



February 26, 2008

**OPPOSE THE VITTER AMENDMENT TO CODIFY THE
HYDE AMENDMENT IN THE INDIAN HEALTH CARE
IMPROVEMENT ACT (S. 1200)**

AMERICAN CIVIL
LIBERTIES UNION
WASHINGTON
LEGISLATIVE OFFICE
915 15th STREET, NW, 6TH FL
WASHINGTON, DC 20005
T/202.544.1681
F/202.546.0738
WWW.ACLU.ORG

Caroline Fredrickson
DIRECTOR

NATIONAL OFFICE
125 BROAD STREET, 18TH FL.
NEW YORK, NY 10004-2400
T/212.549.2500

OFFICERS AND DIRECTORS
NADINE STROSSEN
PRESIDENT

ANTHONY D. ROMERO
EXECUTIVE DIRECTOR

RICHARD ZACKS
TREASURER

Dear Senator:

On behalf of the American Civil Liberties Union (ACLU), a nonpartisan public interest organization dedicated to protecting the constitutional rights of individuals, and its hundreds of thousands of activists, members, and fifty-three affiliates nationwide, we urge you to oppose Senator Vitter's amendment to "recodify" the Hyde Amendment in Indian Health Service law.

The Vitter amendment is unnecessary because it restates current law. It is also bad policy because the Hyde Amendment marginalizes and stigmatizes abortion care and discriminates against a vulnerable population by undermining low-income women's ability to access a fundamental reproductive right.

Passed by Congress in 1976, the Hyde Amendment excludes abortion care from the comprehensive health care services provided to low-income people by the federal government through Medicaid, except in cases of rape, incest or where the life of the woman is endangered. The law is discriminatory and harmful to women's health. It is clear that if a woman chooses to carry to term, Medicaid (and other federal insurance programs) offer her assistance for necessary medical care. But if the same woman needs to end her pregnancy, Medicaid (and other federal insurance programs) will not provide coverage for her abortion, even if continuing the pregnancy will harm her health. As Justice Thurgood Marshall stated in a dissenting opinion:

"The denial of Medicaid benefits to individuals who meet all the statutory criteria for eligibility, solely because the treatment that is medically necessary involves the exercise of the fundamental right to choose abortion, is a form of discrimination repugnant to the equal protection of the laws guaranteed by the Constitution. . . . [This] marks a retreat from *Roe v. Wade* and represents a cruel blow to the most powerless members of our society."¹

¹ *Harris v. McCrae*, 448 U.S. 297, 338 (1980)

Government ought not intrude on a poor woman's decision whether to carry to term or to terminate her pregnancy and selectively withhold benefits because she seeks to exercise her right of reproductive choice in a manner the government disfavors

Additionally, as previously stated, the Vitter Amendment is unnecessary. The use of Indian Health Service funds for abortion care is already restricted. There is no sound reason to doubly burden the Native American population with an ideological and superfluous restatement of an unjust law.

The Vitter amendment is unjust, unnecessary, and has no place in legislation intended to expand health care services for Native communities. The ACLU strongly opposes the amendment and urges you to vote against it.

For more information, contact Vania Leveille at vleveille@dcaclu.org or 202.715.0806.

Thank you for your consideration.

Sincerely,



Michael McLeod-Ball
Chief Legislative and Policy Counsel



Vania Leveille
Legislative Counsel