

106<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1113

To amend title XXIV of the Revised Statutes, relating to civil rights, to prohibit discrimination against nongovernmental organizations and certain individuals on the basis of religion in the distribution of government funds to provide government assistance and the distribution of the assistance, to allow the organizations to accept the funds to provide the assistance to the individuals without impairing the religious character of the organizations or the religious freedom of the individuals, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 25, 1999

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

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## A BILL

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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. PROVISION OF ASSISTANCE UNDER GOVERN-**  
 4 **MENT PROGRAMS BY RELIGIOUS ORGANIZA-**  
 5 **TIONS.**

6 Title XXIV of the Revised Statutes is amended by  
 7 inserting after section 1990 (42 U.S.C. 1994) the fol-  
 8 lowing:

9 **“SEC. 1994A. CHARITABLE CHOICE.**

10 “(a) **SHORT TITLE.**—This section may be cited as the  
 11 ‘Charitable Choice Expansion Act of 1999’.

12 “(b) **PURPOSE.**—The purposes of this section are—

13 “(1) to prohibit discrimination against non-  
 14 governmental organizations and certain individuals  
 15 on the basis of religion in the distribution of govern-  
 16 ment funds to provide government assistance and  
 17 distribution of the assistance, under government pro-  
 18 grams described in subsection (c); and

19 “(2) to allow the organizations to accept the  
 20 funds to provide the assistance to the individuals  
 21 without impairing the religious character of the or-  
 22 ganizations or the religious freedom of the individ-  
 23 uals.

24 “(c) **RELIGIOUS ORGANIZATIONS INCLUDED AS NON-**  
 25 **GOVERNMENTAL PROVIDERS.**—For any program carried

1 out by the Federal Government, or by a State or local  
2 government with Federal funds, in which the Federal,  
3 State, or local government is authorized to use nongovern-  
4 mental organizations, through contracts, grants, certifi-  
5 cates, vouchers, or other forms of disbursement, to provide  
6 assistance to beneficiaries under the program, the govern-  
7 ment shall consider, on the same basis as other nongovern-  
8 mental organizations, religious organizations to provide  
9 the assistance under the program, so long as the program  
10 is implemented in a manner consistent with the Establish-  
11 ment Clause of the first amendment to the Constitution.  
12 Neither the Federal Government nor a State or local gov-  
13 ernment receiving funds under such program shall dis-  
14 criminate against an organization that provides assistance  
15 under, or applies to provide assistance under, such pro-  
16 gram, on the basis that the organization has a religious  
17 character.

18 “(d) EXCLUSIONS.—As used in subsection (c), the  
19 term ‘program’ does not include activities carried out  
20 under—

21 “(1) Federal programs providing education to  
22 children eligible to attend elementary schools or sec-  
23 ondary schools, as defined in section 14101 of the  
24 Elementary and Secondary Education Act of 1965  
25 (20 U.S.C. 8801) (except for activities to assist stu-

1 dents in obtaining the recognized equivalents of sec-  
2 ondary school diplomas);

3 “(2) the Higher Education Act of 1965 (20  
4 U.S.C. 1001 et seq.);

5 “(3) the Head Start Act (42 U.S.C. 9831 et  
6 seq.); or

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

9 “(e) RELIGIOUS CHARACTER AND INDEPENDENCE.—

10 “(1) IN GENERAL.—A religious organization  
11 that provides assistance under a program described  
12 in subsection (c) shall retain its independence from  
13 Federal, State, and local governments, including  
14 such organization’s control over the definition, devel-  
15 opment, practice, and expression of its religious be-  
16 liefs.

17 “(2) ADDITIONAL SAFEGUARDS.—Neither the  
18 Federal Government nor a State or local government  
19 shall require a religious organization—

20 “(A) to alter its form of internal govern-  
21 ance; or

22 “(B) to remove religious art, icons, scrip-  
23 ture, or other symbols;

24 in order to be eligible to provide assistance under a  
25 program described in subsection (c).

1 “(f) EMPLOYMENT PRACTICES.—

2 “(1) TENETS AND TEACHINGS.—A religious or-  
3 ganization that provides assistance under a program  
4 described in subsection (c) may require that its em-  
5 ployees providing assistance under such program ad-  
6 here to the religious tenets and teachings of such or-  
7 ganization, and such organization may require that  
8 those employees adhere to rules forbidding the use  
9 of drugs or alcohol.

10 “(2) TITLE VII EXEMPTION.—The exemption of  
11 a religious organization provided under section 702  
12 or 703(e)(2) of the Civil Rights Act of 1964 (42  
13 U.S.C. 2000e-1, 2000e-2(e)(2)) regarding employ-  
14 ment practices shall not be affected by the religious  
15 organization’s provision of assistance under, or re-  
16 ceipt of funds from, a program described in sub-  
17 section (c).

18 “(g) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

19 “(1) IN GENERAL.—If an individual described  
20 in paragraph (3) has an objection to the religious  
21 character of the organization from which the indi-  
22 vidual receives, or would receive, assistance funded  
23 under any program described in subsection (c), the  
24 appropriate Federal, State, or local governmental  
25 entity shall provide to such individual (if otherwise

1 eligible for such assistance) within a reasonable pe-  
 2 riod of time after the date of such objection, assist-  
 3 ance that—

4 “(A) is from an alternative organization  
 5 that is accessible to the individual; and

6 “(B) has a value that is not less than the  
 7 value of the assistance that the individual would  
 8 have received from such organization.

9 “(2) NOTICE.—The appropriate Federal, State,  
 10 or local governmental entity shall ensure that notice  
 11 is provided to individuals described in paragraph (3)  
 12 of the rights of such individuals under this section.

13 “(3) INDIVIDUAL DESCRIBED.—An individual  
 14 described in this paragraph is an individual who re-  
 15 ceives or applies for assistance under a program de-  
 16 scribed in subsection (c).

17 “(h) NONDISCRIMINATION AGAINST BENE-  
 18 FICIARIES.—

19 “(1) GRANTS AND CONTRACTS.—A religious or-  
 20 ganization providing assistance through a grant or  
 21 contract under a program described in subsection (c)  
 22 shall not discriminate, in carrying out the program,  
 23 against an individual described in subsection (g)(3)  
 24 on the basis of religion, a religious belief, a refusal

1 to hold a religious belief, or a refusal to actively par-  
2 ticipate in a religious practice.

3 “(2) INDIRECT FORMS OF DISBURSEMENT.—A  
4 religious organization providing assistance through a  
5 voucher, certificate, or other form of indirect dis-  
6 bursement under a program described in subsection  
7 (c) shall not deny an individual described in sub-  
8 section (g)(3) admission into such program on the  
9 basis of religion, a religious belief, or a refusal to  
10 hold a religious belief.

11 “(i) FISCAL ACCOUNTABILITY.—

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

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

24 “(j) COMPLIANCE.—A party alleging that the rights  
25 of the party under this section have been violated by a

1 State or local government may bring a civil action pursu-  
2 ant to section 1979 against the official or government  
3 agency that has allegedly committed such violation. A  
4 party alleging that the rights of the party under this sec-  
5 tion have been violated by the Federal Government may  
6 bring a civil action for appropriate relief in an appropriate  
7 Federal district court against the official or government  
8 agency that has allegedly committed such violation.

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

15       “(l) EFFECT ON STATE AND LOCAL FUNDS.—If a  
16 State or local government contributes State or local funds  
17 to carry out a program described in subsection (c), the  
18 State or local government may segregate the State or local  
19 funds from the Federal funds provided to carry out the  
20 program or may commingle the State or local funds with  
21 the Federal funds. If the State or local government com-  
22 mingles the State or local funds, the provisions of this sec-  
23 tion shall apply to the commingled funds in the same man-  
24 ner, and to the same extent, as the provisions apply to  
25 the Federal funds.



1       “(m) TREATMENT OF INTERMEDIATE CONTRAC-  
2 TORS.—If a nongovernmental organization (referred to in  
3 this subsection as an ‘intermediate organization’), acting  
4 under a contract or other agreement with the Federal Gov-  
5 ernment or a State or local government, is given the au-  
6 thority under the contract or agreement to select non-  
7 governmental organizations to provide assistance under  
8 the programs described in subsection (c), the intermediate  
9 organization shall have the same duties under this section  
10 as the government but shall retain all other rights of a  
11 nongovernmental organization under this section.”.

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