

# Protection Against Transmission of HIV for Women and Youth (PATHWAY) ACT of 2006, H.R.5674

June 2006

**Name of Legislation:**

“Protection Against Transmission of HIV for Women and Youth Act of 2006” (PATHWAY), H.R.5674

**Sponsor:**

Congresswoman Barbara Lee, 9<sup>th</sup> Congressional District of California

**Legislative Goals and Effects:**

- Requires the Office of the Global AIDS Coordinator (OGAC) to establish a comprehensive and integrated HIV prevention strategy to address the vulnerabilities of women and girls in each country receiving U.S. assistance to combat HIV/AIDS, including efforts to address such factors as sexual violence and coercion and early marriage as an integral component of prevention efforts.
- Strikes the funding earmark requiring that one-third of prevention funds be spent on abstinence-until-marriage programs.
- Ensures that *all* individuals at risk of HIV infection or secondary infection gain skills needed for, and have access to the information, methods and services necessary to protect themselves throughout their lifecycle, thereby ensuring the maximum number of infections are averted.
- Integrates HIV prevention services into basic health care services to ensure increased access.
- Requires immediate development of clear program guidance on restrictions in US law pertaining to organizations working with commercial sex workers.
- Increases access to and effective use of both male and female condoms.

**Why should we eliminate the 33 percent earmark for abstinence–until–marriage programs?**

A recent United States Government Accountability Office report details the various ways in which this earmark limits the scope of programs needed to prevent as many new infections as possible.

Between February 2005 and February 2006, the United States Government Accountability Office (GAO) conducted a review of prevention programs funded under the President’s Emergency Plan for AIDS Relief (PEPFAR). Analysts interviewed a wide range of officials from the U.S. government—including staff from the U.S. Department of State, U.S. Agency for International Development (USAID), the Department of Health and Human Services (DHHS) and Centers for Disease Control (CDC) in 15 countries receiving the largest amount of U.S. funding under PEPFAR. Interviews were also conducted with program officers in various Cooperating

## Overview of Proposed Legislation on HIV/AIDS and Women and Girls

Agencies receiving money from the U.S. government under PEPFAR. In addition, information was gathered from five additional country programs which, because they receive a minimum of \$10 million under PEPFAR, are required as of fiscal year 2006 to submit an annual operational plan to the Office of the Global AIDS Coordinator (OGAC). In some cases, because only two of the additional five countries provided responses, some findings in the GAO report refer to 17 of 20 country programs reviewed (i.e. information was not received from the remaining three countries).

**Unclear Guidance Makes Implementation Difficult:** The GAO report found that guidance developed by the Office of the Global AIDS Coordinator (OGAC) to explain the use of funds for the “Abstain, Be Faithful, Use Condoms” approach (the so-called ABC approach) was unclear and hindered implementation of effective HIV prevention programs.

**Abstinence–Until–Marriage Requirements “Undermine” Integration of ABC Programs:** According to the GAO report, the “spending requirement can undermine the integration of prevention programs by forcing them to isolate funding for AB activities.”

**Meeting Abstinence–Until–Marriage Requirements Impacts Ability to “Respond to Local Prevention Needs”:** The GAO found “17 of 20 PEPFAR teams...reported that the spending requirement presents challenges to their ability to respond to local epidemiology and cultural and social norms.” The challenges and potential challenges cited include:

Reduced spending for Prevention of Maternal to Child Transmission (PMTCT); Limited funding to deliver appropriate prevention messaging to high-risk groups; Lack of responsiveness to cultural and social norms; Cuts in medical and blood safety activities; Elimination of care programs; Difficulty reaching certain populations with comprehensive ABC messages; Limited or reduced funding for programs targeted at high-risk groups; Reduced funding for PMTCT services; Difficulty funding programs for condom procurement and condom social marketing.

**Nonexempted Countries Suffer Because of Exemptions:** The GAO found that OGAC still meets its overall 33 percent abstinence target by requiring nonexempt countries to spend more on abstinence-until-marriage, thereby further constraining some country programs in the interest of creating more flexibility for others.

**OGAC Oversteps Requirements of the Law in Applying Spending Requirements and Increases Negative Impact of Prevention Policies:** OGAC is only required to apply the abstinence-until-marriage spending requirement to the funding that is a part of the Global HIV/AIDS Initiative (GHAI) account, but it has chosen to apply it to all PEPFAR prevention funding. According to the GAO, “Because of OGAC’s policy decision, country teams are constrained from allocating non-GHAI funding to meet local needs if the allocations do not comply with the spending requirement.” Non-GHAI funding is a significant percentage of the prevention budget, especially for non-focus countries. The report cites one country that is not able to apply the \$1.5 million of non-GHAI money that it received to condom social marketing programs and will, therefore, have to reduce its condom programming.