

# CRS Report for Congress

## Title X (Public Health Service Act) Family Planning Program

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# Title X (Public Health Service Act) Family Planning Program

## Summary

The federal government provides grants for voluntary family planning services through the Family Planning Program, Title X of the Public Health Service Act, codified at 42 U.S.C. §300 to §300a-6. The program, enacted in 1970, is the only domestic federal program devoted solely to family planning and related preventive health services. Title X is administered through the Office of Population Affairs (OPA) under the Office of Public Health and Science in the Department of Health and Human Services (DHHS). It receives its funding, however, through appropriations for the Health Resources and Services Administration (HRSA) in DHHS.

Although the authorization for Title X ended with FY1985, funding for the program has continued to be provided through appropriations bills for the Departments of Labor, Health and Human Services, Education, and Related Agencies (Labor-HHS-Education). The Title X program received \$282.9 million for FY2006 and \$283.1 million for FY2007. The President's Budget requested \$283.1 million for FY2008. On November 13, 2007, the President vetoed H.R. 3043, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008, which would have provided \$310.9 million for Title X in FY2008. On November 15, 2007, an attempt to override the veto failed in the House. A continuing resolution, P.L. 110-92, as amended by P.L. 110-116, provides temporary FY2008 funding through December 14, 2007.

The law (42 U.S.C. § 300a-6) prohibits the use of Title X funds in programs where abortion is a method of family planning. According to OPA, family planning projects that receive Title X funds are closely monitored to ensure that federal funds are used appropriately and that funds are not used for prohibited activities such as abortion. The prohibition on abortion does not apply to all the activities of a Title X grantee, but only to activities that are part of the Title X project. A grantee's abortion activities must be "separate and distinct" from the Title X project activities.

Several bills addressing Title X have been introduced in the 110<sup>th</sup> Congress. The Prevention First Act (S. 21/H.R. 819) and the Reducing the Need for Abortion and Supporting Parents Act (H.R. 1074) would authorize Title X appropriations of \$700 million for FY2008 and "such sums as may be necessary for each subsequent fiscal year." Other introduced bills include H.R. 104, which would require assurances that family planning projects will provide pamphlets with adoption centers' contact information; S. 351 and H.R. 4133, which would prohibit Title X grants to abortion-performing entities; H.R. 1095, which would prohibit federal spending for any family planning activities; H.R. 2134, which would require parental notification before providing certain family planning services to minors; and H.Con.Res. 232, which would express the sense of Congress that confidentiality mandates for minors should be removed from Title X and Medicaid family planning programs. This report was originally written by Sharon Coleman. It has been revised by Angela Napili.

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# Title X (Public Health Service Act) Family Planning Program

## Title X Program Administration and Covered Services

Title X is administered through the Office of Population Affairs (OPA) under the Office of Public Health and Science in the Department of Health and Human Services (DHHS). It receives its funding through the appropriation for the Health Resources and Services Administration. OPA administers three types of project grants under Title X: family planning services;<sup>1</sup> family planning personnel training;<sup>2</sup> and family planning service delivery improvement research grants.<sup>3</sup>

Grants for family planning services fund contraceptive services and supplies, and related services, such as patient education and counseling; infertility services; pregnancy diagnosis; special services to adolescents; adolescent and extramarital abstinence counseling and education; breast and cervical cancer screening and prevention; physical examinations; and sexually transmitted disease (STD) and HIV prevention education, screening, and referral.<sup>4</sup> Priority for the provision of these services is to be given to lower-income families; grantees may use a sliding fee schedule for determining client contributions for care, but grantees may not charge low-income persons for care. The services must be provided “without coercion and with respect for the privacy, dignity, social, and religious beliefs of the individuals being served.”<sup>5</sup>

Grants for family planning personnel training are to be used to train staff and “to improve utilization and career development of paraprofessional and paramedical manpower in family planning services, particularly in rural areas.”<sup>6</sup> Staff are trained through 10 regional general training programs, one national clinical training program,

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<sup>1</sup> *Catalog of Federal Domestic Assistance (CFDA)* 93.217, [<http://www.cfda.gov>].

<sup>2</sup> *CFDA* 93.260

<sup>3</sup> *CFDA* 93.974

<sup>4</sup> DHHS, HRSA, *Fiscal Year 2008 Justification of Estimates for Appropriations Committees*, p. 252, at [<ftp://ftp.hrsa.gov/about/budgetjustification08.pdf>], visited November 23, 2007. DHHS, OPA, *2006 Family Planning Program Priorities, Legislative Mandates, Key Issues*, at [[http://opa.osophs.dhhs.gov/titlex/2006\\_ofp\\_priorities-mandates-keyissues.pdf](http://opa.osophs.dhhs.gov/titlex/2006_ofp_priorities-mandates-keyissues.pdf)], visited December 3, 2007.

<sup>5</sup> *CFDA* 93.217

<sup>6</sup> *CFDA* 93.260

and one national training program focused on improving Title X services for males.<sup>7</sup> The family planning service delivery improvement research grants are to be used to develop studies to improve the delivery of family planning services. These research grants target projects that enhance effectiveness and efficiency of the service delivery system.

Title X clinics provide confidential screening, counseling, and referral for treatment. In this regard, OPA has indicated that the program is committed to maintaining the integration of HIV-prevention services in all family planning clinics, particularly in areas with high rates of HIV and where racial and ethnic minorities are disproportionately affected. OPA has also affirmed that Title X's HIV/AIDS education activities should incorporate the "ABC" message. That is, adolescents and unmarried persons should receive a message incorporating abstinence (A); married persons and those in "committed relationships" should receive the message to "be faithful" (B); and those who engage in HIV risk behaviors should receive a message about "correct and consistent condom use" (C).<sup>8</sup>

All Title X service grantees were required by FY2002 to have at least one project that provides family planning/reproductive health services to males.<sup>9</sup> In 2005, Title X grantees reported that 5% of their clients were male.<sup>10</sup> Common services that family planning agencies offer to males include condom provision, STD counseling, contraceptive counseling, and STD treatment and testing.<sup>11</sup>

Ninety percent of Title X funds are used for clinical services.<sup>12</sup> At the start of FY2008, there were 88 Title X family planning services grantees. Such grantees included 43 state or local health departments, 6 territorial health departments, 10 Planned Parenthood affiliates, and 29 other nonprofit organizations, such as

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<sup>7</sup> DHHS, HRSA, *Fiscal Year 2008 Justification of Estimates for Appropriations Committees*, p. 251.

<sup>8</sup> DHHS, OPA, *Examining HIV Prevention Activities in the Title X Family Planning Program: Executive Summary*, not dated, at [[http://opa.osophs.dhhs.gov/pubs/eval/03may/HIV\\_FP%20Executive%20Summary.pdf](http://opa.osophs.dhhs.gov/pubs/eval/03may/HIV_FP%20Executive%20Summary.pdf)], visited December 3, 2007. DHHS, OPA, *2006 Family Planning Program Priorities, Legislative Mandates, Key Issues*.

<sup>9</sup> DHHS, OPA/Office of Family Planning, *Male Involvement Projects: Prevention Services* (July 2000), at [[http://opa.osophs.dhhs.gov/titlex/opa\\_male\\_projects\\_review\\_july2000.pdf](http://opa.osophs.dhhs.gov/titlex/opa_male_projects_review_july2000.pdf)], visited December 3, 2007.

<sup>10</sup> *Family Planning Annual Report: 2005 National Summary*, November 2006, p. 11, at [[http://opa.osophs.dhhs.gov/titlex/FPAR\\_2005\\_National\\_Report\\_webPDF.pdf](http://opa.osophs.dhhs.gov/titlex/FPAR_2005_National_Report_webPDF.pdf)], visited December 3, 2007.

<sup>11</sup> "Services for Men at Publicly Funded Family Planning Agencies, 1998-1999," *Perspectives on Sexual and Reproductive Health*, vol. 35, no. 5, September/October 2003. DHHS, OPA/Office of Family Planning, *FY2003 Office of Family Planning Male Grantees Program Summaries*, at [<http://opa.osophs.dhhs.gov/titlex/ofp-male-grantees.html>], visited December 3, 2007.

<sup>12</sup> DHHS, HRSA, *Fiscal Year 2008 Justification of Estimates for Appropriations Committees*, p. 251.

hospitals, community health centers, family planning councils and universities.<sup>13</sup> Title X grantees can provide family planning services directly or they can delegate Title X monies to other agencies to provide services. Although there are no matching requirements for grants, regulations specify that no clinics may be fully supported by Title X funds.<sup>14</sup> In 2005, the latest year for which data are available, Title X provided services through more than 4,400 Title X clinics nationwide.<sup>15</sup>

In 2005, Title X served more than 5 million clients, primarily low-income women and adolescents. Ninety percent of clients had incomes at or below 200% of the federal poverty level; sixty percent of Title X clients had no health insurance. For many clients, Title X clinics are their only continuing source of health care.<sup>16</sup>

More information on the Title X program, including regional contacts, can be found on the Internet at [<http://opa.osophs.dhhs.gov/>].

## Funding

Although the program is administered by OPA, funding for Title X activities is provided through the Health Resources and Services Administration (HRSA) in DHHS. Authorization of appropriations expired at the end of FY1985, but the program has continued to be funded through appropriations bills for the Departments of Labor, Health and Human Services, Education, and Related Agencies (Labor-HHS-Education).

For FY2008, the President's Budget requested \$283.1 million for Title X. The Budget Justification proposed that the program become more efficient in the face of rising drug and medical costs, and that "[i]n order to provide services for the maximum number of clients, this will require limiting the availability of high cost, highly effective contraceptive methods and more expensive diagnostic technologies."<sup>17</sup>

On November 13, 2007, the President vetoed H.R. 3043, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008, which would have provided \$310.9 million for Title X in

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<sup>13</sup> Email correspondence between the author and Maurice Huguley, Office of the Assistant Secretary for Legislation, U.S. Department of Health and Human Services, October 30, 2007.

<sup>14</sup> 42 C.F.R. 59.7(c)

<sup>15</sup> *Family Planning Annual Report: 2005 National Summary*, November 2006, p. 8. A searchable directory of Title X providers is at [<http://www.opaclearinghouse.org/search/index.asp>], visited December 3, 2007.

<sup>16</sup> *Family Planning Annual Report: 2005 National Summary*, November 2006, pp. 1, 9, 11, 23.

<sup>17</sup> DHHS, HRSA, *Fiscal Year 2008 Justification of Estimates for Appropriations Committees*, p. 252.

FY2008. On November 15, 2007, an attempt to override the veto failed in the House.

A continuing resolution, P.L. 110-92 (121 Stat. 989), as amended by P.L. 110-116, provides temporary FY2008 funding, at the FY2007 funding level, through December 14, 2007. Under the continuing resolution, funds are made available under the same terms and conditions provided during FY2007.

For FY2007, the Title X funding level was \$283.1 million.<sup>18</sup> Continuing Resolution P.L.110-5 (121 Stat. 8) provided funding through the end of FY2007. FY2007 funding was subject to the same “requirements, authorities, conditions, limitations, and other provisions of” the FY2006 Labor-HHS-Education appropriations law. FY2007 funds could not be spent on activities that were “specifically prohibited” during FY2006.<sup>19</sup> The FY2006 appropriations law repeated previous years’ language that Title X funds not be spent on abortions, that all pregnancy counseling be nondirective, and that funds not be spent on “any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office.” The law also repeated language requiring grantees to certify that they encourage “family participation” when minors decide to seek family planning services, and to certify that they counsel minors on how to resist attempted coercion into sexual activity. The law also repeated a clarification that family planning providers are not exempt from state notification and reporting laws on child abuse, child molestation, sexual abuse, rape, or incest.<sup>20</sup>

FY2006 funding for Title X was contained in the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2006, P.L. 109-149 (119 Stat. 2833, 2844). Title X was funded at \$282.9 million for FY2006.<sup>21</sup>

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<sup>18</sup> S.Rept. 110-107, p. 311. The Revised Continuing Appropriations Resolution, 2007 (P.L.110-5) did not specify a precise dollar figure for Title X. There was some flexibility for the Department of Health and Human Services to determine the program amount.

<sup>19</sup> P.L. 110-5, sec. 104-105 (121 Stat. 8, 9).

<sup>20</sup> P.L. 109-149, Title II, sec. 211, sec. 213. (119 Stat. 2833, 2844-2845, 2859). The DHHS Office of Inspector General recently reviewed OPA’s activities to address state reporting requirements. It found that “OPA has informed and periodically reminds Title X grantees of their responsibilities” regarding these requirements, and that OPA addresses state reporting requirements in its site visits and reviews of grantees. See DHHS, Office of the Inspector General, *Federal Efforts to Address Applicable Child Abuse and Sexual Abuse Reporting Requirements for Title X Grantees*, Report no. OEI-02-03-00530, April 2005, at [<http://oig.hhs.gov/oei/reports/oei-02-03-00530.pdf>], visited December 3, 2007.

<sup>21</sup> This figure includes the 1% across-the-board rescission required for federal discretionary programs pursuant to P.L. 109-148, Division B, Title III, Chapter 8, Section 3801 (119 Stat. 2680, 2791-2792). Additionally, on June 14, 2006, the DHHS Secretary notified the Appropriations Committees that he would transfer funds among DHHS programs to finance activities related to the Medicare drug benefit call center. This transfer, authorized by Section 208 of P.L. 109-149 (119 Stat. 2833, 2858-2859), reduced Title X funding by 0.069%, or \$0.196 million.

**Table 1. Title X Family Planning Program Appropriations**  
(in millions)

FY	Appropriation	FY	Appropriation	FY	Appropriation
1971	\$6.0	1984	\$140.0	1997	\$198.5
1972	\$61.8	1985	\$142.5	1998	\$203.5
1973	\$100.6	1986	\$136.4	1999	\$215.0
1974	\$100.6	1987	\$142.5	2000	\$238.9
1975	\$100.6	1988	\$139.7	2001	\$253.9
1976	\$100.6	1989	\$138.3	2002	\$265.0
1977	\$113.0	1990	\$139.1	2003	\$273.4
1978	\$135.0	1991	\$144.3	2004	\$278.3
1979	\$135.0	1992	\$149.6	2005	\$286.0
1980	\$162.0	1993	\$173.4	2006	\$282.9
1981	\$161.7	1994	\$180.9	2007	\$283.1
1982	\$124.2	1995	\$193.3	2008	a
1983	\$124.1	1996	\$192.6	—	—

**Sources:** FY1971-FY2005: Department of Health and Human Services, Office of Population Affairs, [<http://opa.osophs.dhhs.gov/titlex/ofp-funding-history.html>]; FY2006: FY2007 Senate Appropriations Committee, S.Rept. 109-287 (p. 325); FY2007: FY2008 House Appropriations Committee, H.Rept 110-231 (p. 381).

- a. The FY2008 Budget request would provide \$283.1 million for FY2008. The enrolled version of H.R. 3043, the FY2008 Labor-HHS-Education Appropriations bill, would provide \$310.9 million. On November 13, 2007, the President vetoed H.R. 3043. On November 15, 2007, an attempt to override the veto failed in the House.

## Abortion and Title X

The law prohibits the use of Title X funds in programs where abortion is a method of family planning.<sup>22</sup> On July 3, 2000, OPA released a final rule with respect to abortion services in family planning projects.<sup>23</sup> The rule updated and revised regulations that had been in effect since 1988.<sup>24</sup> The major revision revoked the “gag rule,” which restricted family planning grantees from providing abortion-related information. The regulation at 42 C.F.R. §59.5 had required, and continues to require, that abortion not be provided as a method of family planning. The July 3, 2000 rule amended the section to add the requirement that a project must give

<sup>22</sup> 42 U.S.C. § 300a-6. In addition, so-called “Hyde amendments” to Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations bills have also restricted federal abortion funding. For more background, see CRS Report RL33467, *Abortion: Legislative Response*, by Jon O. Shimabukuro and Karen J. Lewis.

<sup>23</sup> “Standards of Compliance for Abortion-Related Services in Family Planning Services Projects,” 65 *Federal Register* 41270, July 3, 2000, and “Provision of Abortion-Related Services in Family Planning Services Projects,” 65 *Federal Register* 41281, July 3, 2000.

<sup>24</sup> 42 C.F.R. Part 59, “Grants for family planning services.”



pregnant women the opportunity to receive information and counseling on each of the following options: prenatal care and delivery; infant care, foster care, or adoption; and pregnancy termination. If the woman requests such information and counseling, the project must give “neutral, factual information and nondirective counseling on each of the options, and referral upon request, except with respect to any option(s) about which the pregnant woman indicates she does not wish to receive such information and counseling.”

According to OPA, family planning projects that receive Title X funds are closely monitored to ensure that federal funds are used appropriately and that funds are not used for prohibited activities such as abortion. The prohibition on abortion does not apply to all the activities of a Title X grantee, but only to activities that are part of the Title X project. The grantee’s abortion activities must be “separate and distinct” from the Title X project activities.<sup>25</sup> Safeguards to maintain this separation include (1) careful review of grant applications to ensure that the applicant understands the requirements and has the capacity to comply with all requirements; (2) independent financial audits to examine whether there is a system to account for program-funded activities and non-allowable program activities; (3) yearly comprehensive reviews of the grantees’ financial status and budget report; and (4) periodic and comprehensive program reviews and site visits by OPA regional offices.

It is unclear exactly how many Title X clinics also provide abortions through their non-Title X activities. In 2004, following appropriations conference report directions, DHHS surveyed its Title X grantees on whether their clinic sites also provided abortions with non-federal funds.<sup>26</sup> Grantees were informed that responses were voluntary and “without consequence, or threat of consequence, to non-responsiveness.” The survey did not request any identifying information. DHHS mailed surveys to 86 grantees and received 46 responses. Of these, nine indicated that at least one of their clinic sites (17 clinic sites in all) also provided abortions with non-federal funds, and 34 indicated that none of their clinic sites provided abortions with non-federal funds; three responses had no numerical data or said the information was unknown.

Title X supporters argue that family planning reduces unintended pregnancies, thereby reducing abortion.<sup>27</sup> On the other hand, Title X critics argue that federal funds should be withheld from any organization that performs or promotes abortions, such as the Planned Parenthood Federation of America. These critics argue that if

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<sup>25</sup> 65 *Federal Register* 41281-41282, July 3, 2000.

<sup>26</sup> DHHS, *Report to Congress Regarding the Number of Family Planning Sites Funded Under Title X of the Public Health Service Act That Also Provide Abortions with Non-Federal Funds*, 2004. The DHHS was directed to conduct the survey by FY2004 appropriations conference report H.Rept. 108-401, pp. 800-801.

<sup>27</sup> An example of this argument can be found in U.S. Senate, Committee on Appropriations, Subcommittee on Departments of Labor, Health and Human Services, Education, and Related Agencies, *Threat to Title X and Other Women’s Health Services*, Hearing, 104<sup>th</sup> Cong., 1<sup>st</sup> sess., August 10, 1995. S.Hrg. 104-416 (Washington: GPO, 1996), pp. 16-21. See also Rachel Benson Gold, “Title X: Three Decades of Accomplishment,” *The Guttmacher Report on Public Policy*, vol. 4, no. 1 (February 2000), p. 7.

a family planning program is operated by an organization that also performs abortions, the implicit assumption and the message to clients is that abortion is a method of family planning.<sup>28</sup>

## Teenage Pregnancy and Title X

In 2005, 26% of Title X clients were aged 19 or younger.<sup>29</sup> Critics argue that by funding Title X, the federal government is implicitly sanctioning nonmarital sexual activity among teens. These critics argue that a reduced teenage pregnancy rate could be achieved if family planning programs emphasized efforts to convince teens to delay sexual activity, rather than efforts to decrease the percentage of sexually active teens who become pregnant.<sup>30</sup> (See CRS Report RS20873, *Reducing Teen Pregnancy: Adolescent Family Life and Abstinence Education Programs*, by Carmen Solomon-Fears, for a broader discussion of teen pregnancy.)

The program's supporters, on the other hand, argue that the Title X program should be expanded to serve more people in order to reduce the rate of unintended pregnancies. According to DHHS, in FY2005, Title X family planning services helped avert 980,000 unintended pregnancies, including more than 250,000 unintended teen pregnancies.<sup>31</sup> Supporters of expanding family planning services argue that the United States has a higher teen pregnancy rate than some countries (such as Sweden) where a similar percentage of teens are sexually active, in part because U.S. teens use contraception less consistently.<sup>32</sup>

## Planned Parenthood and Title X

In May 2003, the General Accounting Office (GAO; now named the Government Accountability Office) updated a report on federal funds provided to several nonprofit organizations and their affiliates involved in health-related

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<sup>28</sup> An example of these arguments can be found in *Threat to Title X and Other Women's Health Services*, pp. 22-35.

<sup>29</sup> *Family Planning Annual Report: 2005 National Summary*, November 2006, p. 11.

<sup>30</sup> An example of these arguments can be found in *Threat to Title X and Other Women's Health Services*, pp. 22-35.

<sup>31</sup> DHHS, HRSA, *Fiscal Year 2008 Justification of Estimates for Appropriations Committees*, p. 429. See also the discussion of publicly funded family planning services in "Programs to Reduce Unintended Pregnancy," in The Institute of Medicine, *The Best Intentions: Unintended Pregnancy and the Well-Being of Children and Families* (Washington: National Academy Press, 1995), p. 220, at [[http://www.nap.edu/catalog.php?record\\_id=4903](http://www.nap.edu/catalog.php?record_id=4903)], visited December 3, 2007.

<sup>32</sup> An example of these arguments can be found in *Threat to Title X and Other Women's Health Services*, pp. 16-21. See also Jacqueline E. Darroch, et al., "Differences in Teenage Pregnancy Rates Among Five Developed Countries: The Roles of Sexual Activity and Contraceptive Use," *Family Planning Perspectives*, vol. 33, no. 6 (November/December 2001), pp. 244-251.

activities during FY2001.<sup>33</sup> The report provides information on the Planned Parenthood Federation of America, the Population Council, the International Planned Parenthood Federation, the Alan Guttmacher Institute, Advocates for Youth, and the Sexuality Information and Education Council of the United States (SIECUS). Information was collected from each organization with respect to their expenditure of federal funds. Only Planned Parenthood and the Alan Guttmacher Institute reported spending Title X funds.

Planned Parenthood operates through a national office and 110 affiliates; these affiliates receive funds directly and indirectly from other Title X grantees, such as their state or local health departments. Planned Parenthood also operates more than 860 local health centers.<sup>34</sup> The Alan Guttmacher Institute is an affiliate of the Planned Parenthood Federation and provides policy analysis and conducts research. According to the GAO report, in FY2001 Planned Parenthood spent \$58.7 million of Title X funds, and the Alan Guttmacher Institute spent \$315,320 of such funds; together this amounts to approximately 23% of Title X appropriations for that year.

## Legislation in the 110<sup>th</sup> Congress

Several bills on the Title X program have been introduced in the 110<sup>th</sup> Congress.

S. 21/H.R. 819, the Prevention First Act, was introduced in the Senate January 4, 2007, and in the House February 5, 2007. These companion bills would authorize Title X appropriations of \$700 million for FY2008 and “such sums as may be necessary for each subsequent fiscal year.” S. 21 was referred to the Senate Committee on Health, Education, Labor, and Pensions. H.R. 819 was referred to the House Committees on Energy and Commerce, Ways and Means, and Education and Labor.

H.R. 1074, the Reducing the Need for Abortion and Supporting Parents Act, was introduced in the House February 15, 2007. One of its provisions would authorize Title X appropriations of \$700 million for FY2008 and “such sums as may be necessary for each subsequent fiscal year.” H.R. 1074 was referred to the House Committees on Energy and Commerce, Ways and Means, and Education and Labor.

S. 351, the Title X Family Planning Act, was introduced January 22, 2007. It would prohibit Title X funds from going to entities that perform abortions or whose subgrantees perform abortions, except in certain physician-certified cases where the woman is “in danger of death unless an abortion is performed.” This prohibition would not apply to hospitals, unless the hospital subgrants to a non-hospital entity that performs abortions. S. 351 would require Title X grant applicants to certify that

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<sup>33</sup> U.S. General Accounting Office, *Federal Funds: Fiscal Year 2001 Expenditures by Selected Organizations Involved in Health-Related Activities*, GAO-03-527R, May 16, 2003, at [<http://www.gao.gov/cgi-bin/getrpt?GAO-03-527R>], visited December 3, 2007. This report has not been updated subsequently.

<sup>34</sup> *Planned Parenthood by the Numbers*, at [<http://www.plannedparenthood.org/about-us/who-we-are/pp-numbers-5551.htm>], visited December 3, 2007.

they and their subgrantees adhere to the abortion prohibition. It would also require the DHHS to provide Congress with an annual list of Title X grantees that perform abortions; if an entity appears on the list, it would be ineligible for subsequent fiscal year Title X funds unless it certifies that it no longer performs abortions. S. 351 was referred to the Senate Committee on Health, Education, Labor, and Pensions.

H.R. 4133, the Title X Abortion Provider Prohibition Act, was introduced November 9, 2007. The bill would prohibit Title X assistance to any entity unless it certifies that it will not perform, nor provide funds to any other entity that performs, an abortion during the period of assistance. The prohibition would not apply to hospitals, unless the hospital provides funds to a non-hospital entity that performs an abortion. The bill has exceptions for abortions performed in cases of rape, incest against a minor, or certain physician-certified cases where the woman is “in danger of death unless an abortion is performed.” H.R. 4133 would also require the DHHS Secretary to provide Congress an annual report listing, for each entity receiving a Title X grant: information on any abortions it performed, the date that it last certified that it would not perform abortions, and any other entities to which it makes available funds received through Title X grants. H.R. 4133 was referred to the House Committee on Energy and Commerce.

H.R. 1095, the Taxpayers’ Freedom of Conscience Act, was introduced February 15, 2007. It would prohibit federal officials from expending federal funding for “any population control or population planning program or any family planning activity (including any abortion procedure), irrespective of whether such program or activity is foreign or domestic.” H.R. 1095 was referred to the House Committees on Foreign Affairs and Energy and Commerce.

H.R. 104, the Adoption Information Act, was introduced January 4, 2007. It would require the DHHS Secretary to annually prepare, update, and distribute to each Title X service grantee pamphlets listing contact information for all adoption centers in the state where services are provided. Title X service projects would be required to provide “assurances satisfactory to the Secretary” that they will (1) give the pamphlet to each family planning client at the time the person inquires about services, (2) orally inform the client that the pamphlet is from DHHS and has a comprehensive list of adoption centers in the state, and (3) give the client “an opportunity to read the pamphlet.” H.R. 104 was referred to the House Committee on Energy and Commerce.

H.R. 2134, the Parent’s Right to Know Act of 2007, was introduced May 3, 2007. It would prohibit Title X service providers from providing contraceptive drugs or prescription devices to a minor unless one of the following criteria is met: (a) the provider has notified a parent or guardian in writing at least five business days earlier, (b) the minor has a parent or guardian’s written consent, (c) the minor is emancipated, or (d) a court has directed that the minor may receive the contraceptive drugs or prescription devices. Each Title X provider would be required to annually certify compliance with these requirements. H.R. 2134 was referred to the House Committee on Energy and Commerce.

H.Con.Res. 232, “It is the Sense of the Congress that the confidentiality mandates for minors should be removed from family planning services programs

operating under Title X of the Public Health Services Act and Medicaid,” was introduced October 10, 2007. It notes that Title X services “were extended to minors under the age of 16 as a result of the United States Supreme Court decision in *Carey v. Population Services International*;<sup>35</sup> consequently, Title X clinics can provide minors with free contraceptives without a parent’s knowledge or consent.” H.Con.Res. 232 was referred to the House Committee on Energy and Commerce.

During Senate consideration of the FY2008 Labor-HHS-Education Appropriations bill (H.R. 3043) in October 2007, several floor amendments pertaining to Title X were submitted but no further action was taken.

- S.Amdt. 3329 would have prohibited the bill’s funds from going to Planned Parenthood “for any purpose” under Title X.
- S.Amdt. 3392 would have amended Title X to require funding recipients to annually report on and certify their compliance with state reporting requirements on child abuse, child molestation, sexual abuse, rape, and incest. Recipients found not complying with state reporting requirements would have lost Title X eligibility for three subsequent years.
- S.Amdt. 3413, S.Amdt. 3421, S.Amdt. 3422, S.Amdt. 3423, S.Amdt. 3424, and S.Amdt. 3425 would have prohibited the bill’s funds (including Title X funds) from going to local education agencies that allow birth control distribution to certain minors without a parent’s or guardian’s separate, prior, written consent.

During House consideration of the FY2008 Labor-HHS-Education Appropriations bill (H.R. 3043), two floor amendments pertaining to Title X were offered.

- H.Amdt. 594 would have prohibited the bill’s funds from going to Planned Parenthood “for any purpose” under Title X. H.Amdt. 594 was offered and subsequently defeated by roll call vote on July 19, 2007.
- H.Amdt. 554 would have prohibited Title X funds to providers that in the previous 36 months had violated state notification and reporting laws related to child abuse, child molestation, sexual abuse, rape, or incest. H.Amdt. 554 was offered and subsequently withdrawn by unanimous consent on July 18, 2007.

## Summary of Title X of the Public Health Service Act

Below is a summary of Title X of the Public Health Service Act, codified at 42 U.S.C. §300 to §300a-6, Population Research and Voluntary Family Planning Programs:

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<sup>35</sup> 431 U.S. 678 (1977). The case is discussed briefly in Kenneth R. Thomas, ed., “Privacy after Roe: Informational Privacy, Privacy of the Home or Personal Autonomy?,” *United States Constitution, Analysis and Interpretation*, 2005, at [[http://www.crs.gov/products/conan/Amendment14/topic\\_S1\\_4\\_17\\_3.html](http://www.crs.gov/products/conan/Amendment14/topic_S1_4_17_3.html)], visited December 3, 2007.

**Section 1001. Project Grants and Contracts for Family Planning Services**

The Secretary may make grants to and enter into contracts with public or nonprofit private entities to assist in the establishment and operation of voluntary family planning projects to offer a broad range of acceptable and effective family planning methods and services (including natural family planning methods, infertility services, and services for adolescents). Entities which receive grants or contracts must encourage family participation in their projects.

**Section 1002. Formula Grants to States for Family Planning Services**

The Secretary may make grants to state health authorities to assist in planning, establishing, maintaining, coordinating, and evaluating family planning services. The state health authority must have an approved state plan for a coordinated and comprehensive program of family planning services.

**Section 1003. Training Grants and Contracts**

The Secretary may make grants to public or nonprofit private entities and enter into contracts with public or private entities and individuals to provide the training for personnel to carry out family planning service programs.

**Section 1004. Research**

The Secretary may conduct and make grants to public or nonprofit private entities and enter into contracts with public or private entities and individuals for projects for research in the biomedical, contraceptive development, behavioral, and program implementation fields related to family planning and population.

**Section 1005. Informational and Educational Materials**

The Secretary may make grants to public or nonprofit private entities and enter into contracts with public or private entities and individuals to assist in developing and making available family planning and population growth information (including educational materials) to all persons desiring such information.

**Section 1006. Regulations and Payments**

The Secretary may promulgate regulations and must determine the conditions for making payments to grantees to assure that such grants will be effectively utilized for the purposes they were made.

Grantees must assure that (1) priority will be given to the furnishing of services to persons from low-income families; and (2) no charge will be made in such project or program for services provided to any person from a low-income family except to the extent that payment will be made by a third party (including a government agency) which is authorized or is under legal obligation to pay the charge.

The Secretary must be satisfied that informational or educational materials developed or made available under the grant or contract will be suitable for the

purposes of this title and for the population or community to which they are to be made available.

In the case of any grant or contract under Section 1001, such assurances shall provide for the review and approval of the suitability of such materials, prior to their distribution, by an advisory committee established by the grantee or contractor in accordance with regulations.

**Section 1007. Voluntary Participation**

The acceptance by any individual of family planning services or family planning or population growth information (including educational materials) shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program of the entity or individual that provided such service or information.

**Section 1008. Prohibition of Abortion**

None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.

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