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“Respect for Rights of Conscience Act”

The “Respect for Rights of Conscience Act” (S. 1467) was introduced by U.S. Senator Roy Blunt (Mo.) on August 2, 2011, and currently has 37 cosponsors, including U.S. Senator Ben Nelson (Neb.). The House companion bill (H.R. 1179) was introduced March 17, 2011 by U.S. Representative Jeff Fortenberry (Neb.).

On February 9, 2012, the bill was introduced as an amendment in the Senate to the FY2013 highway spending bill. The Senate voted to table the amendment on March 1, 2012, with a close vote of 48-51, including three Democrat Senators who voted in favor of continuing debate on this important issue.

During the debate, a great deal of misinformation was perpetuated by the bill’s opponents.

Here are the facts regarding the “Respect for Rights of Conscience Act”:

- The bill would do nothing to change or restrict the same rights that Americans have enjoyed for more than 220 years since the First Amendment was ratified. It would not impact existing state laws, and it does not address any other law other than the “Patient Protection and Affordable Care Act.” The measure simply restores conscience protections that existed before ObamaCare.
- If an employer has a religious or moral objection to a specific health care item or service, Senator Blunt’s amendment affords them the same rights they had before ObamaCare to negotiate a plan with a health insurance company that meets their needs. However, the bill does nothing to force the health insurance company to offer that plan – it simply ensures that Americans are guaranteed the same rights and freedoms that they enjoyed before President Obama’s unconstitutional mandate.
- The bill contains an actuarial equivalence provision to ensure employers are not financially incentivized to opt-out of areas of health coverage. Employers could be required to provide more generous coverage in one area to make up for an exclusion in another – meaning employers have no financial incentive to deny mandated care.
- The bill also provides a private right of action for employers and individuals who believe their conscience rights are violated by government mandates. Federal courts are well-equipped to identify spurious claims.

The language in the “Respect for Rights of Conscience Act” very closely mirrors a number of bipartisan provisions introduced by past and current Democrat Senators:

- *“Nothing in this title (or any amendment made by this title) shall be construed to require an individual or institutional health care provider, or authorize a health plan to require a provider, to provide, participate in, or refer for a specific item or service contrary to the provider’s religious beliefs or moral convictions.”*
– Senator Blunt (“The Respect for Rights of Conscience Act,” S. 1467 in the 112th Congress, as introduced)
- *“An health insurance issuer may fully advise... enrollees at the time of their enrollment for health insurance coverage with the issuer or at any time during which such enrollees have such coverage, of the coverage’s limitations on providing particular medical services (including limitations on referrals for care provided outside of the coverage) based on the religious or moral convictions of the issuer.”*
– Senator Kennedy (“Health Insurance Bill of Rights Act of 1997,” S. 353 in the 105th Congress, as introduced)
- *“Nothing in this title shall be construed to... prevent any employer from contributing to the purchase of a standard benefits package which excludes coverage of abortion or other services, if the employer objects to such services on the basis of a religious belief or moral conviction.”*
– Senator Moynihan (“HillaryCare,” S. 2351 in the 103rd Congress, as reported by the Finance Committee)
- *“Government shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability, [unless it demonstrates that such burden] (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that governmental interest.”*
– Senator Schumer (“The Religious Freedom Restoration Act,” H.R. 1308 in the 103rd Congress as passed by both Houses and signed by President Clinton)

For more than 40 years since 1973, at least 10 public laws have been enacted containing identical or nearly identical conscience protection language as the “Respect for Rights of Conscience Act.”

- **(1973) Public Health Service Act (the “Church amendment”):** *Protects organizations that receive federal funds in various health programs from being forced to participate in abortion and sterilization procedures, if they object based on religious beliefs or moral convictions.*
- **(1974) Legal Services Corporation limitation:** *Prohibits Legal Services Corporation funds from being used to compel involvement in abortion if a person or organization objects to the procedure, using the religious beliefs or moral convictions test.*
- **(1986) Foreign aid funding limitation:** *Prohibits discrimination against foreign aid grant applicants who offer natural family planning on the basis of religious beliefs or moral convictions (annual appropriations rider.)*
- **(1994) Refusal to participate in executions or in prosecutions of capital crimes:** *Protects employees from being forced to participate in federal executions or prosecutions, if that employee objects based on religious beliefs or moral convictions.*
- **(1996) Vaccinations for aliens:** *Protects aliens who object to vaccinations on account of religious beliefs or moral convictions.*
- **(1997) Medicare and Medicaid counseling and referral:** *Prohibits construing the Medicare statute to require either program's managed care plans to provide counseling and referral services to which they have an objection based on religious beliefs or moral convictions.*
- **(1998) Federal Employee's Health Benefits Plan Regulation:** *Protects providers delivering care under the FEHBP from being required to discuss treatment options to which they have an objection based on religious beliefs or moral convictions.*
- **(1999) Contraceptive coverage for federal employees:** *Exempts certain health plans from a contraceptive coverage mandate in the FEHBP, and prohibits health plans in this program from discriminating against individuals who object to prescribing or providing contraceptives based on religious beliefs or moral convictions. (Annual appropriations rider)*
- **(2000) DC contraceptive mandate:** *Protects those with religious beliefs and moral convictions from any DC contraceptive mandate. (Annual appropriations rider)*
- **(2003) United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act:** *Protects organizations that receive foreign aid funds to prevent and treat HIV/AIDS from being forced to participate in prevention methods or treatments they object to based on religious beliefs or moral convictions.*

Brief Timeline Surrounding the Respect for Rights of Conscience Act:

- **July 14, 2010:** The regulations regarding the overall "preventive care" requirements are implemented as an "interim final rule."
- **March 17, 2011:** U.S. Rep. Jeff Fortenberry (Neb.) introduces “Respect for Rights of Conscience Act.”
- **August 1, 2011:** (1) HHS [announces the interim final rule](#) that creates a narrow “religious employer” exemption to the contraception mandate and (2) The HRSA contraceptive mandate is issued in the form of “[guidance](#)” on the HRSA website.
- **August 2, 2011:** U.S. Senator Roy Blunt (Mo.) introduces “Respect for Rights of Conscience Act.”
- **January 20, 2012:** HHS announces that religious institutions not covered by the August 1, 2011 regulation’s exemption will have one year to decide how to comply.
- **February 9, 2012:** Senator Blunt files “Respect for Rights of Conscience Act” as an amendment to the Transportation Bill. His effort to force a Senate vote on the amendment is blocked by Leader Reid.
- **February 10, 2012:** The White House and HHS finalize the regulation as a "final rule" and re-issue guidance.
- **March 1, 2012:** Senate votes to table the Blunt Amendment, 51-48.