



S. 304, the Conscience Protection Act of 2016

Protecting Conscience and Preventing Government Discrimination

Background

Congress has a long history of providing bipartisan conscience and freedom protections consistent with our founding principles and our Constitution.

One of these protections is known as the Weldon amendment – a longstanding protection in appropriations law that provides that states and localities receiving federal funds may not discriminate against a health care entity on the basis that they do not “... provide, pay for, provide coverage of, or refer for abortions.”

Today, the only relief for victims who experience discrimination from parties violating the law is filing a complaint within the Department of Health and Human Services’ (HHS) Office of Civil Rights (OCR). This means Americans cannot get their day in court, unlike other civil rights protections. It is unfair that individuals have no legal recourse to protect their rights if they are forced to participate in an abortion.

Conscience Rights Are Under Attack

Consider the examples of churches in California that are currently being forced by the state to cover abortion in their health care plans, or the case of a New York nurse who was involuntary required to take part in a dismemberment of a 22-week-old unborn child.

Troublingly, those encountering discrimination cannot even look to OCR for help. OCR recently reinterpreted existing law to find a California mandate directing all health insurers to remove coverage exclusions and limitations for elective abortions to be consistent with the Weldon amendment. Americans should not have to rely on the whim of attorneys at HHS to be protected from discrimination.

What does the bill do?

First, the Conscience Protection Act of 2016 reaffirms the protections found in the Weldon amendment. Second, the bill opens the courts to discriminated individuals and entities to obtain necessary legal relief. Third, the bill clarifies that nothing in the Act prevents providers from voluntarily electing to participate in abortion or makes changes to the Emergency Medical Treatment and Labor Act.