

CAPITAL COMMENTARY

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AWOL Again on the Faith-Based Initiative

Well, the Senate last week almost took up the issue of equal opportunity for faith-based services. On the floor for debate was reauthorization of the 1996 welfare reform law—the first law to include Charitable Choice language. Reauthorization is long overdue, but disputes over child-care funding and toughening the work requirement had stymied Senate action. The debate finally started last week, and additional child care money was added. Then the process collapsed in a dispute over loading the bill with a minimum-wage measure. Welfare reauthorization is back off the Senate agenda, it appears, at least until the end of June, when the law's current extension ends.

So what about Charitable Choice? In fact, it doesn't need to be reauthorized: it is now part of welfare's legal framework. But supporters and opponents were poised to act. Supporters like Sen. Rick Santorum (R-PA) want to expand Charitable Choice to cover the Social Services Block Grant program, to ensure that faith-based groups have full opportunity to compete for those funds.

Opponents wanted to weaken Charitable Choice through the reauthorization process. There's still the view out there that the concept violates the Constitution. In fact, it is an equal opportunity measure, not a theocratic idea. It tells officials to make sure government funds go to the best providers, whether secular or religious. It bolsters legal protections for the religious character of faith-based providers, while protecting the religious liberty of beneficiaries. It even requires states to provide an alternative for anyone who doesn't want service from a faith-based provider. And it requires government money to be spent on services and not be diverted to pay for evangelism, a synagogue's roof, or scripture instruction.

It's not easy these days to get steamed up about this balanced package of rights and duties, particularly when Charitable Choice has enabled a broader range of faith-based groups to partner with government and those groups are serving the poor with respect. But

opponents are sure one part of the concept is intolerable: Charitable Choice's safeguarding of the federal civil right of religious organizations to take account of religion when they decide who to hire. Some federal funding programs restrict that right. Charitable Choice says the right doesn't disappear when a faith-based group accepts federal funds to offer welfare services.

But what happens when the federal money is funneled through the welfare agency in a state that requires all of its grantees and contractors to hire without regard to religion? Many states don't restrict religious hiring, but others do, and so do many large cities. So whose rules dominate: the federal freedom or the state or local restriction?

Some Senators hoped to clarify the law in favor of the restrictions, modifying Charitable Choice to say that the federal freedom must give way to state restrictions on religious staffing and to municipal requirements that every contractor must provide domestic partner benefits. Yet, if the whole point of Charitable Choice is to remove the restrictions and uncertainty that keep many effective faith-based providers from participating with other groups, isn't it clear that the federal rule protecting the hiring right should prevail over restrictive state and local policies?

Stay tuned! The Senate has avoided Charitable Choice yet again, but the issue can't be ducked forever. Now is the time to educate Senators on the importance of upholding religious freedom in the government's rules for its social-service funding programs. Urge your Senator to strengthen and expand Charitable Choice, because when the government invites faith-based providers to be its allies for the good of families in need, it should protect and not restrict the employment policies that enable those providers to be distinctive.

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