



## S. 304 – Conscience Protection Act of 2016 (Rep. Black, R-TN)

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### FLOOR SCHEDULE:

Expected to be considered on July 13, 2016 under a closed [rule](#).

The rule also provides for so-called same-day authority for July 14 and 15, waiving clause 6(a) of Rule XIII (requiring a 2/3 vote to consider a rule on the same day it is reported from the Rules Committee).

### TOPLINE SUMMARY:

[S. 304](#) would close loopholes in federal law by amending the Public Health Service Act to codify the prohibition against federal, state, and local governments that receive funds for health-related activities from punishing, penalizing, or discriminating against a health care provider because of their refusal to provide coverage for, or be involved in, performing an abortion.

### COST:

The Congressional Budget Office (CBO) cost estimate is not yet available.

### CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

### DETAILED SUMMARY AND ANALYSIS:

Instances of discrimination for refusing to participate in an abortion have become all too common. In 2009, [Cathy DeCarlo](#), a nurse at Mt. Sinai Hospital in New York was forced to participate in an abortion against her conscience. Though the [Hyde/Weldon conscience clauses](#) and the [Church Amendments](#) provide some protections to individuals who do not wish to participate in abortions or provide coverage for abortions, they create no private right of action to allow victims to go to court to obtain relief. Moreover, because these amendments are “limitation of funds” riders, violations of the protections only involve cutting off funds, and are only assured for a single fiscal year. Further, in certain instances Hyde/Weldon does not apply, as it does not affect subunits of state governments that do not directly receive federal dollars.

S. 304 would apply to health care professionals, health care facilities, social services providers, health care professional training programs and health care insurers, effectively codifying Hyde/Weldon and the Church Amendments. This legislation would require the Office for Civil Rights within the Department of Health and Human Services to, in coordination with the Department of Justice, investigate complaints alleging discrimination because of a person’s religious belief, moral conviction, or refusal to participate in an abortion. The Department of Justice or any entity adversely affected by such discrimination may pursue

relief via a civil action. An entity need not pursue an administrative remedy prior to commencing a civil action. Civil actions would be permitted to be brought against government entities.

Similar legislation has been previously introduced as the [Abortion Non-Discrimination Act](#). This [legislation passed](#) the House in 2002.

**GROUPS IN SUPPORT: ( \*key voting )**

Alliance Defending Freedom  
Alliance of Catholic Health Care  
American Association of Pro-life Obstetricians and Gynecologists  
American Center for Law and Justice  
[Americans United for Life Action](#)\*  
Catholic Benefits Association  
Catholic Healthcare International  
Catholic Medical Association  
Christian Medical Association  
Concerned Women for America\*  
Eagle Forum\*  
Ethics and Religious Liberty Commission  
[Family Research Council](#)\*  
Focus on the Family  
Heritage Action\*  
Knights of Columbus  
March for Life  
National Association of Catholic Nurses – USA  
[National Catholic Bioethics Center](#)  
National Council of Catholic Women  
[National Right to Life Committee](#)\*  
Priests for Life  
Sacred Heart Mercy Health Care Centers (Michigan and Minnesota)  
Students for Life of America  
[Susan B. Anthony List](#)  
[US Conference of Catholic Bishops](#)

**COMMITTEE ACTION:**

The House text of the Conscience Protection Act, found in H.R. 4828, was introduced on March 25, 2016 and was referred to the House Committee on Energy and Commerce. As part of the vote adopting the rule, the text of H.R. 4828 will be inserted into S.304.

**ADMINISTRATION POSITION:**

A Statement of Administration Policy is not available.

**CONSTITUTIONAL AUTHORITY:**

According to the sponsor of H.R. 4828, Congress has the power to enact this legislation pursuant to the following: This bill makes specific changes to existing law in a manner that provides conscience protections in accord with the 1st Amendment of the United States Constitution. Further, this bill creates a private right of action in federal court in accord with Clause 9 of Section 8 of Article I and Clause 18, Section 8 of Article I, of the United States Constitution. Similarly, this bill provides for preventing disbursement of all or a portion of certain Federal financial assistance in accord with Clause 1, Section 8 Article 1.

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