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Comparison of Proposed Charitable Choice Act of 2001 with Current Charitable Choice Law

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Comparison of Proposed Charitable Choice Act of 2001 with Current Charitable Choice Law

Summary

This report provides a side-by-side comparison (**Table 1**) of the charitable choice provisions of H.R. 7 with those of the 1996 welfare reform law (P.L. 104-193) and of later laws that extended charitable choice rules to the Community Services Block Grant Act (P.L. 105-285) and to substance abuse treatment and prevention services under the Public Health Service Act (P.L. 106-310 and P.L. 106-554).¹

Common Provisions. The Charitable Choice Act (Title II of H.R. 7) and the four existing charitable choice laws provide that participating religious organizations shall retain their independence from government, including control over the definition, development, practice, and expression of their religious beliefs. All prohibit government from requiring religious organizations to alter their form of internal governance, or to remove religious art, icons, scripture, or other symbols; all provide that the exemption of religious organizations under Section 702 of the Civil Rights Act regarding hiring and firing is not affected by their participation in, or receipt of funds from programs covered by charitable choice. With one exception (Community Services Block Grant Act) all five measures provide that if a beneficiary or applicant objects to the religious character of the organization providing help, an alternate and accessible provider must be made available. With the same exception, all measures forbid a religious organization from discriminating against a beneficiary or applicant on the basis of religion or religious belief. All charitable choice measures place limits on use of federal funds for sectarian activities. In general, they prohibit use of funds provided directly to a faith-based organization (by contract or grant) for sectarian worship, instruction, or proselytization. With one exception (the 1996 welfare law) all measures require religious organizations to segregate government funds into a separate account and stipulate that the government may audit only the government funds.

Differing Provisions. Two of the laws (the 1996 welfare law and one of the substance abuse measures) prohibit discrimination by a faith-based provider against a beneficiary for refusal to actively participate in a religious practice—prohibiting denial of services for this refusal. H.R. 7 does not contain this prohibition. H.R. 7 alone explicitly allows a faith-based provider, notwithstanding any other law, to require its employees to “adhere to its religious practices.” H.R. 7 and the two substance abuse measures require the government to notify beneficiaries and applicants of their right to an alternate provider. The 1996 welfare reform law is the only measure to state that its charitable choice provisions do not preempt any provision of state law that prohibits or restricts spending of state funds in or by religious organizations.

¹ The major substantive difference between P.L. 106-310 and P.L. 106-554 is that the latter requires states to accept training provided to personnel by religious organizations if the training is substantially equivalent to credit-eligible training provided by nonreligious organizations and if the organization has a record of successful drug treatment for the preceding 3 years.

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Comparison of Proposed Charitable Choice Act of 2001 with Current Charitable Choice Law

Background

Charitable choice is a set of provisions in law intended to allow religious organizations to provide federally funded services from specifically named programs on the same basis as any other nongovernmental provider without impairing the religious character of the organizations or the religious freedom of recipients. Charitable choice does not contain special funding for faith-based organizations and it applies only to programs designated by Congress.

The 1996 welfare reform law (P.L. 104-193) put the first charitable choice language into federal law, applying it to the block grant program of Temporary Assistance for Needy Families (TANF).² In 1998, Congress extended charitable choice rules to grants under the Community Services Block Grant Act (P.L. 105-285) and, in 2000, to grants for prevention and treatment of substance abuse under the Public Health Service Act (P.L. 106-310 and P.L. 106-554).

The 2000 Republican platform proposed to apply charitable choice to all federal social service programs. In their 2000 platform, Democrats said they believed that faith-based programs should augment – not replace – government programs. H.R. 7 proposes to apply charitable choice rules, somewhat modified from those of the TANF law, to 11 program areas and activities. TANF's charitable choice rules apply to a wide range of activities, some of which may overlap with activities listed in H.R. 7.

Sponsored by Representative Watts and introduced on March 29 as the Community Solutions Act of 2001, H.R. 7 was referred to the Committees on Ways and Means and the Judiciary. The measure embodies two major components of President Bush's faith-based initiative – namely, tax incentives to expand private giving (Title I) and expansion of charitable choice. (Title III proposes a permanent program of Individual Development Accounts, financed with tax credits.) The H.R. 7 charitable choice proposal has resulted in several congressional hearings (the first ever conducted on charitable choice) and has aroused much controversy. As of June 25, the Charitable Choice Act had not been introduced in the Senate.

² The 1996 law also applied charitable choice rules to food stamps, Medicaid, Supplemental Security Income (SSI), and child support enforcement to the extent that they use contracts or vouchers.

Major Arguments of Supporters

- To fund only secular programs discriminates against religious programs. It is just as inappropriate for government to favor non-religion as to promote one religion over another.
- Faith-based programs can attract large amounts of volunteer time; staff have a sense of mission that inspires those they serve; these organizations often help in ways that government cannot, providing love as well as services, guidance and friendship as well as a meal or training.
- Charitable choice has been carefully written to protect constitutional values.
- Charitable choice rules protect the religious character of faith-based providers. they specify that religious organizations shall retain control over the definition, development, practice, and expression of their religious beliefs.
- Charitable choice rules protect the religious liberty of beneficiaries; they require that if a recipient objects to the religious character of the provider, the government must provide an alternate and accessible provider.

Major Arguments of Opponents

- Charitable choice may lead to unconstitutional use of government funds to promote a specific religious practice or belief.
- Since money is interchangeable, government funds given for a secular purpose could indirectly help to fund the organization's religious purposes, undermining governmental neutrality toward religion.
- Charitable choice rules would require government to decide what is a legitimate religion and what is not, what is preaching and what is not.
- Direct government grants to religious groups could make churches dependent on government, eroding their mission and tending to secularize them.
- Charitable choice promotes government-funded discrimination by allowing religious organizations that receive federal dollars for their services to hire and fire on the basis of religious beliefs.

Table 1. Comparison of Charitable Choice Act of 2001 with Current Charitable Choice Law

| | Charitable Choice Act Title II of H.R. 7 | P.L. 104-193 (Welfare Reform) | Community Services Block Grant Act (Title II of P.L. 105-285) | Children’s Health Act (Title XXXIII of P.L. 106-310) | Community Renewal Tax Relief Act (H.R. 5662), enacted as part of P.L. 106-554 |
|--------------------|--|--|--|--|---|
| Title | | | | | |
| | <p>Provision of assistance under government programs by religious and community organizations.</p> <p>Would enact a new Section 1994A in Title XXIV of the Revised Statutes. [Section 201]</p> | <p>Services provided by charitable, religious, or private organizations. [Section 104]</p> | <p>Religious organizations included as nongovernmental providers.</p> <p>[Section 679, as titled above, was added by Section 201 to the Community Services Block Grant Act.]</p> | <p>Nondiscrimination and institutional safeguards for religious providers.</p> <p>[Section 3305, as titled above, added to Title XIX of Public Health Service Act a new Section 1955.]</p> | <p>Prevention and treatment of substance abuse; services provided through religious organizations.</p> <p>[Section 144 , Subtitle E, of H.R. 5662, added to Title V of Public Health Service Act a new Part G, entitled “services provided through religious organizations.”]</p> |
| Short Title | | | | | |
| | Charitable Choice Act of 2001. [Section 1994A(a)] | None | None | None | None |

| | <p>Charitable Choice Act Title II of H.R. 7</p> | <p>P.L. 104-193 (Welfare Reform)</p> | <p>Community Services Block Grant Act (Title II of P.L. 105-285)</p> | <p>Children’s Health Act (Title XXXIII of P.L. 106-310)</p> | <p>Community Renewal Tax Relief Act (H.R. 5662), enacted as part of P.L. 106-554</p> |
|------------------------|--|--|---|---|--|
| <p>Purposes</p> | | | | | |
| | <p>(1) To provide assistance to needy individuals and families in the most effective and efficient manner; (2) To prohibit discrimination against religious organizations on the basis of religion in the administration and distribution of government assistance under covered programs; (3) To allow religious organizations to assist in the administration and distribution of assistance without impairing their religious character; and (4) To protect the religious freedom of those in need who are eligible for government aid, including expanding the possibility of their choosing to receive services from a religious organization. [Section 1994A(b)]</p> | <p>To allow states to contract with religious organizations (and to allow religious organizations to accept certificates, vouchers, or any other forms of disbursement) under any covered program on the same basis as any other nongovernmental provider – without impairing the religious character of the organizations, and without diminishing the religious freedom of beneficiaries. [Section 104(b)]</p> | <p>No statement of purpose.</p> | <p>To prohibit discrimination against nongovernmental organizations and certain individuals on the basis of religion in the distribution of government funds to provide substance abuse services under this Title (XIX) and Title V, and the receipt of services under these titles; and to allow the organizations to accept the funds to provide services without impairing the religious character of the organizations or the religious freedom of the individuals. [Section 1955(a)]</p> | <p>To allow religious organizations to be program participants on the same basis as any other nonprofit private provider without impairing the religious character of the organizations and without diminishing the religious freedom of program beneficiaries. [Section 582(b)]</p> |

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|-------------------------|---|--|---|---|--|
| Programs Covered | | | | | |
| | <p>A program using federal funds that carries out activities that are:</p> <ul style="list-style-type: none"> – related to the prevention and treatment of juvenile delinquency and the improvement of the juvenile justice system, including those funded under the Juvenile Justice and Delinquency Prevention Act; – related to the prevention of crime, including programs funded under Title I of the Omnibus Crime Control and Safe Streets Act; – under federal housing laws; – under Title I of the Workforce Investment Act; – under the Older Americans Act; –under Child Care and Development Block Grant (CCDBG) Act^a (see endnote for existing law and regulations governing religious providers of CCDBG funds); | <p>Temporary Assistance for Needy Families (TANF) and Welfare-to-Work grants.</p> <p>Any other program modified or established under Titles I or II of P.L. 104-193 that permits contracts with organizations or permits certificates, vouchers, or other forms of disbursement to be provided to beneficiaries, as a means of providing aid. [Section 104 (a)(2)]</p> <p>These programs are food stamps, Medicaid, Supplemental Security Income (SSI), and Child Support Enforcement – <i>to the extent that they are administered through contracts or vouchers with nongovernmental agencies</i>. They generally are administered directly by</p> | <p>Any program carried out by the federal government or by a state or local government under the Community Services Block Grant program. [Section 679(a)]</p> | <p>Any program providing substance abuse services under Title 19 (formula block grants) and Title 5 (discretionary grants) of the Public Health Service Act. [Section 1955(a)(1)]</p> | <p>Discretionary and formula grant programs (Titles 5 and 19, respectively) administered by the Substance Abuse and Mental Health Services Administration that award financial assistance to public or private entities to carry out activities to prevent or treat substance abuse. [Section 581]</p> |

| | <p>Charitable Choice Act Title II of H.R. 7</p> | <p>P.L. 104-193 (Welfare Reform)</p> | <p>Community Services Block Grant Act (Title II of P.L. 105-285)</p> | <p>Children’s Health Act (Title XXXIII of P.L. 106-310)</p> | <p>Community Renewal Tax Relief Act (H.R. 5662), enacted as part of P.L. 106-554</p> |
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| | <p>–under the Community Development Block Grant; –related to the intervention in and prevention of domestic violence; –under the Job Access and Reverse Commute grant program under the Federal Transit Act; and – to assist students obtain equivalents of secondary school diplomas and activities relating to non-school-hour programs.</p> <p>Note: Activities carried out under federal programs providing education to children eligible to attend elementary or secondary schools are <i>not</i> covered – unless they are provided under one of the above-listed authorities or are diploma-equivalent or non-school-hour programs. Section 1994A(c)(4)]</p> | <p>public agencies, and federal law requires that eligibility for Medicaid and food stamps be determined by a public official. Food stamps and Medicaid allow states to use private organizations, including religious ones, in providing services.</p> | | | |

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| Inclusion of Religious Organizations as Nongovernmental Providers | | | | | |
| | For a covered program carried out by the federal government, or by a state or local government with federal funds, the government shall consider religious organizations on the same basis as other non-governmental organizations, subject to provision immediately below. [Section 1994A(c)(1)(A)] | Authorizes states (1) to administer and provide services under covered programs through <i>contracts</i> with charitable, religious, or private organizations, and (2) to provide beneficiaries of covered programs with certificates, vouchers, or other forms of disbursement <i>redeemable</i> with charitable, religious, or private organizations. [Section 104(a)(1)] | For a covered program carried out by the federal government, or by a state or local government with federal funds, the government shall consider religious organizations on the same basis as other nongovernmental organizations, subject to provision immediately below. [Section 679(a)] | A state that chooses to use nongovernmental organizations to provide services under a covered program shall consider religious organizations on the same basis as other nongovernmental entities, subject to the provision immediately below. [Section 1955(b)(2)] | Notwithstanding any other provision of law, a religious organization may receive financial assistance and be a provider of services under a covered program on the same basis as any other nonprofit private provider. [Section 582(a)] |

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| Requirement for Consistency with the First Amendment to the Constitution | | | | | |
| | The nondiscrimination provision above applies if the program is implemented in a manner consistent with the Establishment and Free Exercise Clauses of the first amendment to the Constitution. [Section 1994A(c)(1)(A)] | If a state uses this authority, religious organizations are eligible, on the same basis as any other private organization, to be contractors, or to accept certificates, vouchers, or other forms of disbursement under a covered program – so long as the program is implemented consistent with the Establishment Clause of the first amendment to the Constitution. [Section 104(c)] | The nondiscrimination provision above applies so long as the program is implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution. [Section 679(a)] | The nondiscrimination provision above applies so long as the programs are implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution. [Section 1955(b)(2)] | The nondiscrimination provision above applies as long as the programs are implemented consistent with the Establishment and the Free Exercise Clauses of the first amendment to the Constitution. [Section 582(c)] |

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| Prohibition on Discrimination Against Religious Organizations | | | | | |
| | Neither the federal government, nor a state or local government receiving funds under a covered program may discriminate against an organization that provides assistance or applies to provide assistance under the program, on the basis that the organization has a religious character. [Section 1994A(c)(1)(B)] | Unless state law forbids or restricts spending of state funds by religious bodies, neither the federal government nor a state receiving funds under a covered program may discriminate against an organization that is or applies to be a contractor or that accepts certificates, vouchers, or other forms of disbursement, on the basis that the organization has a religious character. [Section 104(c)] | Same as H.R. 7. [Section 679(a)] | Same as H.R. 7. [Section 1955(b)(2)] | Same as H.R. 7. (Section 582 (c)(2)) |

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| Funds Not Construed to Be Aid to Religious Organization | | | | | |
| | Federal, state, or local government funds or other assistance received by a religious organization for the provision of services under this Act constitutes aid to needy individuals and families, the ultimate beneficiaries of the services, and not aid to the religious organization. [Section 1994A(c)(2)] | No provision | No provision | No provision | No provision |
| Funds Not Construed to Be Endorsement of Religion | | | | | |
| | The receipt by a religious organization of federal, state, or local government funds or other assistance under this Act is not and should not be perceived as an endorsement by the government of religion or the organization’s religious beliefs or practices. [Section 1994A(c)(3)] | No provision | No provision | No provision | No provision |

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| Religious Character and Independence | | | | | |
| Control over religious practices | A religious organization that provides assistance under a covered program shall retain its autonomy from federal, state, and local governments, including its control over the definition, development, practice, and expression of its religious beliefs. [Section 1994A(d)(1)] | A religious organization having a contract with a covered program or which accepts certificates, vouchers, or other forms of disbursement under a covered program, retains its independence from federal, state, and local governments, including its control over the definition, development, practice, and expression of its religious beliefs. [Section 104(d)(1)] | A religious organization that provides assistance under a covered program shall retain its religious character and control over the definition, development, practice, and expression of its religious beliefs. [Section 679(b)(1)] | A religious organization that provides services under a covered program shall retain its independence from federal, state, or local governments, including its control over the definition, development, practice, and expression of its religious beliefs. [Section 1955(c)(1)] | Any religious organization that is a program participant shall retain its independence from federal, state, and local government, including its control over the definition, development, practice, and expression of its religious beliefs. [Section 582(d)(1)] |
| Religious symbols | Neither the federal government nor a state or local government shall require a religious organization to alter its form of internal governance; or to remove religious art, icons, scripture, or other symbols because they are religious, in order to be eligible to provide assistance under a covered program. [Section 1994A(d)(2)] | Neither the federal government nor a state may require a religious organization to alter its form of internal governance, or to remove religious art, icons, scripture, or other symbols in order to be eligible to contract to provide assistance or to accept certificates, vouchers, or other forms of disbursement funded | Neither the federal government nor a state may require a religious organization to alter its form of internal governance, except (for purposes of administration of the community services block grant program) as provided in Section 676B; or to remove religious art, icons, scripture, or other symbols in order to be | Neither the federal nor a state or local government shall require a religious organization to alter its form of internal governance or to remove religious art, icons, scripture, or other symbols in order to be eligible to provide services under any covered program. [Section 1955(c)(2)] | Neither the federal government nor a state shall require a religious organization to alter its form of internal governance or remove religious art, icons, scripture, or other symbols. [Section 582(d)(2)] |

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| | | under a covered program. [Section 104(d)(2)] | eligible to provide services under a covered program. [Section 679(b)(2)] | | |
| Employment Practices | | | | | |
| Civil Rights exemption | The exemption of a religious organization under Sections 702 or 703(e)(2) ^b of the Civil Rights Act regarding employment practices is not affected by its provision of assistance under, or receipt of funds from, a covered program. [Section 1994A(e)(2)] | A religious organization’s exemption under Section 702 of the Civil Rights Act regarding employment practices is not affected by its participation in, or receipt of funds, from covered programs. [Section 104(f)] | The exemption of a religious organization under Section 702 of the Civil Rights Act regarding employment practices shall not be affected by its participation in, or receipt of Community Block Grant Act funds. [Section 679(b)(3)] | The exemption of a religious organization under Sections 702 or 703(e)(2) regarding employment practices shall not be affected by its provision of services under, or receipt of funds from any covered program. [Section 1955(d)(2)] | The exemption of a religious organization under Section 702 of the Civil Rights Act shall not be affected by its participation in, or receipt of funds from, a covered program. [Section 582(e)] |
| Application of other laws forbidding discrimination | Nothing in this Act alters the duty of a religious organization to comply with federal laws prohibiting discrimination on the basis of: race, color, or national origin (Title VI of the Civil Rights Act); sex, blindness, or visual impairment (Title IX of the Education Amendments of 1972); disabilities (of otherwise qualified persons) | Nothing in the charitable choice provisions of P.L. 104- 193 is to be construed to preempt a provision of a state constitution or law that prohibits or restricts spending of state funds in or by religious organizations. [Section 104(k)] | No program or activity funded under the Community Services Block Grant Act may discriminate against a person on the basis of race, color, national origin, or sex. Programs are subject to rules against discrimination on the basis of age or disability (Age Discrimination Act, Section 504 of the | No provision | Nothing in this section. shall be construed to modify or affect any other federal or state law or regulation relating to discrimination in employment. [Section 582(e)] Note: Title 19 of the Public Health Service Act says that on grounds of religion, no person shall be |

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| | (Section 504 of the Rehabilitation Act); or age (Age Discrimination Act). [Section 1994A(e)(3)] | | Rehabilitation Act, and Title II of Americans with Disabilities Act). [Section 678F(c)(1)] | | excluded from, denied benefits of, or subjected to discrimination under any program or activity receiving substance abuse formula grant funds. [Section 1947(a)(2) of Public Health Service Act.] |
| Tenets and religious practices | Notwithstanding any other provision of law, a religious organization that provides assistance under a covered program may require that its employees adhere to its religious practices. [Section 1994A(e)(1)] | No provision | No provision | A religious organization that provides services under a covered substance abuse program may require that its employees adhere to rules forbidding the use of drugs or alcohol. [Section 1955(d)(1)] | No provision |
| Educational requirements for personnel of religious organizations | No provision | No provision | No provision | No provision | In determining whether personnel of a religious organization with a record of successful drug treatment for the preceding 3 years have |

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| | | | | | satisfied state or local requirements for education and training, a state or local government shall not discriminate against education and training provided to personnel by a religious organization, so long as it includes basic content substantially equivalent to the content of credit-eligible training provided by nonreligious organizations. [Section 584(b)] |
| Rights of Beneficiaries | | | | | |
| Right to alternative provider | If a beneficiary or applicant has an objection to the religious character of the organization providing assistance, the appropriate governmental entity must provide, within a reasonable period of time, assistance from an | If a beneficiary of, applicant for, or a person who requests to apply for assistance under a covered program has an objection to the religious character of the organization or institution providing | No provision | If a beneficiary or applicant has an objection to the religious character of the organization providing services, the appropriate governmental entity must provide, within a reasonable period of | If a beneficiary or applicant objects to the religious character of a provider, the faith-based provider must refer the person to services (provided by the governmental unit that administers the program) from an |

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| | <p>accessible and alternate provider that is at least equal in value to the aid that would have been received from the religious organization. [Section 1994A(f)(1) and (3)]</p> | <p>assistance, the state in which the person resides, must provide, within a reasonable period of time, assistance from an accessible and alternative provider with a value at least equal to that of the assistance that would have been received from the religious organization. [Section 104(e)]</p> | | <p>time, services from an alternative and accessible provider with a value at least equal to that of services that would have been received from the religious organization. [Section 1955(e)(1)]</p> | <p>alternative and accessible provider with a value at least equal to that of services that would have been received from the religious organization. The faith-based organization must notify the government agency that administers the program about its referral. [Section 582(f)(1)] Before making the referral, the faith-based organization must consider any list that state or local government makes available of entities in the area that provide program services. The faith-based organization must ensure that the beneficiary makes contact with the alternative provider. [Section 582(f)(3)]</p> |

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| Notice of beneficiary right to alternative provider | The appropriate federal, state or local governmental entity must guarantee that notice of beneficiary rights to service from an alternative provider is given to beneficiaries or applicants for assistance under a covered program. [Section 1994A(f)(2) and (3)] | No provision | No provision | The appropriate governmental entity must guarantee that notice of beneficiary rights to service from an alternate provider is given to beneficiaries or applicants for assistance under a covered program. [Section 1955(e)(2) and (3)] | Program participants (including faith-based organizations), public agencies that refer persons to covered programs, and the governments that administer covered programs or are program participants must ensure that notice of their rights to service from an alternative provider is given to beneficiaries or prospective beneficiaries. Section 582(f)(2) |

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| Nondiscrimination Against Beneficiaries | | | | | |
| | <p>A religious organization providing assistance through a grant or contract under a covered program shall not discriminate, in carrying out the program, against a beneficiary or applicant on the basis of religion, a religious belief, or refusal to hold a religious belief. [Section 1994A(g)(1)]</p> <p>A religious organization providing assistance through a voucher, certificate, or other form of indirect disbursement under a covered program, shall not discriminate, in carrying out the program, against a beneficiary or applicant on the basis of religion, religious belief, or refusal to hold a religious belief. [Section 1994A(g)(2)]</p> | <p>Except as otherwise provided in law, a religious organization shall not discriminate against a person in giving assistance under any covered program on the basis of religion, a religious belief, or refusal to actively participate in a religious practice. [Section 104(g)]</p> | <p>No provision</p> | <p>A religious organization providing services through a grant, contract, or cooperative agreement under any covered program shall not discriminate against a beneficiary or applicant on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice. [Section 1955(f)]</p> | <p>A religious organization shall not discriminate against a program beneficiary or prospective beneficiary on the basis of religion or religious belief in providing services or engaging in outreach activities under covered programs. [Section 582(f)(4)]</p> |

| | Charitable Choice Act Title II of H.R. 7 | P.L. 104-193 (Welfare Reform) | Community Services Block Grant Act (Title II of P.L. 105-285) | Children’s Health Act (Title XXXIII of P.L. 106-310) | Community Renewal Tax Relief Act (H.R. 5662), enacted as part of P.L. 106-554 |
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| Limitation on Use of Funds for Sectarian Activities | | | | | |
| | <p>No funds provided through a grant or contract to a religious organization for assistance under a covered program may be spent for sectarian worship, instruction, or proselytization. [Section 1994A(i)]</p> <p>Each recipient organization must file a signed certificate providing assurance that it will comply with the above rule. [Section 1994A(i)]</p> | <p>No funds provided <i>directly</i> to institutions or organizations to provide services and administer programs may be spent for sectarian worship, instruction, or proselytization. [Section 104(j)]</p> <p>[Note: This prohibition does not apply in cases of assistance provided to <i>individuals</i> through certificates, vouchers, or other forms of disbursement redeemable at charitable, religious, or private organizations.]</p> | <p>No funds provided <i>directly</i> to a religious organization to provide assistance under any covered program shall be spent for sectarian worship, instruction, or proselytization. [Section 679(c)]</p> | <p>No funds provided through a grant or contract to a religious organization to provide services under any covered program shall be spent for sectarian worship, instruction, or proselytization. [Section 1955(i)]</p> | <p>No funds provided under a covered program shall be spent for sectarian worship, instruction, or proselytization. [Section 583]</p> |

| | Charitable Choice Act Title II of H.R. 7 | P.L. 104-193 (Welfare Reform) | Community Services Block Grant Act (Title II of P.L. 105-285) | Children's Health Act (Title XXXIII of P.L. 106-310) | Community Renewal Tax Relief Act (H.R. 5662), enacted as part of P.L. 106-554 |
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| Fiscal Accountability | | | | | |
| Effect on State and Local Funds | If a state or local government contributes funds to carry out a covered program, the state or local government may segregate its funds from the federal funds provided for the program or may commingle its funds with federal funds. If funds are commingled, the provisions of this Act apply in the same manner, and to the same extent, as they apply to federal funds. [Section 1994A(j)] | No provision | No provision | Same as H.R. 7. [Section 1955(j)] | No provision |

| | Charitable Choice Act Title II of H.R. 7 | P.L. 104-193 (Welfare Reform) | Community Services Block Grant Act (Title II of P.L. 105-285) | Children’s Health Act (Title XXXIII of P.L. 106-310) | Community Renewal Tax Relief Act (H.R. 5662), enacted as part of P.L. 106-554 |
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| Treatment of Intermediate Contractors (Nongovernmental Organizations Acting under Contract or Other Agreement with a Government Entity) | | | | | |
| | If an intermediate contractor is given authority to select nongovernmental organizations as subcontractors to provide assistance under a covered program, the intermediate contractor has the same duties under this Act as the government when selecting or otherwise dealing with subcontractors; but, <i>if the intermediate contractor is a religious organization</i> , it retains all other rights of a religious organization under this Act. [Section 1994A(k)] | No provision | If an eligible entity or other organization (referred to here as an “intermediate organization”), is given authority under a contract or agreement to select nongovernmental organizations to provide assistance under covered programs, the intermediate organization shall have the same duties under this section as the government. [Section 679(e)] | If an intermediate organization is given authority to select nongovernmental organizations to provide services under any covered program, the intermediate organization shall have the same duties under this section as the government but shall retain all other rights of a nongovernmental organization under this section. [Section 1955(k)] | No provision |

| | <p>Charitable Choice Act Title II of H.R. 7</p> | <p>P.L. 104-193 (Welfare Reform)</p> | <p>Community Services Block Grant Act (Title II of P.L. 105-285)</p> | <p>Children’s Health Act (Title XXXIII of P.L. 106-310)</p> | <p>Community Renewal Tax Relief Act (H.R. 5662), enacted as part of P.L. 106-554</p> |
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| <p>Compliance</p> | | | | | |
| | <p>A party alleging that a state or local government has violated its rights under this Act may bring a civil action in state court against the official or government agency that has allegedly committed the violation. A party alleging that the federal government has violated its rights under this Act may bring a civil action for appropriate relief in an appropriate federal district court against the official or government agency that allegedly committed the violation. [Section 1994A(l)]</p> | <p>Any party which seeks to enforce its rights under the Charitable Choice provisions of P.L. 104-193 may assert a civil action for injunctive relief exclusively in an appropriate state court against the entity or agency that allegedly commits the violation. [Section 104(i)]</p> | <p>No provision</p> | <p>Any party that seeks to enforce its rights under this section may assert a civil action for injunctive relief exclusively in an appropriate federal or state court against the entity, agency, or official that allegedly commits the violation. [Section 1955(h)]</p> | <p>A religious organization may obtain review of agency action in federal court in accordance with Chapter 7 of Title 5, United States Code. [Section 582(h)]</p> |

| | Charitable Choice Act Title II of H.R. 7 | P.L. 104-193 (Welfare Reform) | Community Services Block Grant Act (Title II of P.L. 105-285) | Children’s Health Act (Title XXXIII of P.L. 106-310) | Community Renewal Tax Relief Act (H.R. 5662), enacted as part of P.L. 106-554 |
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| Preemption of Other Law? | | | | | |
| | No provision | Nothing in the charitable choice provisions of P.L. 104-193 is to be construed to preempt a provision of a state constitution or law that prohibits or restricts spending of state funds in or by religious organizations. [Section 104(k)] | No provision | No provision | No provision |

^a Under the CCDBG, religious providers may receive funding on the same basis as nonsectarian providers. However, religious providers may use funds for construction (generally disallowed for other providers) to the extent needed to bring facilities into compliance with health and safety standards. Use of CCDBG funds for religious activities, including sectarian worship or instruction, generally is prohibited; but this prohibition does not apply to funds received by providers in the form of child care certificates, if the sectarian services are freely chosen by the parent. Providers may not discriminate in admissions against a child on the basis of religion, with the exceptions of family child care providers and providers who receive CCDBG funds in the form of child care certificates. However, sectarian providers may reserve unsubsidized slots for children whose families regularly participate in their organization’s activities, unless 80% or more of their operating budget comes from federal or state funds, including child care certificates. In their employment practices, providers may not discriminate on the basis of religion if the employee’s primary duties are to give child care. However, in considering two or more qualified applicants, sectarian providers may give preference to a person who regularly participates in the organization’s activities. Also, sectarian organizations may require employees to adhere to their religious tenets or teaching and to rules forbidding the use of drugs or alcohol, unless 80% or more of their operating budget comes from federal or state funds. See CRS Report RL30785, *The Child Care and Development Block Grant: Background and Funding*, by Alice Butler and Melinda Gish.

^b It appears that provisions of Section 703(e)(2) of the Civil Rights Act are subsumed by Section 702.