

An hourglass-shaped graphic with a globe in the top bulb and another globe in the bottom bulb. The hourglass is light blue and has a dark blue cap at the top. The globe in the top bulb is dark blue, and the globe in the bottom bulb is light blue. The text is centered within the hourglass.

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Report RL31042

*Charitable Choice: House-Passed Version of H.R. 7
Compared with Existing Charitable Choice Laws*

Vee Burke, Domestic Social Policy Division

December 17, 2002

Abstract. This report provides a side-by-side comparison of the House-passed version of the Charitable Choice Act of 2001 (Title II of H.R. 7) and existing charitable choice laws.

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Charitable Choice: House-Passed Version of H.R. 7 Compared with Existing Charitable Choice Laws

Updated December 17, 2002

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Charitable Choice: House-Passed Version of H.R. 7 Compared with Existing Charitable Choice Laws

Summary

This report provides a side-by-side comparison (**Table 1**) of two versions of the Charitable Choice Act of 2001 (Title II of H.R. 7) with three existing charitable choice laws. The table shows how the bill passed by the House on July 19, 2001, differs from the original version of H.R. 7, from the first charitable choice law (the 1996 welfare reform law, P.L. 104-193), and from two later laws that extended charitable choice rules to substance abuse treatment and prevention services under the Public Health Service Act (P.L. 106-310 and P.L. 106-554).¹

As the table shows, the House bill² refines somewhat the list of programs and activities to which H.R. 7 rules would apply. In a new provision, it authorizes the secretary of the department administering a covered program to require that assistance be disbursed to recipients as vouchers redeemable by religious and other providers chosen by individual beneficiaries. If a beneficiary objects to the religious character of a provider, the government must provide assistance of equal value from an accessible and alternate provider that is unobjectionable on religious grounds (the original bill required the government to offer assistance from an alternative provider, “including a nonreligious one”). The bill stipulates that if a religious organization receiving direct funds (through contract or agreement) for provision of services offers sectarian worship, instruction, or proselytization, the religious activity must be voluntary and offered separate from the program funded under the Charitable Choice Act. The bill retains the provision (which is in all charitable choice laws) allowing religious organizations to hire only co-religionists, but it deletes a provision in the original H.R. 7 measure that would have allowed a religious organization to require its employees to adhere to its religious practices.

The House bill includes a new provision to earmark \$50 million annually in Justice Department funds for training and technical assistance to small nongovernmental organizations in procedures relating to participation in federally funded benefit programs. Common to both versions of H.R. 7, but absent from any other charitable choice measure, is a declaration that funds received by a religious organization under the Act are not to be construed as aid to religious organizations or an endorsement of religion. The table shows that over time charitable choice legislation has grown longer and more detailed, as sponsors have sought to draft language to meet disparate concerns that charitable choice might weaken the religious character of participating organizations, impair the religious freedom of beneficiaries, and erode the wall separating church and state.

¹ A fourth current charitable choice law is Title II of 105-285, which applies its charitable choice rules to any program carried out under the Community Services Block Grant program. These provisions are shown in **Table 1** of CRS Report RL31030.

² The House-passed version of Title II is the same as that approved on June 28, 2001, by the House Judiciary Committee.

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Charitable Choice: House-Passed Version of H.R. 7 Compared with Existing Charitable Choice Laws

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).³ 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. “In every instance where this Administration sees a responsibility to help people, it will look to faith-based organizations, charities, and groups that have shown the ability to change lives,” said the FY2002 budget press release of the Department of Health and Human Services (HHS). “These groups will not replace government but rather partner with it.”

H.R. 7, as passed by the House on July 19, 2001 by a vote of 233 to 198, would apply charitable choice rules, significantly changed from those in current charitable choice laws, to a range of (nine) program areas and activities, some of which may overlap with TANF-funded activities. 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 II). The Ways and Means Committee dealt with Titles I and III, the Judiciary Committee with Title II. As modified by the Ways and Means Committee

³ The 1996 law also applied charitable choice rules to food stamps, Medicaid, and Supplemental Security Income (SSI) to the extent that they use contracts or vouchers.

and passed by the House, the tax incentives in Title I were scaled back sharply (for instance, the Bush budget proposal to allow tax deductions for a portion of charitable donations for non-itemizing tax filers was estimated to cost \$84 billion in forgone revenue over 10 years, but the smaller version voted by the House is estimated to cost \$6.4 billion). As introduced, Title III of H.R. 7 proposed a permanent program of Individual Development Accounts, financed with tax credits, but the Ways and Means Committee substituted language revising and extending an existing IDA program and doubling its authorized funding. On June 18, 2002, the Senate Finance Committee approved a revised H.R. 7 (now called the Care Act), which omitted provisions to expand charitable choice, but included tax incentives for private giving and IDA provisions. This bill did not reach the Senate floor.

The H.R. 7 charitable choice proposal resulted in several congressional hearings (the first ever conducted on charitable choice) and has aroused much controversy. For background and legal issues, see CRS Report RL31043.

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; and
- 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; and
- 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. Charitable Choice: House-Passed H.R. 7 Compared with Three Existing Charitable Choice Laws⁴

	Charitable Choice Act Title II of H.R. 7 as introduced	Charitable Choice Act Title II of H.R. 7 as passed by the House	P.L. 104-193 (Welfare Reform)	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 1991 in Title XXIV of the Revised Statutes. [Section 2011]</p>	<p>Same as original H.R. 7</p> <p>Same as original H.R. 7</p>	<p>Services provided by charitable, religious, or private organizations. [Section 104]</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	<p>Charitable Choice Act of 2001. [Section 1991(a)]</p>	<p>Same as original H.R. 7</p>	<p>None</p>	<p>None</p>	<p>None</p>

⁴ A fourth current charitable choice law is Title II of P.L. 105-285, which applies its charitable choice rules to any program carried out under the Community Services Block Grant program. These provisions are shown in Table 1 of CRS Report RL31030.

	<p>Charitable Choice Act Title II of H.R. 7 as introduced</p>	<p>Charitable Choice Act Title II of H.R. 7 as passed by the House</p>	<p>P.L. 104-193 (Welfare Reform)</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;</p> <p>(2) To prohibit discrimination against religious organizations on the basis of religion in the administration and distribution of government assistance under covered programs;</p> <p>(3) To allow religious organizations to assist in the administration and distribution of assistance without impairing their religious character; and</p> <p>(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 1991(b)]</p>	<p>Adds a fifth purpose to those in original H.R. 7 and lists it as number 2: — To supplement the Nation’s social service capacity by facilitating the entry of new efforts and expanding existing efforts by religious and other community organizations in the administration and distribution of government assistance under covered programs.</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>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>

	<p>Charitable Choice Act Title II of H.R. 7 as introduced</p>	<p>Charitable Choice Act Title II of H.R. 7 as passed by the House</p>	<p>P.L. 104-193 (Welfare Reform)</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>Programs Covered</p>	<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 (training programs and Job Corps); — under the Older Americans Act; — under the Child Care and Development Block 	<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 and assistance to crime victims and offenders’ families, including programs funded under Title I of the Omnibus Crime Control and Safe Streets Act; — related to the provision of assistance under federal housing laws, including the Community Development Block Grant Program (CDBG); — under subtitle B or D of Title I of the Workforce Investment Act (training programs); — under the Older Americans Act; 	<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, and Supplemental Security Income (SSI) — to the extent that they are administered through contracts or vouchers with nongovernmental agencies. They generally are administered directly by public agencies, and federal law requires that eligibility for Medicaid and food stamps be decided by government personnel or by persons</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>

	Charitable Choice Act Title II of H.R. 7 as introduced	Charitable Choice Act Title II of H.R. 7 as passed by the House	P.L. 104-193 (Welfare Reform)	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
Programs Covered (continued)	<p>and regulations governing religious providers of child care under the CCDBG).</p> <ul style="list-style-type: none"> — under the Community Development Block Grant program; — related to intervention in and prevention of domestic violence activities; — related to hunger relief activities; — 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>— (Note: Judiciary Committee bill moved CDBG to housing entry above)</p> <ul style="list-style-type: none"> — related to intervention in and prevention of domestic violence activities, including programs under the Child Abuse Prevention and Treatment Act or the Family Violence Prevention and Services Act; — related to hunger relief activities; — 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, including programs under Chapter 3 of subtitle A of Title II of the Workforce Investment Act or part I of Title X of the Elementary and Secondary Education Act. 	<p>comparable merit systems.</p>		

	Charitable Choice Act Title II of H.R. 7 as introduced	Charitable Choice Act Title II of H.R. 7 as passed by the House	P.L. 104-193 (Welfare Reform)	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
Programs Covered (continued)	<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 1991(c)(4)]</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 1991(c)(4)]</p>			
Inclusion of Religious Organizations as Nongovern- mental Providers	<p>For a covered program carried out by the federal government, or by a state or local government with federal funds, the government must consider religious organizations on the same basis as other non-governmental organizations, subject to provision immediately below. [Section 1991(c)(1)(A)]</p>	<p>For a covered program carried out by the federal government, or by a state or local government with federal funds, the government must consider religious organizations on the same basis as other non-governmental organizations, and the program shall be implemented in a manner that is consistent with the establishment clause and the free exercise clause of the first amendment to the Constitution. [Section 1991(c)(1)(A)]</p>	<p>Authorizes states (1) to administer and provide services under covered programs through contracts with charitable, religious, or private organizations, and (2) to provide beneficiaries of covered programs with certificates, vouchers, or other forms of disbursement redeemable with charitable, religious, or private organizations. [Section 104(a)(1)]</p>	<p>A state that chooses to use nongovernmental organizations to provide services under a covered program must consider religious organizations on the same basis as other nongovernmental entities, subject to the provision immediately below. [Section 1955(b)(2)]</p>	<p>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)]</p>

	Charitable Choice Act Title II of H.R. 7 as introduced	Charitable Choice Act Title II of H.R. 7 as passed by the House	P.L. 104-193 (Welfare Reform)	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
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 1955(c)(1)(A)]	See provision immediately above.	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 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)]

<http://wikileaks.org/wiki/CRS-RL104-193>

	Charitable Choice Act Title II of H.R. 7 as introduced	Charitable Choice Act Title II of H.R. 7 as passed by the House	P.L. 104-193 (Welfare Reform)	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
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 1991(c)(1)(B)]	Same as original H.R. 7. [Section 1991(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 original H.R. 7. [Section 1955(b)(2)]	Same as original H.R. 7. (Section 582 (c)(2))

<http://wikileaks.org/wiki/CRS-104>

	Charitable Choice Act Title II of H.R. 7 as introduced	Charitable Choice Act Title II of H.R. 7 as passed by the House	P.L. 104-193 (Welfare Reform)	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
Funds Not Construed to Be Aid to Religious Organizations	<p>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 1991(c)(2)]</p> <p>http://wikileaks.org/wiki/Congressional_Record_2001-2004</p>	<p>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 support for religion or the organization’s religious beliefs or practices. Notwithstanding these provisions, Title VI of the Civil Rights Act, which bars discrimination on the basis of race, color, or national origin, shall apply to organizations receiving direct assistance funded under any covered program. [Section 1991(c)(2)]</p>	<p>No provision</p>	<p>No provision</p>	<p>No provision</p>

	Charitable Choice Act Title II of H.R. 7 as introduced	Charitable Choice Act Title II of H.R. 7 as passed by the House	P.L. 104-193 (Welfare Reform)	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
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 the Charitable Choice 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 1991(c)(3)] <small>http://wikileaks.org/wiki/CRS-104-193</small>	The receipt by a religious organization of Federal, State, or local government funds or other assistance under the Charitable Choice Act is not an endorsement by the government of religion or the organization’s religious beliefs or practices. [Section 1991(c)(3)]	No provision	No provision	No provision
Religious Character and Independence <i>Control over religious practices</i>	A religious organization that provides assistance under a covered program retains its autonomy from federal, state, and local governments, including its control over the definition, development, practice, and expression of its religious beliefs. [Section 1991(d)(1)]	A religious organization that provides assistance under a covered program has the right to retain its autonomy from federal, state, and local governments, including its control over the definition, development, practice, and expression of its religious beliefs. [Section 1991(d)(1)]	A religious organization with a contract 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	A religious organization that provides services under a covered program retains 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 retains 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)]

	Charitable Choice Act Title II of H.R. 7 as introduced	Charitable Choice Act Title II of H.R. 7 as passed by the House	P.L. 104-193 (Welfare Reform)	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
<i>Internal governance and religious symbols</i>	Neither the federal government nor a state or local government may 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 1991(d)(2)] <small>http://www.kaiserkongress.org/w/</small>	Neither the federal government nor a state or local government with federal funds may require a religious organization to alter its form of internal governance or provisions in its charter documents; or to remove religious art, icons, scripture, or other symbols, or to change its name, because the symbols or name are religious, in order to be eligible to provide assistance under a covered program. [Section 1991(d)(2)]	of its religious beliefs. [Section 104(d)(1)] 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 under a covered program. [Section 104(d)(2)]	Neither the federal nor a state or local government 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 provide services under any covered program. [Section 1955(c)(2)]	Neither the federal government nor a state may require a religious organization to alter its form of internal governance or remove religious art, icons, scripture, or other symbols. [Section 582(d)(2)]
Employment Practices <i>Civil Rights Act exemption</i>	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	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	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	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 services	The exemption of a religious organization under Section 702 of the Civil Rights Act regarding employment practices is not affected by its participation in, or receipt of funds from, a

	Charitable Choice Act Title II of H.R. 7 as introduced	Charitable Choice Act Title II of H.R. 7 as passed by the House	P.L. 104-193 (Welfare Reform)	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
<i>Civil Rights Act exemption (continued)</i>	under, or receipt of funds from, a covered program. [Section 1991(e)(2)] <small>http://wikileaks.org/wiki/CRS-RL31042</small>	under, or receipt of funds from, a covered program, and any provision in these programs that is inconsistent with or would diminish the exercise of an organization’s autonomy recognized in section 702 or in this Act shall have no effect. Nothing in this Act affects the duty of religious organizations to comply with nondiscrimination provisions of Title 7 in the use of federal funds. [Section 1991(e)]	covered programs. [Section 104(f)]	under, or receipt of funds from any covered program. [Section 1955(d)(2)] For conflicting rule regarding formula grants in Public Health Service law, see <i>Application of Other Laws Forbidding Discrimination</i> , below.	covered program. [Section 582(e)] For conflicting provision regarding formula grants in Public Health Service law, see <i>Application of Other Laws Forbidding Discrimination</i> , below.
<i>Tenets and religious practices</i>	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 1991(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

	Charitable Choice Act Title II of H.R. 7 as introduced	Charitable Choice Act Title II of H.R. 7 as passed by the House	P.L. 104-193 (Welfare Reform)	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
Application of Other Laws Forbidding Discrimination (continued)	Amendments of 1972); disabilities (of otherwise qualified persons) (Section 504 of the Rehabilitation Act); (Age Discrimination Act). [Section 1991(e)(3)] http://wikilex@ks.org/wiki/CRS-RL31042		Americans with Disabilities Act, and Title VI of the Civil Rights Act. [Section 408(d) of the Social Security Act]	from, denied benefits of, or subjected to discrimination under a program or activity receiving substance abuse or mental health block grant funds [42 U.S.C. 300x-21 and 200x-57]. Courts have held that these prohibitions against religious discrimination apply to employment practices as well as to beneficiary service.	from, denied benefits of, or subjected to discrimination under a program or activity receiving substance abuse or mental health block grant funds [42 U.S.C. 300x-21 and 200x-57]. Courts have held that these prohibitions against religious discrimination apply to employment practices as well as to beneficiary service.
Rights of Beneficiaries <i>Right to alternative provider</i>	http://wikilex@ks.org/wiki/CRS-RL31042 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 accessible and alternate provider, including a secular one, that is at least equal in value to the aid that would have been received from the religious entity.	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 accessible and alternate provider that is unobjectionable to the person on religious grounds and that is at least equal in value to the aid that would have been	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 assistance, the state in which the person resides, must provide, within a reasonable period of time, assistance from an accessible and alternative provider with	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 time, services from an alternative and accessible provider with a value at least equal to that of services that would have been	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 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

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	<p>[Section 1991(f)(1) & and (3)]</p> <p>http://wikileaks.org/wiki/CRS-RL31042</p>	<p>received from the religious organization. [Section 1991(g)(1) and (3)]</p>	<p>a value at least equal to that of the assistance that would have been received from the religious organization. [Section 104(e)]</p>	<p>received from the religious organization. [Section 1955(e)(1)]</p>	<p>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>
<i>Notice of beneficiary right to alternative provider</i>	<p>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 1991(f)(2) and (3)]</p>	<p>Same as original H.R. 7 [Section 1991(g)(2)]</p>	<p>No provision</p>	<p>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)]</p>	<p>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</p>

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					prospective beneficiaries. Section 582(f)(2)
Non-discrimination 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 1991(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 1991(g)(2)]</p>	<p>A religious organization providing assistance through a grant or cooperative agreement under a covered program may not discriminate, in carrying out the program, against a beneficiary or applicant on the basis of religion, a religious belief, or a refusal to hold a religious belief. [Section 1991(h)(1)].</p> <p>A religious organization providing assistance through a voucher, certificate, or other form of indirect disbursement under a covered program, may not deny admission into the program on the basis of religion, religious belief, or refusal to hold a religious belief. [Section 1991(h)(2)]</p> <p>Note: If a religious organization that receives funds through a grant or cooperative agreement offers religious activities, they must be voluntary</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>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>

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Nondiscrimi- nation Against Beneficiaries (continued)		for recipients, and offered separate from the program funded under this Act. [Section 1991(j)] (See immediately below)			
Limitation on Use of Funds for Sectarian Activities	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 1991(i)] Each recipient organization must file a signed certificate providing assurance that it will comply with the above rule. [Section 1991(i)]	Same prohibition on use of direct funding for religious activity as in original H.R. 7. [Section 1991(j)] If such an organization offers sectarian worship, instruction, or proselytization, the religious activity must be voluntary for recipients and offered separate from the program funded under this Act. Each recipient organization must file a separately signed certificate certifying that the organization is aware of and will comply with these rules. [Section 1991(j)]	No funds provided directly to institutions or organizations to provide services and administer programs may be spent for sectarian worship, instruction, or proselytization. [Section 104(j)] [Note: This prohibition does not apply in cases of assistance provided to individuals through certificates, vouchers, or other forms of disbursement redeemable at charitable, religious, or private organizations.]	No funds provided through a grant or contract to a religious organization to provide services under any covered program may be spent for sectarian worship, instruction, or proselytization. [Section 1955(i)]	No funds provided under a covered program shall be spent for sectarian worship, instruction, or proselytization. [Section 583]

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Fiscal Accountability					
<i>Audit (general)</i>	Except for the requirement to segregate government funds and the limited audit provision noted below, any religious organization contracting to provide assistance under a covered program is subject to the same regulations as other nongovernmental organizations to account for use of funds received in accord with generally accepted auditing principles. [Section 1991(h)(1)]	Except for the limited audit and self-audit provisions noted below, any religious organization providing assistance through a grant or cooperative agreement under a covered program is subject to the same regulations as other nongovernmental organizations to account for use of funds received in accord with generally accepted auditing principles. [Section 1991(I)(1)]	Except for the limited audit provision noted below, any religious organization contracting to provide assistance under a covered program is subject to the same regulations as other contractors to account for use of funds received in accord with generally accepted auditing principles. [Section 104(h)(1)]	Same as original H.R. 7. [Section 1955(g)(1)]	Essentially the same as original H.R. 7. [Section 582(g)(1)]
<i>Limited audit</i>	The religious organization must segregate government funds provided into a separate account. Only the government funds are subject to audit by the government. [Section 1991(h)(2)]	If the organization provides assistance through a grant or cooperative agreement, it must segregate government funds into a separate account. If it provides assistance through vouchers, certificates,	If the religious organization segregates federal program funds into separate accounts, only the financial assistance provided with those funds is subject to audit. [Section 104(h)(2)]	Same as original H.R. 7. [Section 1955(g)(2)]	Essentially the same as original H.R. 7. [Section 582(g)(2)]

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<i>Limited audit (continued)</i>		or other indirect aid, it may segregate government funds. Only separate accounts consisting of government funds are subject to audit by government. [Section 1991(i)(2)]			
<i>Self Audit</i>	No provision http://wikileaks.org/wiki/CRS-RL3042	An organization providing services under any covered program shall conduct annually a self audit for compliance with its duties under this Act and submit a copy to the appropriate government agency, along with a plan to correct any variances. [Section 1991(i)(3)]	No provision	No provision	No provision

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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 1951(j)]	Same as original H.R. 7 [Section 1991(k)]	No provision	Same as original H.R. 7. [Section 1955(j)]	No provision

<http://www.leaks.com/web/CRS2304>

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Treatment of Intermediate Contractors/ Grantors (Non- governmental Organizations Acting under Agreement with a Government Entity)	<p>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, if the intermediate contractor is a religious organization, it retains all other rights of a religious organization under this Act. [Section 1991(k)]</p>	<p>If an intermediate grantor is given authority to select nongovernmental organizations as subgrantors to provide assistance under a covered program, the intermediate grantor has the same duties under this Act as the government when selecting or otherwise dealing with subgrantors; but, if the intermediate grantor is a religious organization, it retains all other rights of a religious organization under this Act. [Section 1991(m)]</p>	<p>No provision</p>	<p>If an intermediate organization is given authority to select nongovernmental organizations to provide services under any covered program, the intermediate organization has 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)]</p>	<p>No provision</p>
Technical Assistance for Small Nongovern- mental Organizations	<p>No provision</p>	<p>Out of amounts made available for Office of Justice Programs, including those for the Office of Community Oriented Policing Services, authorizes \$50 million annually to provide training and technical assistance to small nongovernmental organizations, as determined by the Attorney General,</p>	<p>No provision</p>	<p>No provision</p>	<p>No provision</p>

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Technical Assistance for Small Nongovernmental Organizations (continued)	<p style="text-align: center;">http://wikileaks.org/wiki/CRS-RL31042</p>	<p>including religious organizations, in procedures related to participating in covered programs. Assistance may include help in creating a non-profit Section 501(c)(3) corporation, help in grant writing, information and referrals to other nongovernmental groups that provide expertise in accounting, legal issues, tax issues, and other areas; and guidance on how to comply with federal nondiscrimination provisions. Reserves at least \$5 million for assistance in providing access to disabled persons. Gives priority to small governmental organizations serving urban and rural communities. [Section 1991(o)].</p>			

	<p>Charitable Choice Act Title II of H.R. 7 as introduced</p>	<p>Charitable Choice Act Title II of H.R. 7 as passed by the House</p>	<p>P.L. 104-193 (Welfare Reform)</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>Compliance</p>	<p>A party alleging that a state or local government has violated its rights under this Act may bring a civil action pursuant to section 1979 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 1991(l)]</p>	<p>A party alleging that a state or local government has violated its rights under this Act may bring a civil action for injunctive relief pursuant to section 1979 against the state official or local 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 injunctive relief in federal district court against the official or government agency that allegedly committed the violation. [Section 1991(n)]</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>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>

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Preemption of Other Law?	No explicit provision. <small>http://wikileaks.org/wiki/CRS-RL31042</small>	No explicit provision. ^c (In a colloquy on the House floor before passage, Rep. Watts, bill sponsor, was asked whether he would commit to working to craft language that would ensure that religious organizations comply with state and local civil rights laws. Rep. Watts said he was willing to make a commitment to “more clearly address” this issue in conference.)	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 explicit 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)]

^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.

^c Before passage, the question was asked on the House floor: “If a state law prohibits discrimination based on a particular characteristic, and if a religious organization would ordinarily (based on state law) be required to comply with that law, would H.R. 7 change that situation in any way? Rep. Watts replied: “Yes, H.R. 7 would change this situation, in a particular instance. If a religious organization were to commingle federal funds with state monies, it could assert its right under subsection (d) and (e) of H.R. 7 against the enforcement of state or local procurement provisions that limited the religious organization’s ability to hire staff on a religious basis.” Note: Subsection (d) concerns the right of a religious organization to retain control over its organizational character and autonomy. Subsection (e) provides that the religious organization’s right to hire and fire on the basis of religion (under Section 702 of Title VII of the Civil Rights Act) is not affected by its participating in a program covered by the Act. It also provides that any provision in a covered program that is inconsistent with or that would diminish the exercise of the religious organization’s autonomy under Section 702 shall have no effect.