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2D SESSION

S. 2046

To ensure that Federal, State, and local governments consider all nongovernmental organizations on an equal basis when choosing such organizations to provide assistance under certain government programs, without impairing the religious character of any of the organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 7, 1998

Mr. ASHCROFT introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To ensure that Federal, State, and local governments consider all nongovernmental organizations on an equal basis when choosing such organizations to provide assistance under certain government programs, without impairing the religious character of any of the organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such programs, 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 “Charitable Choice Ex-
3 pansion Act of 1998”.

4 **SEC. 2. PURPOSE.**

5 The purpose of this Act is to ensure that Federal,
6 State, and local governments consider all nongovernmental
7 organizations on an equal basis when choosing such orga-
8 nizations to provide assistance to beneficiaries under gov-
9 ernment programs described in section 3(a), without im-
10 pairing the religious character of any of the organizations,
11 and without diminishing the religious freedom of bene-
12 ficiaries of assistance funded under such programs.

13 **SEC. 3. PROVISION OF ASSISTANCE UNDER GOVERNMENT**
14 **PROGRAMS.**

15 (a) **RELIGIOUS ORGANIZATIONS INCLUDED AS NON-**
16 **GOVERNMENTAL PROVIDERS.**—For any program carried
17 out by the Federal Government, or by a State or local
18 government with Federal funds, in which the Federal,
19 State, or local government is authorized to use nongovern-
20 mental organizations, through contracts, grants, certifi-
21 cates, vouchers, or other forms of disbursement, to provide
22 assistance to beneficiaries under the program, the govern-
23 ment shall consider, on the same basis as other nongovern-
24 mental organizations, religious organizations to provide
25 the assistance under the program, so long as the program
26 is implemented in a manner consistent with the Establish-

1 ment Clause of the first amendment to the Constitution.
 2 Neither the Federal Government nor a State or local gov-
 3 ernment receiving funds under such program shall dis-
 4 criminate against an organization that provides assistance
 5 under, or applies to provide assistance under, such pro-
 6 gram, on the basis that the organization has a religious
 7 character.

8 (b) EXCLUSIONS.—As used in subsection (a), the
 9 term “program” does not include activities carried out
 10 under—

11 (1) Federal programs providing education to
 12 children eligible to attend elementary schools or sec-
 13 ondary schools, as defined in section 14101 of the
 14 Elementary and Secondary Education Act of 1965
 15 (20 U.S.C. 8801) (except for activities to assist stu-
 16 dents in obtaining the recognized equivalents of sec-
 17 ondary school diplomas);

18 (2) the Higher Education Act of 1965 (20
 19 U.S.C. 1001 et seq.);

20 (3) the Head Start Act (42 U.S.C. 9831 et
 21 seq.); or

22 (4) the Child Care and Development Block
 23 Grant Act of 1990 (42 U.S.C. 9858 et seq.).

24 (c) RELIGIOUS CHARACTER AND INDEPENDENCE.—

1 (1) IN GENERAL.—A religious organization that
 2 provides assistance under a program described in
 3 subsection (a) shall retain its independence from
 4 Federal, State, and local governments, including
 5 such organization’s control over the definition, devel-
 6 opment, practice, and expression of its religious be-
 7 liefs.

8 (2) ADDITIONAL SAFEGUARDS.—Neither the
 9 Federal Government nor a State or local government
 10 shall require a religious organization—

11 (A) to alter its form of internal govern-
 12 ance; or

13 (B) to remove religious art, icons, scrip-
 14 ture, or other symbols;

15 in order to be eligible to provide assistance under a
 16 program described in subsection (a).

17 (d) EMPLOYMENT PRACTICES.—The exemption of a
 18 religious organization provided under section 702 or
 19 703(e)(2) of the Civil Rights Act of 1964 (42 U.S.C.
 20 2000e–1, 2000e–2(e)(2)) regarding employment practices
 21 shall not be affected by the religious organization’s provi-
 22 sion of assistance under, or receipt of funds from, pro-
 23 grams described in subsection (a).

24 (e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

1 (1) IN GENERAL.—If an individual described in
2 paragraph (3) has an objection to the religious char-
3 acter of the organization from which the individual
4 receives, or would receive, assistance funded under
5 any program described in subsection (a), the appro-
6 priate Federal, State, or local governmental entity
7 shall provide to such individual (if otherwise eligible
8 for such assistance) within a reasonable period of
9 time after the date of such objection, assistance
10 that—

11 (A) is from an alternative organization
12 that is accessible to the individual; and

13 (B) has a value that is not less than the
14 value of the assistance that the individual would
15 have received from such organization.

16 (2) NOTICE.—The appropriate Federal, State,
17 or local governmental entity shall ensure that notice
18 is provided to individuals described in paragraph (3)
19 of the right of such individuals to make the objection
20 described in paragraph (1).

21 (3) INDIVIDUAL DESCRIBED.—An individual de-
22 scribed in this paragraph is an individual who re-
23 ceives or applies for assistance under a program de-
24 scribed in subsection (a).

1 (f) NONDISCRIMINATION AGAINST BENEFICIARIES.—

2 A religious organization shall not discriminate against an
3 individual described in subsection (e)(3) in regard to—

4 (1) rendering assistance funded under any pro-
5 gram described in subsection (a) on the basis of reli-
6 gion, a religious belief, or refusal to hold a religious
7 belief; or

8 (2) rendering assistance funded through a
9 grant or contract under such program on the basis
10 of refusal to actively participate in a religious prac-
11 tice.

12 (g) FISCAL ACCOUNTABILITY.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), any religious organization providing as-
15 sistance under any program described in subsection
16 (a) shall be subject to the same regulations as other
17 nongovernmental organizations to account in accord
18 with generally accepted accounting principles for the
19 use of such funds provided under such program.

20 (2) LIMITED AUDIT.—Such organization shall
21 segregate government funds provided under such
22 program into a separate account. Only the govern-
23 ment funds shall be subject to audit by the govern-
24 ment.

1 (h) COMPLIANCE.—A party alleging that the rights
 2 of the party under this section have been violated by a
 3 State or local government may bring a civil action pursu-
 4 ant to section 1979 of the Revised Statutes (42 U.S.C.
 5 1983) against the official or government agency that has
 6 allegedly committed such violation. A party alleging that
 7 the rights of the party under this section have been vio-
 8 lated by the Federal Government may bring a civil action
 9 for appropriate relief in an appropriate Federal district
 10 court against the official or government agency that has
 11 allegedly committed such violation.

12 (i) LIMITATIONS ON USE OF FUNDS FOR CERTAIN
 13 PURPOSES.—No funds provided through a grant or con-
 14 tract to a religious organization to provide assistance
 15 under any program described in subsection (a) shall be
 16 expended for sectarian worship, instruction, or proselytiza-
 17 tion.

18 (j) EFFECT ON STATE AND LOCAL LAWS.—

19 (1) IN GENERAL.—If a State or local govern-
 20 ment contributes State or local funds to carry out a
 21 program described in subsection (a), the government
 22 may—

23 (A) segregate the State or local funds from
 24 the Federal funds provided to carry out the
 25 program; or

1 (B) commingle the State or local funds
 2 with the Federal funds.

3 (2) SEGREGATED FUNDS.—If the State or local
 4 government segregates the State or local funds, the
 5 provisions of State law relating to the expenditure of
 6 public funds in or by sectarian institutions shall
 7 apply only to the segregated State or local funds.

8 (3) COMMINGLED FUNDS.—If the State or local
 9 government commingles the State or local funds, the
 10 provisions of this section shall apply to the commin-
 11 gled funds in the same manner, and to the same ex-
 12 tent, as the provisions apply to the Federal funds,
 13 and the provisions of State law described in para-
 14 graph (2) shall not apply to the commingled funds.

15 (k) TREATMENT OF INTERMEDIATE CONTRAC-
 16 TORS.—If a nongovernmental organization (referred to in
 17 this subsection as an “intermediate organization”), acting
 18 under a contract or other agreement with the Federal Gov-
 19 ernment or a State or local government, is given the au-
 20 thority under the contract or agreement to select non-
 21 governmental organizations to provide assistance under
 22 the programs described in subsection (a), the intermediate
 23 organization shall have the same duties under this section
 24 as the government.

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