDS of married and unmarried women
15	and youth; and
16	(B) a list of all nongovernmental organiza-
17	tions in each country that receive assistance
18	from the United States to carry out HIV pre-
19	vention activities, including the amount and the
20	source of funding received.
21	SEC. 4. BALANCING FUNDING FOR HIV PREVENTION METH-
22	ODS.
23	(a) FINDINGS.—Congress finds the following:
24	(1) While effective evidence-based and measur-
25	able strategies for delaying sexual debut are critical

- components of comprehensive HIV prevention programs, current United States funded HIV prevention programs based on the ABC model of "Abstain,

  Be faithful, use Condoms" are too narrow in scope and do not respond to the circumstances that put women and girls at risk of contracting HIV.
  - (2) In order to maximize the impact of United States foreign assistance to combat HIV/AIDS, all sexually active persons in each country should be equipped with all the skills and tools necessary to avoid infection, including information and training on delay of sexual debut and the practice of safer sex, whether sexual activity begins within or outside of marriage.
  - (3) Under section 403(a) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25; 22 U.S.C. 7673), 33 percent of all United States foreign assistance provided for preventing the spread of HIV must be spent on abstinence-until-marriage programs. Based on operational guidance to field missions of the United States Government, in order to meet this requirement, 50 percent of all United States foreign assistance provided for preventing the spread of HIV at the country level must be spent on

- prevention of sexual transmission and 66 percent of all such funding for sexual transmission must be spent on the Abstinence and Be faithful components of the ABC model.
  - (4) A recent report by the Government Accountability Office, entitled Global Health: Spending Requirement Presents Challenges for Allocating Prevention Funding under the President's Emergency Plan for AIDS Relief (GAO-06-395, April 4, 2006) found the following:
    - (A) Because it requires country teams to segregate the Abstinence and Be faithful components of the ABC model from funding for "other prevention", the abstinence-until-marriage spending requirement can undermine the team's ability to design and implement programs that integrate the components of the ABC model, 1 of the guiding principles of the President's Emergency Plan for AIDS Relief sexual transmission prevention strategy. Eight of the 15 focus country teams indicated that segregating the Abstinence and Be faithful components of the ABC model from "other prevention" funding compromised the integration

of their programs. Examples of the problems they cited include the following:

- (i) Segregating program funding compromises the integration of ABC activities, especially for at-risk groups that need comprehensive messages.
- (ii) Segregating program funding limits some country teams' ability to shift program focuses to meet changing prevention needs.
- (B) A large majority of the 20 country teams required to meet the abstinence-until-marriage spending requirement or obtain exemptions reported that the requirement presented challenges to their efforts to respond to local prevention needs. Seventeen of these teams reported, either through documents submitted to the Office of the Global AIDS Coordinator (referred to in this section as "OGAC") or through structured interviews, that meeting the spending requirement, including OGAC's 50 percent and 66 percent policies implementing it, challenged their ability to develop interventions that are responsive to local epidemiology and social norms.

1	(C) Between September 2005 and January
2	2006, 10 of these teams submitted documents
3	to OGAC requesting exemption from the spend-
4	ing requirement as it was defined in OGAC's
5	August 2005 guidance. These documents high-
6	light various challenges that the country teams
7	associated with meeting the spending require-
8	ment, including the following:
9	(i) Reduced spending for Prevention
10	of Mother to Child Transmission.
11	(ii) Limited funding to deliver appro-
12	priate prevention messaging to high-risk
13	groups.
14	(iii) Lack of responsiveness to cultural
15	and social norms.
16	(iv) Cuts in medical and blood safety
17	activities.
18	(v) Elimination of care programs.
19	(D) In addition, 7 teams that did not sub-
20	mit documents requesting exemption from the
21	spending requirement (they did not meet
22	OGAC's proposed criteria for requesting exemp-
23	tions) identified, in structured interviews, spe-
24	cific program constraints related to meeting the

1	abstinence-until-marriage spending requirement,
2	including the following:
3	(i) Difficulty reaching certain popu-
4	lations with comprehensive ABC messages.
5	(ii) Limited or reduced funding for
6	programs targeted at high-risk groups.
7	(iii) Reduced funding for services to
8	prevent mother to child transmission.
9	(iv) Difficulty funding programs for
10	condom procurement and condom social
11	marketing.
12	(b) STATEMENT OF POLICY.—In carrying out the ac-
13	tivities required by the United States Leadership Against
14	HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public
15	Law 108–25; 22 U.S.C. 7601 et seq.) and the amend-
16	ments made by that Act, it is the policy of the United
17	States—
18	(1) to provide flexibility to support the imple-
19	mentation of culturally relevant HIV prevention pro-
20	grams that are carried out in accordance with the
21	global HIV prevention strategy established pursuant
22	to section 3;
23	(2) to ensure that onerous requirements are not
24	imposed with respect to how funds made available

1	for such programs can be obligated and expended
2	and
3	(3) to prevent the unnecessary reduction in
4	funding for effective HIV programs in order to meet
5	any such onerous requirements.
6	(c) Amendments to Funding Provisions of the
7	UNITED STATES LEADERSHIP AGAINST HIV/AIDS, TU-
8	BERCULOSIS, AND MALARIA ACT OF 2003.—
9	(1) Sense of congress.—Section 402(b)(3)
10	of the United States Leadership Against HIV/AIDS
11	Tuberculosis, and Malaria Act of 2003 (22 U.S.C.
12	7672(b)(3)) is amended by striking ", of which such
13	amount at least 33 percent should be expended for
14	abstinence-until-marriage programs".
15	(2) Allocation of Funds.—Section 403(a) of
16	such Act (22 U.S.C. 7673(a)) is amended by strik-
17	ing the second sentence.
18	SEC. 5. DEFINITIONS.
19	In this Act:
20	(1) AIDS.—The term "AIDS" means the ac-
21	quired immune deficiency syndrome.
22	(2) Appropriate congressional commit-
23	TEES.—The term "appropriate congressional com-
24	mittage" many the Committee on Foreign Affairs of

- the House of Representatives and the Committee on
   Foreign Relations of the Senate.
- 3 (3) HIV.—The term "HIV" means the human 4 immunodeficiency virus, the pathogen that causes 5 AIDS.
- 6 (4) HIV/AIDS.—The term "HIV/AIDS"
  7 means, with respect to an individual, an individual
  8 who is infected with HIV or living with AIDS.

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