

112TH CONGRESS
2D SESSION

S. _____

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

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

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

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), or
9 the amendments made by those Acts, and no regula-
10 tions, guidelines, or other requirement issued under
11 such Acts (or amendments) shall be construed to au-
12 thorize the imposition of a fine, penalty, or other
13 sanction, or to otherwise disadvantage any individual
14 or entity on the basis of a religiously-based or mor-
15 ally-based decision not to offer, provide, or purchase
16 health insurance coverage for a contraceptive or
17 sterilization service, or to engage in government
18 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.