

118TH CONGRESS
1ST SESSION

S. _____

To ensure equal treatment for religious organizations in the Federal provision of social services programs, grantmaking, and contracting, and for other purposes.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To ensure equal treatment for religious organizations in the Federal provision of social services programs, grantmaking, and contracting, and for other purposes.

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 “Lifting Local Commu-
5 nities Act”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are the following:

1 (1) To enable assistance to be provided to indi-
2 viduals and families in need in the most effective
3 manner.

4 (2) To prohibit discrimination against religious
5 organizations in receipt and administration of Fed-
6 eral financial assistance, including the provision of
7 that assistance through federally funded social serv-
8 ice programs.

9 (3) To ensure that religious organizations can
10 apply and compete for Federal financial assistance
11 on a level playing field with nonreligious organiza-
12 tions.

13 (4) To provide certainty for religious organiza-
14 tions that receipt of Federal financial assistance will
15 not obstruct or hinder their ability to organize and
16 operate in accordance with their sincerely held reli-
17 gious beliefs.

18 (5) To strengthen the social service capacity of
19 the United States by facilitating the entry of new,
20 and the expansion of existing, efforts by religious or-
21 ganizations in the administration and provision of
22 Federal financial assistance.

23 (6) To protect the religious freedom of, and
24 better serve, individuals and families in need, includ-
25 ing by expanding their ability to choose to receive

1 federally funded social services from religious organi-
2 zations.

3 **SEC. 3. PROVISION OF SERVICES FOR GOVERNMENT PRO-**
4 **GRAMS BY RELIGIOUS ORGANIZATIONS.**

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

8 **“SEC. 1990A. ENSURING EQUAL TREATMENT FOR RELI-**
9 **GIUS ORGANIZATIONS IN FEDERAL PROVI-**
10 **SION OF SOCIAL SERVICES, GRANTMAKING,**
11 **AND CONTRACTING.**

12 “(a) IN GENERAL.—For any social services program
13 carried out by the Federal Government, or by a State,
14 local government, or pass-through entity with Federal
15 funds, the entity that awards Federal financial assistance
16 shall consider religious organizations, on the same basis
17 as any other private organization, to provide services for
18 the program.

19 “(b) EQUAL TREATMENT FOR RELIGIOUS ORGANIZA-
20 TIONS IN FEDERAL FINANCIAL ASSISTANCE.—

21 “(1) IN GENERAL.—A religious organization
22 shall be eligible to apply for and to receive Federal
23 financial assistance to provide services for a social
24 services program on the same basis as a private non-
25 religious organization.

1 “(2) SELECTION.—In the selection of recipients
2 for Federal financial assistance for a social services
3 program neither the Federal Government nor a
4 State, local government, or pass-through entity re-
5 ceiving funds for such program may discriminate for
6 or against a private organization on the basis of reli-
7 gion, including the organization’s religious character,
8 affiliation, or exercise.

9 “(3) PROHIBITION AGAINST IMPROPER BURDEN
10 ON RELIGIOUS ORGANIZATIONS.—

11 “(A) IN GENERAL.—Except in the case of
12 another applicable provision of law that requires
13 or provides for a religious exemption or accom-
14 modation that is equally or more protective of
15 a religious organization’s religious exercise, the
16 provisions of subparagraphs (B) through (E)
17 shall apply for any social services program ad-
18 ministered by the Federal Government or by a
19 State, local government, or pass-through entity.

20 “(B) EQUAL TREATMENT ON ASSURANCES
21 AND NOTICES.—No document, agreement, cov-
22 enant, memorandum of understanding, policy,
23 or regulation, relating to Federal financial as-
24 sistance shall require religious organizations to

1 provide assurances or notices that are not re-
2 quired of private nonreligious organizations.

3 “(C) EQUAL APPLICATION OF RESTRIC-
4 TIONS.—Any restrictions on the use of funds
5 received as Federal financial assistance shall
6 apply equally to religious and private nonreli-
7 gious organizations.

8 “(D) PROGRAM REQUIREMENTS.—All or-
9 ganizations that receive Federal financial assist-
10 ance for a social services program, including re-
11 ligious organizations, shall carry out eligible ac-
12 tivities in accordance with all program require-
13 ments, and other applicable requirements gov-
14 erning the conduct of activities funded by the
15 entity that awards Federal financial assistance.

16 “(E) NO DISQUALIFICATION BASED ON RE-
17 LIGION.—No document, agreement, covenant,
18 memorandum of understanding, policy, or regu-
19 lation, relating to Federal financial assistance
20 shall—

21 “(i) disqualify religious organizations
22 from applying for or receiving Federal fi-
23 nancial assistance for a social services pro-
24 gram on the basis of the organization’s re-
25 ligious character or affiliation, or grounds

1 that discriminate against the organization
2 on the basis of the organization’s religious
3 exercise; or

4 “(ii) prohibit the provision of religious
5 activities or services at the same time or
6 location as any program receiving such
7 Federal financial assistance.

8 “(c) RELIGIOUS CHARACTER AND FREEDOM.—

9 “(1) FREEDOM.—A religious organization that
10 applies for or receives Federal financial assistance
11 for a social services program shall retain its inde-
12 pendence from Federal, State, and local govern-
13 ments, including its autonomy, right of expression,
14 religious character or affiliation, authority over its
15 internal governance, and other aspects of independ-
16 ence.

17 “(2) RELIGIOUS CHARACTER.—A religious or-
18 ganization that applies for or receives Federal finan-
19 cial assistance for a social services program may,
20 among other things—

21 “(A) retain religious terms in the organiza-
22 tion’s name;

23 “(B) continue to carry out the organiza-
24 tion’s mission, including the definition, develop-

1 ment, practice, and expression of its religious
2 beliefs;

3 “(C) use the organization’s facilities to
4 provide a program without concealing, remov-
5 ing, or altering religious art, icons, scriptures,
6 or other symbols from the facilities;

7 “(D) select, promote, or dismiss the mem-
8 bers of the organization’s governing body and
9 the organization’s employees on the basis of
10 their acceptance of or adherence to the religious
11 tenets of the organization; and

12 “(E) include religious references in the or-
13 ganization’s mission statement and other char-
14 tering or governing documents.

15 “(d) RIGHTS OF COVERED BENEFICIARIES OF SERV-
16 ICES.—

17 “(1) IN GENERAL.—Except as otherwise pro-
18 vided in any applicable provision of law that requires
19 or provides for a religious exemption or accommoda-
20 tion that is equally or more protective of a religious
21 organization’s religious exercise, an organization
22 that receives Federal financial assistance under a so-
23 cial services program shall not discriminate against
24 a covered beneficiary in the provision of a federally

1 funded program on the basis of religion, a religious
2 belief, or a refusal to hold a religious belief.

3 “(2) SPECIAL RULE.—It shall not be considered
4 discrimination under paragraph (1) for a program
5 funded by Federal financial assistance to refuse to
6 modify any components of the program to accommo-
7 date a covered beneficiary who participates in the or-
8 ganization’s program.

9 “(3) ALTERNATIVE SERVICES.—If a covered
10 beneficiary has an objection to the character or af-
11 filiation of the private organization from which the
12 beneficiary receives, or would receive, services as
13 part of the federally funded social services program,
14 the appropriate Federal, State, or local govern-
15 mental entity shall provide to such beneficiary (if
16 otherwise eligible for such services) within a reason-
17 able period of time after the date of such objection,
18 a referral for alternative services that—

19 “(A) are reasonably accessible to the cov-
20 ered beneficiary; and

21 “(B) have a substantially similar value to
22 the services that the covered beneficiary would
23 initially have received from such organization.

24 “(4) DEFINITION.—In this subsection, the term
25 ‘covered beneficiary’ means an individual who ap-

1 plies for or receives services under a social services
2 program.

3 “(e) RELIGIOUS EXEMPTIONS.—A religious organiza-
4 tion’s exemptions, in title VII of the Civil Rights Act of
5 1964 (42 U.S.C. 2000e et seq.) (including exemption from
6 prohibitions in employment discrimination in section
7 702(a) of that Act (42 U.S.C. 2000e–1(a))), title VIII of
8 the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.),
9 title IX of the Education Amendments of 1972 (20 U.S.C.
10 1681 et seq.), the Americans with Disabilities Act of 1990
11 (42 U.S.C. 12101 et seq.), the Religious Freedom Res-
12 toration Act (42 U.S.C. 2000bb et seq.), the Religious
13 Land Use and Institutionalized Persons Act of 2000 (42
14 U.S.C. 2000cc et seq.), or any other provision in law pro-
15 viding an exemption for a religious organization, shall not
16 be waived because of the religious organization’s participa-
17 tion in, or receipt of funds from, a social services program
18 funded with Federal financial assistance.

19 “(f) LIMITED AUDIT.—

20 “(1) IN GENERAL.—A religious organization
21 providing services for a social services program using
22 Federal financial assistance may segregate Federal
23 funds and any required matching funds provided for
24 such program into a separate account or accounts.
25 Only the separate accounts consisting of Federal

1 funds and any required matching funds shall be sub-
2 ject to audit by the Federal Government with re-
3 spect to an audit undertaken for the purposes of
4 oversight of Federal financial assistance.

5 “(2) COMMINGLING OF FUNDS.—If a religious
6 organization providing services for a social services
7 program using Federal financial assistance contrib-
8 utes the organization’s own funds in addition to
9 those funds required by a matching requirement or
10 agreement to supplement Federal funds, the organi-
11 zation may segregate the organization’s own funds
12 that are not matching funds into separate accounts,
13 or commingle the organization’s own funds that are
14 not matching funds with the matching funds. If
15 those funds are commingled, the commingled funds
16 may all be subject to audit by the Federal Govern-
17 ment.

18 “(g) PRIVATE RIGHT OF ACTION.—Any religious or-
19 ganization that alleges a violation of its rights under this
20 section and seeks to enforce its rights under this section—

21 “(1) may bring an action in a court of com-
22 petent jurisdiction and assert that violation as a
23 claim, or assert that violation as a defense in a judi-
24 cial action; and

1 “(2) may obtain appropriate relief, including at-
2 torney’s fees, against an entity or agency that com-
3 mitted such violation.

4 “(h) FEDERAL PREEMPTION OF STATE AND LOCAL
5 LAWS.—With respect to any Federal financial assistance
6 provided to a religious organization for the provision of
7 a social service program, or such assistance commingled
8 with State or local funds, no State or political subdivision
9 of a State may adopt, maintain, enforce, or continue in
10 effect any law, regulation, rule, or requirement covered by
11 the provisions of this section, or a rule, regulation, or re-
12 quirement promulgated under this section.

13 “(i) CONSTRUCTION.—The provisions of this section
14 shall supersede all Federal law (including statutory and
15 other law, and policies used in the implementation of that
16 law) that is enacted or issued before the date of enactment
17 of this section. No provision of law enacted after the date
18 of the enactment of this section may be construed as lim-
19 iting, superseding, or otherwise affecting this section, ex-
20 cept to the extent that it does so by specific reference to
21 this section.

22 “(j) SEVERABILITY.—If any provision of this section
23 or the application of such provision to any person or cir-
24 cumstance is held to be unconstitutional, the remainder
25 of this section and the application of the provisions of such

1 to any person or circumstance shall not be affected there-
2 by.

3 “(k) DEFINITIONS.—In this section:

4 “(1) DISCRIMINATE ON THE BASIS OF AN OR-
5 GANIZATION’S RELIGIOUS EXERCISE.—

6 “(A) IN GENERAL.—The term ‘discrimi-
7 nate’, used with respect to an organization’s re-
8 ligious exercise, means, on the basis of covered
9 conduct or motivation, to disfavor an organiza-
10 tion in a selection process or in oversight, in-
11 cluding—

12 “(i) by failing to select an organiza-
13 tion;

14 “(ii) by disqualifying an organization;
15 or

16 “(iii) by imposing any condition or se-
17 lection criterion that penalizes or otherwise
18 disfavors an organization, or has the effect
19 of so penalizing or disfavoring an organiza-
20 tion.

21 “(B) COVERED CONDUCT OR MOTIVA-
22 TION.—In this paragraph, the term ‘covered
23 conduct or motivation’ means—

1 “(i) conduct that would not be consid-
2 ered grounds to disfavor a nonreligious or-
3 ganization;

4 “(ii) conduct for which an organiza-
5 tion must or could be granted an exemp-
6 tion or accommodation in a manner con-
7 sistent with the Free Exercise Clause of
8 the First Amendment to the Constitution,
9 the Religious Freedom Restoration Act (42
10 U.S.C. 2000bb et seq.), or any other provi-
11 sion referenced in subsection (e); or

12 “(iii) the actual or suspected religious
13 motivation for the organization’s religious
14 exercise.

15 “(2) OTHER DEFINITIONS.—

16 “(A) FEDERAL FINANCIAL ASSISTANCE.—
17 The term ‘Federal financial assistance’ means
18 financial assistance from the Federal Govern-
19 ment that non-Federal entities receive or ad-
20 minister through grants, contracts, loans, loan
21 guarantees, property, cooperative agreements,
22 food commodities, direct appropriations, or
23 other assistance, but does not include a tax
24 credit, tax deduction, or guaranty contract.

1 “(B) PASS-THROUGH ENTITY.—The term
2 ‘pass-through entity’ means an entity, including
3 a nonprofit or nongovernmental organization,
4 acting under a grant, contract, or other agree-
5 ment with the Federal Government or with a
6 State or local government, such as a State ad-
7 ministering agency, that accepts direct Federal
8 financial assistance as a primary recipient (such
9 as a grant recipient) and distributes that assist-
10 ance to other organizations that, in turn, pro-
11 vide government-funded social services through
12 a social services program.

13 “(C) PROGRAM.—The term ‘program’ in-
14 cludes the services provided through that pro-
15 gram.

16 “(D) RELIGIOUS EXERCISE.—The term
17 ‘religious exercise’ has the meaning given the
18 term in section 8 of the Religious Land Use
19 and Institutionalized Persons Act of 2000 (42
20 U.S.C. 2000cc-5).

21 “(E) SERVICES.—The term ‘services’, used
22 with respect to a social services program, in-
23 cludes the provision of goods, or of financial as-
24 sistance, under the social services program.

1 “(F) SOCIAL SERVICES PROGRAM.—The
2 term ‘social services program’—

3 “(i) means a program that is adminis-
4 tered by the Federal Government, or by a
5 State or local government using Federal fi-
6 nancial assistance, and that provides serv-
7 ices directed at reducing poverty, improv-
8 ing opportunities for low-income children,
9 revitalizing low-income communities, em-
10 powering low-income families and low-in-
11 come individuals to become self-sufficient,
12 or otherwise helping people in need; and

13 “(ii) includes a program that provides,
14 to people in need—

15 “(I) child care services, protective
16 services for children and adults, serv-
17 ices for children and adults in foster
18 care, adoption services, services re-
19 lated to management and mainte-
20 nance of the home, day care services
21 for adults, and services to meet the
22 special needs of children, older indi-
23 viduals, and individuals with disabil-
24 ities;

25 “(II) transportation services;

1 “(III) job training and related
2 services, and employment services;

3 “(IV) information, referral, and
4 counseling services;

5 “(V) the preparation and delivery
6 of meals, nutrition services, and serv-
7 ices related to soup kitchens or food
8 banks;

9 “(VI) health support services;

10 “(VII) literacy and mentoring
11 services;

12 “(VIII) services for the preven-
13 tion and treatment of juvenile delin-
14 quency and substance abuse, services
15 for the prevention of crime and the
16 provision of assistance to the victims
17 and families of criminal offenders, and
18 services related to intervention in, and
19 prevention of, domestic violence; or

20 “(IX) services related to the pro-
21 vision of assistance for housing under
22 Federal law.”.