

112TH CONGRESS
2D SESSION

S. 2092

To amend title XXVII of the Public Health Service Act to provide conscience protections for individuals and organizations.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 9, 2012

Mr. MANCHIN (for himself and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend title XXVII of the Public Health Service Act to provide conscience protections for individuals and organizations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Religious Freedom
5 Protection Act of 2012”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) religious freedom and liberty of conscience
9 are inalienable rights enshrined in the Declaration of

1 Independence and the First Amendment to the
2 United States Constitution;

3 (2) on August 1, 2011, the Department of
4 Health and Human Services issued a mandate re-
5 quiring individual and group health plans to cover
6 sterilization and all Food and Drug Administration
7 approved contraceptives, including drugs that could
8 be used to induce abortions;

9 (3) the mandate’s exemption for “religious em-
10 ployers” is unprecedented in Federal law and ex-
11 cludes thousands of religious organizations, includ-
12 ing religiously affiliated charities, health care pro-
13 viders, and schools; and

14 (4) despite receiving thousands of comments
15 protesting the extremely narrow exemption, the De-
16 partment of Health and Human Services nonetheless
17 announced on January 20, 2012, that it would not
18 broaden the exemption but would instead give reli-
19 gious institutions an additional year to “adapt” their
20 consciences to the mandate.

21 **SEC. 3. AMENDMENT TO THE PUBLIC HEALTH SERVICE**
22 **ACT.**

23 (a) IN GENERAL.—Section 2713 of the Public Health
24 Service Act (42 U.S.C. 300gg–13) is amended by adding
25 at the end the following:

1 “(d) CONSCIENCE PROTECTIONS.—

2 “(1) IN GENERAL.—No guideline, regulation, or
3 other requirement issued by any Federal, State, or
4 local government pursuant to subsection (a)(4), or
5 any other provision of the Patient Protection and
6 Affordable Care Act (Public Law 111–148) or the
7 Health Care and Education Reconciliation Act of
8 2010 (Public Law 111–152), or the amendments
9 made by those Acts, shall—

10 “(A) require any individual or entity to
11 offer, provide, or purchase health insurance cov-
12 erage for a contraceptive or sterilization service,
13 or related education or counseling, to which
14 that individual or entity is opposed on the basis
15 of religious belief or moral conviction;

16 “(B) require any individual or entity that
17 is opposed on the basis of religious belief or
18 moral conviction to providing health insurance
19 coverage of a contraceptive or sterilization serv-
20 ice to engage in government-mandated speech
21 regarding such a service; or

22 “(C) prohibit any group health plan or
23 health insurance issuer from offering or pro-
24 viding individual or group health insurance cov-
25 erage that excludes coverage for a contraceptive

1 or sterilization service, or related education or
2 counseling, which the individual or entity pur-
3 chasing the plan or coverage opposes on the
4 basis of religious belief or moral conviction.

5 “(2) RULE OF CONSTRUCTION.—Nothing in the
6 Patient Protection and Affordable Care Act (Public
7 Law 111–148) or the Health Care and Education
8 Reconciliation Act of 2010 (Public Law 111–152),
9 or the amendments made by those Acts, and no reg-
10 ulations, guidelines, or other requirement issued
11 under such Acts (or amendments) shall be construed
12 to authorize the imposition of a fine, penalty, or
13 other sanction, or to otherwise disadvantage any in-
14 dividual or entity on the basis of a religiously based
15 or morally based decision not to offer, provide, or
16 purchase health insurance coverage for a contracep-
17 tive or sterilization service, or to engage in govern-
18 ment mandated speech regarding such services.

19 “(3) PRIVATE RIGHT OF ACTION.—The protec-
20 tions of conscience contained in this subsection con-
21 stitute the protection of individual rights and create
22 a private cause of action for those individuals or en-
23 tities protected. Any such individual or entity may
24 assert a violation of this subsection as a claim or de-
25 fense in a judicial proceeding.

1 “(4) REMEDIES.—

2 “(A) FEDERAL JURISDICTION.—The Fed-
3 eral courts shall have jurisdiction to prevent
4 and redress actual or threatened violations of
5 this subsection by granting all forms of legal or
6 equitable relief, including, but not limited to, in-
7 junctive relief, declaratory relief, damages,
8 costs, and attorney fees.

9 “(B) INITIATING PARTY.—An action under
10 this subsection may be instituted by the Attor-
11 ney General of the United States, or by any
12 person or entity having standing to complain of
13 a threatened or actual violation of this sub-
14 section, including, but not limited to, any actual
15 or prospective plan sponsor, issuer, or other en-
16 tity offering a plan, any actual or prospective
17 purchaser or beneficiary of a plan, and any in-
18 dividual or institutional health care provider.

19 “(C) INTERIM RELIEF.—Pending final de-
20 termination of any action under this subsection,
21 the court may at any time enter such restrain-
22 ing order or prohibitions, or take such other ac-
23 tions, as it deems necessary.

24 “(5) ADMINISTRATION.—The Office for Civil
25 Rights of the Department of Health and Human

1 Services is designated to receive complaints of dis-
2 crimination based on this subsection and coordinate
3 the investigation of such complaints.

4 “(6) DEFINITION.—For purposes of this sub-
5 section, the term ‘entity’ includes a group health
6 plan, a health insurance issuer offering group or in-
7 dividual health insurance coverage, and an employer
8 or other sponsor of such plan or coverage.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall be effective as if included in the enact-
11 ment of Public Law 111–148.

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