

109TH CONGRESS
1ST SESSION

H. R. 1409

AN ACT

To amend the Foreign Assistance Act of 1961 to provide assistance for orphans and other vulnerable children in developing countries, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Assistance for Orphans
3 and Other Vulnerable Children in Developing Countries
4 Act of 2005”.

5 **SEC. 2. FINDINGS.**

6 Congress makes the following findings:

7 (1) As of July 2004, there were more than
8 143,000,000 children living in sub-Saharan Africa,
9 Asia, Latin America, and the Caribbean who were
10 identified as orphans, having lost one or both of
11 their parents. Of this number, approximately
12 16,200,000 children were identified as double or-
13 phans, having lost both parents—the vast majority
14 of whom died of AIDS. These children often are dis-
15 advantaged in numerous and devastating ways and
16 most households with orphans cannot meet the basic
17 needs of health care, food, clothing, and educational
18 expenses.

19 (2) It is estimated that 121,000,000 children
20 worldwide do not attend school and that the major-
21 ity of such children are young girls. According to the
22 United Nations Children’s Fund (UNICEF), or-
23 phans are less likely to be in school and more likely
24 to be working full time.

25 (3) School food programs, including take-home
26 rations, in developing countries provide strong incen-

1 tives for children to remain in school and continue
2 their education. School food programs can reduce
3 short-term hunger, improve cognitive functions, and
4 enhance learning, behavior, and achievement.

5 (4) Financial barriers, such as school fees and
6 other costs of education, prevent many orphans and
7 other vulnerable children in developing countries
8 from attending school. Providing children with free
9 primary school education, while simultaneously en-
10 suring that adequate resources exist for teacher
11 training and infrastructure, would help more or-
12 phans and other vulnerable children obtain a quality
13 education.

14 (5) The trauma that results from the loss of a
15 parent can trigger behavior problems of aggression
16 or emotional withdrawal and negatively affect a
17 child's performance in school and the child's social
18 relations. Children living in families affected by
19 HIV/AIDS or who have been orphaned by AIDS
20 often face stigmatization and discrimination. Pro-
21 viding culturally appropriate psychosocial support to
22 such children can assist them in successfully accept-
23 ing and adjusting to their circumstances.

24 (6) Orphans and other vulnerable children in
25 developing countries routinely are denied their inher-

1 itance or encounter difficulties in claiming the land
2 and other property which they have inherited. Even
3 when the inheritance rights of women and children
4 are spelled out in law, such rights are difficult to
5 claim and are seldom enforced. In many countries it
6 is difficult or impossible for a widow, even if she has
7 young children, to claim property after the death of
8 her husband.

9 (7) The HIV/AIDS pandemic has had a dev-
10 astating affect on children and is deepening poverty
11 in entire communities and jeopardizing the health,
12 safety, and survival of all children in affected areas.

13 (8) The HIV/AIDS pandemic has increased the
14 number of orphans worldwide and has exacerbated
15 the poor living conditions of the world's poorest and
16 most vulnerable children. AIDS has created an un-
17 precedented orphan crisis, especially in sub-Saharan
18 Africa, where children have been hardest hit. An es-
19 timated 14,000,000 orphans have lost 1 or both par-
20 ents to AIDS. By 2010, it is estimated that over
21 25,000,000 children will have been orphaned by
22 AIDS.

23 (9) Approximately 2,500,000 children under the
24 age of 15 worldwide have HIV/AIDS. Every day an-
25 other 2,000 children under the age of 15 are in-

1 fected with HIV. Without treatment, most children
2 born with HIV can expect to die by age two, but
3 with sustained drug treatment through childhood,
4 the chances of long-term survival and a productive
5 adulthood improve dramatically.

6 (10) Few international development programs
7 specifically target the treatment of children with
8 HIV/AIDS in developing countries. Reasons for this
9 include the perceived low priority of pediatric treat-
10 ment, a lack of pediatric health care professionals,
11 lack of expertise and experience in pediatric drug
12 dosing and monitoring, the perceived complexity of
13 pediatric treatment, and mistaken beliefs regarding
14 the risks and benefits of pediatric treatment.

15 (11) Although a number of organizations seek
16 to meet the needs of orphans or other vulnerable
17 children, extended families and local communities
18 continue to be the primary providers of support for
19 such children.

20 (12) The HIV/AIDS pandemic is placing huge
21 burdens on communities and is leaving many or-
22 phans with little support. Alternatives to traditional
23 orphanages, such as community-based resource cen-
24 ters, continue to evolve in response to the massive

1 number of orphans that has resulted from the pan-
2 demic.

3 (13) The AIDS orphans crisis in sub-Saharan
4 Africa has implications for political stability, human
5 welfare, and development that extend far beyond the
6 region, affecting governments and people worldwide,
7 and this crisis requires an accelerated response from
8 the international community.

9 (14) Although section 403(b) of the United
10 States Leadership Against HIV/AIDS, Tuberculosis,
11 and Malaria Act of 2003 (22 U.S.C. 7673(b)) estab-
12 lishes the requirement that not less than 10 percent
13 of amounts appropriated for HIV/AIDS assistance
14 for each of fiscal years 2006 through 2008 shall be
15 expended for assistance for orphans and other vul-
16 nerable children affected by HIV/AIDS, there is an
17 urgent need to provide assistance to such children
18 prior to 2006.

19 (15) Numerous United States and indigenous
20 private voluntary organizations, including faith-
21 based organizations, provide assistance to orphans
22 and other vulnerable children in developing coun-
23 tries. Many of these organizations have submitted
24 applications for grants to the Administrator of the
25 United States Agency for International Development

1 to provide increased levels of assistance for orphans
2 and other vulnerable children in developing coun-
3 tries.

4 (16) Increasing the amount of assistance that is
5 provided by the Administrator of the United States
6 Agency for International Development through
7 United States and indigenous private voluntary or-
8 ganizations, including faith-based organizations, will
9 provide greater protection for orphans and other vul-
10 nerable children in developing countries.

11 (17) It is essential that the United States Gov-
12 ernment adopt a comprehensive approach for the
13 provision of assistance to orphans and other vulner-
14 able children in developing countries. A comprehen-
15 sive approach would ensure that important services,
16 such as basic care, psychosocial support, school food
17 programs, increased educational opportunities and
18 employment training and related services, the pro-
19 tection and promotion of inheritance rights for such
20 children, and the treatment of orphans and other
21 vulnerable children with HIV/AIDS, are made more
22 accessible.

23 (18) Assistance for orphans and other vulner-
24 able children can best be provided by a comprehen-

1 sive approach of the United States Government
2 that—

3 (A) ensures that Federal agencies and the
4 private sector coordinate efforts to prevent and
5 eliminate duplication of efforts and waste in the
6 provision of such assistance; and

7 (B) to the maximum extent possible, fo-
8 cuses on community-based programs that allow
9 orphans and other vulnerable children to re-
10 main connected to the traditions and rituals of
11 their families and communities.

12 **SEC. 3. ASSISTANCE FOR ORPHANS AND OTHER VULNER-**
13 **ABLE CHILDREN IN DEVELOPING COUN-**
14 **TRIES.**

15 Chapter 1 of part I of the Foreign Assistance Act
16 of 1961 (22 U.S.C. 2151 et seq.) is amended by adding
17 at the end the following section:

18 **“SEC. 135. ASSISTANCE FOR ORPHANS AND OTHER VUL-**
19 **NERABLE CHILDREN.**

20 “(a) FINDINGS.—Congress finds the following:

21 “(1) There are more than 143,000,000 orphans
22 living sub-Saharan Africa, Asia, Latin America, and
23 the Caribbean. Of this number, approximately
24 16,200,000 children have lost both parents.

1 “(2) The HIV/AIDS pandemic has created an
2 unprecedented orphan crisis, especially in sub-Saha-
3 ran Africa, where children have been hardest hit.
4 The pandemic is deepening poverty in entire commu-
5 nities, and is jeopardizing the health, safety, and
6 survival of all children in affected countries. It is es-
7 timated that 14,000,000 children have lost one or
8 both parents to AIDS.

9 “(3) The orphans crisis in sub-Saharan Africa
10 has implications for human welfare, development,
11 and political stability that extend far beyond the re-
12 gion, affecting governments and people worldwide.

13 “(4) Extended families and local communities
14 are struggling to meet the basic needs of orphans
15 and vulnerable children by providing food, health
16 care including treatment of children living with HIV/
17 AIDS, education expenses, and clothing.

18 “(5) Famines, natural disasters, chronic pov-
19 erty, ongoing conflicts, and civil wars in developing
20 countries are adversely affecting children in these
21 countries, the vast majority of whom currently do
22 not receive humanitarian assistance or other support
23 from the United States.

24 “(6) The United States Government admin-
25 isters various assistance programs for orphans and

1 other vulnerable children in developing countries. In
2 order to improve targeting and programming of re-
3 sources, the United States Agency for International
4 Development should develop methods to adequately
5 track the overall number of orphans and other vul-
6 nerable children receiving assistance, the kinds of
7 programs for such children by sector and location,
8 and any other such related data and analysis.

9 “(7) The United States Agency for Inter-
10 national Development should improve its capabilities
11 to deliver assistance to orphans and other vulnerable
12 children in developing countries through partner-
13 ships with private volunteer organizations, including
14 community and faith-based organizations.

15 “(8) The United States Agency for Inter-
16 national Development should be the primary United
17 States Government agency responsible for identi-
18 fying and assisting orphans and other vulnerable
19 children in developing countries.

20 “(9) Providing assistance to such children is an
21 important expression of the humanitarian concern
22 and tradition of the people of the United States.

23 “(b) DEFINITIONS.—In this section:

24 “(1) AIDS.—The term ‘AIDS’ has the meaning
25 given the term in section 104A(g)(1) of this Act.

1 “(2) CHILDREN.—The term ‘children’ means
2 persons who have not attained 18 years of age.

3 “(3) HIV/AIDS.—The term ‘HIV/AIDS’ has the
4 meaning given the term in section 104A(g)(3) of
5 this Act.

6 “(4) ORPHAN.—The term ‘orphan’ means a
7 child deprived by death of one or both parents.

8 “(5) PSYCHOSOCIAL SUPPORT.—The term ‘psy-
9 chosocial support’ includes care that addresses the
10 ongoing psychological and social problems that affect
11 individuals, their partners, families, and caregivers
12 in order to alleviate suffering, strengthen social ties
13 and integration, provide emotional support, and pro-
14 mote coping strategies.

15 “(c) ASSISTANCE.—The President is authorized to
16 provide assistance, including providing such assistance
17 through international or nongovernmental organizations,
18 for programs in developing countries to provide basic care
19 and services for orphans and other vulnerable children.
20 Such programs should provide assistance—

21 “(1) to support families and communities to
22 mobilize their own resources through the establish-
23 ment of community-based organizations to provide
24 basic care for orphans and other vulnerable children;

1 “(2) for school food programs, including the
2 purchase of local or regional foodstuffs where appro-
3 priate;

4 “(3) to increase primary school enrollment
5 through the elimination of school fees, where appro-
6 priate, or other barriers to education while ensuring
7 that adequate resources exist for teacher training
8 and infrastructure;

9 “(4) to provide employment training and re-
10 lated services for orphans and other vulnerable chil-
11 dren who are of legal working age;

12 “(5) to protect and promote the inheritance
13 rights of orphans, other vulnerable children, and
14 widows;

15 “(6) to provide culturally appropriate psycho-
16 social support to orphans and other vulnerable chil-
17 dren; and

18 “(7) to treat orphans and other vulnerable chil-
19 dren with HIV/AIDS through the provision of phar-
20 maceuticals, the recruitment and training of individ-
21 uals to provide pediatric treatment, and the pur-
22 chase of pediatric-specific technologies.

23 “(d) MONITORING AND EVALUATION.—

24 “(1) ESTABLISHMENT.—To maximize the sus-
25 tainable development impact of assistance authorized

1 under this section, and pursuant to the strategy re-
2 quired in section 4 of the Assistance for Orphans
3 and Other Vulnerable Children in Developing Coun-
4 tries Act of 2005, the President shall establish a
5 monitoring and evaluation system to measure the ef-
6 fectiveness of United States assistance to orphans
7 and other vulnerable children.

8 “(2) REQUIREMENTS.—The monitoring and
9 evaluation system shall—

10 “(A) establish performance goals for the
11 assistance and expresses such goals in an objec-
12 tive and quantifiable form, to the extent fea-
13 sible;

14 “(B) establish performance indicators to be
15 used in measuring or assessing the achievement
16 of the performance goals described in subpara-
17 graph (A); and

18 “(C) provide a basis for recommendations
19 for adjustments to the assistance to enhance
20 the impact of assistance.

21 “(e) SPECIAL ADVISOR FOR ASSISTANCE TO OR-
22 PHANS AND VULNERABLE CHILDREN.—

23 “(1) APPOINTMENT.—

24 “(A) IN GENERAL.—The Secretary of
25 State, in consultation with the Administrator of

1 the United States Agency for International De-
2 velopment, shall appoint a Special Advisor for
3 Assistance to Orphans and Vulnerable Children.

4 “(B) DELEGATION.—At the discretion of
5 the Secretary of State, the authority to appoint
6 a Special Advisor under subparagraph (A) may
7 be delegated by the Secretary of State to the
8 Administrator of the United States Agency for
9 International Development.

10 “(2) DUTIES.—The duties of the Special Advi-
11 sor for Assistance to Orphans and Vulnerable Chil-
12 dren shall include the following:

13 “(A) Coordinate assistance to orphans and
14 other vulnerable children among the various of-
15 fices, bureaus, and field missions within the
16 United States Agency for International Devel-
17 opment.

18 “(B) Advise the various offices, bureaus,
19 and field missions within the United States
20 Agency for International Development to ensure
21 that programs approved for assistance under
22 this section are consistent with best practices,
23 meet the requirements of this Act, and conform
24 to the strategy outlined in section 4 of the As-

1 sistance for Orphans and Other Vulnerable
2 Children in Developing Countries Act of 2005.

3 “(C) Advise the various offices, bureaus,
4 and field missions within the United States
5 Agency for International Development in devel-
6 oping any component of their annual plan, as it
7 relates to assistance for orphans or other vul-
8 nerable children in developing countries, to en-
9 sure that each program, project, or activity re-
10 lating to such assistance is consistent with best
11 practices, meets the requirements of this Act,
12 and conforms to the strategy outlined in section
13 4 of the Assistance for Orphans and Other Vul-
14 nerable Children in Developing Countries Act of
15 2005.

16 “(D) Coordinate all United States assist-
17 ance to orphans and other vulnerable children
18 among United States departments and agen-
19 cies, including the provision of assistance relat-
20 ing to HIV/AIDS authorized under the United
21 States Leadership Against HIV/AIDS, Tuber-
22 culosis, and Malaria Act of 2003 (Public Law
23 108–25), and the amendments made by such
24 Act (including section 102 of such Act, and the

1 amendments made by such section, relating to
2 the coordination of HIV/AIDS programs).

3 “(E) Establish priorities that promote the
4 delivery of assistance to the most vulnerable
5 populations of orphans and children, particu-
6 larly in those countries with a high rate of HIV
7 infection among women.

8 “(F) Disseminate a collection of best prac-
9 tices to field missions of the United States
10 Agency for International Development to guide
11 the development and implementation of pro-
12 grams to assist orphans and vulnerable chil-
13 dren.

14 “(G) Administer the monitoring and eval-
15 uation system established in subsection (d).

16 “(H) Prepare the annual report required
17 by section 5 of the Assistance for Orphans and
18 Other Vulnerable Children in Developing Coun-
19 tries Act of 2005.

20 “(f) AUTHORIZATION OF APPROPRIATIONS.—

21 “(1) IN GENERAL.—There is authorized to be
22 appropriated to the President to carry out this sec-
23 tion such sums as may be necessary for each of the
24 fiscal years 2006 and 2007.

1 “(2) AVAILABILITY OF FUNDS.—Amounts made
2 available under paragraph (1) are authorized to re-
3 main available until expended.”.

4 **SEC. 4. STRATEGY OF THE UNITED STATES.**

5 (a) REQUIREMENT FOR STRATEGY.—Not later than
6 180 days after the date of enactment of this Act, the
7 President shall develop, and transmit to the appropriate
8 congressional committees, a strategy for coordinating, im-
9 plementing, and monitoring assistance programs for or-
10 phans and vulnerable children.

11 (b) CONSULTATION.—The strategy described in sub-
12 section (a) should be developed in consultation with the
13 Special Advisor for Assistance to Orphans and Vulnerable
14 Children (appointed pursuant to section 135(e)(1) of the
15 Foreign Assistance Act of 1961 (as added by section 3
16 of this Act)) and with employees of the field missions of
17 the United States Agency for International Development
18 to ensure that the strategy—

19 (1) will not impede the efficiency of imple-
20 menting assistance programs for orphans and vul-
21 nerable children; and

22 (2) addresses the specific needs of indigenous
23 populations.

24 (c) CONTENT.—The strategy required by subsection
25 (a) shall include—

1 (1) the identity of each agency or department
2 of the Federal Government that is providing assist-
3 ance for orphans and vulnerable children in foreign
4 countries;

5 (2) a description of the efforts of the head of
6 each such agency or department to coordinate the
7 provision of such assistance with other agencies or
8 departments of the Federal Government or non-
9 governmental entities;

10 (3) a description of a coordinated strategy, in-
11 cluding coordination with other bilateral and multi-
12 lateral donors, to provide the assistance authorized
13 in section 135 of the Foreign Assistance Act of
14 1961, as added by section 3 of this Act;

15 (4) an analysis of additional coordination mech-
16 anisms or procedures that could be implemented to
17 carry out the purposes of such section;

18 (5) a description of a monitoring system that
19 establishes performance goals for the provision of
20 such assistance and expresses such goals in an ob-
21 jective and quantifiable form, to the extent feasible;
22 and

23 (6) a description of performance indicators to
24 be used in measuring or assessing the achievement
25 of the performance goals described in paragraph (5).

1 **SEC. 5. ANNUAL REPORT.**

2 (a) REPORT.—Not later than one year after the date
3 on which the President transmits to the appropriate con-
4 gressional committees the strategy required by section
5 4(a), and annually thereafter, the President shall transmit
6 to the appropriate congressional committees a report on
7 the implementation of this Act and the amendments made
8 by this Act.

9 (b) CONTENTS.—The report shall contain the fol-
10 lowing information for grants, cooperative agreements,
11 contracts, contributions, and other forms of assistance
12 awarded or entered into under section 135 of the Foreign
13 Assistance Act of 1961 (as added by section 3 of this Act):

14 (1) The amount of funding, the name of recipi-
15 ent organizations, the location of programs and ac-
16 tivities, the status of progress of programs and ac-
17 tivities, and the estimated number of orphans and
18 other vulnerable children who received direct or indi-
19 rect assistance under the programs and activities.

20 (2) The results of the monitoring and evalua-
21 tion system with respect to assistance for orphans
22 and other vulnerable children.

23 (3) The percentage of assistance provided in
24 support of orphans or other vulnerable children af-
25 fected by HIV/AIDS.

1 (4) Any other appropriate information relating
2 to the needs of orphans and other vulnerable chil-
3 dren in developing countries that could be addressed
4 through the provision of assistance authorized in
5 section 135 of the Foreign Assistance Act of 1961,
6 as added by section 3 of this Act, or under any other
7 provision of law.

8 **SEC. 6. APPROPRIATE CONGRESSIONAL COMMITTEES DE-**
9 **FINED.**

10 In this Act, the term “appropriate congressional com-
11 mittees” means the Committee on Appropriations and the
12 Committee on Foreign Relations of the Senate and the
13 Committee on Appropriations and the Committee on
14 International Relations of the House of Representatives.

 Passed the House of Representatives October 18,
2005.

Attest:

Clerk.

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