

112TH CONGRESS  
2D SESSION

# S. 2092

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

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 9, 2012

Mr. MANCHIN (for himself and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

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

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),  
9 or the amendments made by those Acts, and no reg-  
10 ulations, guidelines, or other requirement issued  
11 under such Acts (or amendments) shall be construed  
12 to authorize the imposition of a fine, penalty, or  
13 other sanction, or to otherwise disadvantage any in-  
14 dividual or entity on the basis of a religiously based  
15 or morally based decision not to offer, provide, or  
16 purchase health insurance coverage for a contracep-  
17 tive or sterilization service, or to engage in govern-  
18 ment 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.

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