

**PHOTOCOPY
PRESERVATION**

Andrea Kane

11/10/99 06:40:30 PM

Informal -

Record Type: Record

*FATHERS COUNT
Bill*

To: Eric P. Liu/OPD/EOP@EOP
cc: bruce n. reed/opd/eop@eop, cynthia a. rice/opd/eop@eop
bcc:
Subject: Re: Charitable choice issues in HR 3073 Fathers Count 

Yes. The Mink amendment which would have prevented charitable choice from applying to fatherhood grants and would have shifted focus from fathers to parents failed 251-172 (with about 40 Ds joining 212Rs). The Edwards amendment, which would have modified charitable choice provision as it applied to the fatherhood grants to clarify that funds could not go to a pervasively sectarian organization, also failed 238-184. A third related vote on a motion to recommit by Bobby Scott also failed 246-176. Scott wanted to amend charitable choice to ensure that any religious organization who accepts federal funds must be covered by civil rights law prohibitions on religious discrimination (currently, charitable choice exempts them from these provisions so a catholic church receiving TANF funds could decide to only hire catholics etc.)

The other significant amendment to the Welfare-to-Work provisions of the bill that did pass was a Cardin amendment which would allow poor custodial parents who are not on welfare to be eligible for WtW funds. The bill had left W&M with this provision, but ED & Workforce had put this new eligibility category within a 30% cap in WtW. While this opens up WtW eligibility significantly and has the potential to dilute the focus on the hardest to employ, it was a concession to the women's groups and homeless groups who argued for some parity with the broader WTW eligibility for low income non-custodial fathers (we were silent on the provision).

The entire Fathers Count bill passed the House 328 (172Rs/156D to 93 (42 R/50D/11). Since the Senate is not ready to act on the broader fatherhood issues, Johnson plans to move a stripped down version of the bill under suspension on Friday that will include the WTW changes and the child support/SDU penalty changes that need to happen this year. The hope is that the Senate will then quickly act on that bill.

The entire bill passed with a solid margin 328 (172R/156D) to 93 (42R/50D/11).
Eric P. Liu



Eric P. Liu
11/10/99 05:58:58 PM

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To: Andrea Kane/OPD/EOP@EOP
cc: bruce n. reed/opd/eop@eop, cynthia a. rice/opd/eop@eop
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Subject: Re: Charitable choice issues in HR 3073 Fathers Count 

Both amendments failed, yes? Anything else notable happen?
Andrea Kane

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11/09/99 09:37:06 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP@EOP, Eric P. Liu/OPD/EOP@EOP

cc: Cynthia A. Rice/OPD/EOP@EOP

Subject: Charitable choice issues in HR 3073 Fathers Count

Despite our best efforts to keep charitable choice from becoming an issue in the Fathers Count bill, we wanted to let you know that it will get some attention in the floor debate scheduled for tomorrow. When the Fathers Count bill goes to the floor Wednesday, there will be at least two amendments related to charitable choice. The bill as reported out of W&M said that at least 75% of the fatherhood grantees must be nongovernmental (including faith based) organizations or governmental organizations that pass through at least 50% of their grant to nongovt/faith-based organizations. The bill also extended the TANF charitable choice provisions to the fatherhood grants.

Mink has offered an amendment that will, among other things, strike the extension of charitable choice to the fatherhood grants (Mink amendment also proposes substituting the word "parent" for all references to "fathers"). Edwards (D-Texas) has offered an amendment that will add language after the provision extending charitable choice to the fatherhood grants that says "Notwithstanding any other provision of law, funds shall not be provided under this section to any faith-based institution that is pervasively sectarian." It's our understanding that Cardin, the lead D co-sponsor on the bill, will vote against the Mink amendment and for the Edwards amendment.

DOJ has sent a views letter on HR 3073 (before the Edwards amendment surfaced) which basically says "if the charitable choice provision of the PRWORA is amended to apply to the new fatherhood grant program established by the bill, it can and must be construed and implemented in a manner consistent with ...constitutional requirements" and goes on to say "The Administration believes that religious institutions can and must play an important and constructive role in providing social services". This is modeled on language negotiated with DOJ for the Juvenile Justice bill.

Our SAP is silent on the charitable choice issue and we've just been referring people who ask to the DOJ views letter which we believe makes clear that the TANF provisions, and their extension to the fatherhood grants, can and must be implemented in a constitutional manner and therefore these amendments wouldn't be necessary.

Cardin's staff says a number of the groups that have concerns about charitable choice have been working with Edwards on this and he's firmly committed to pushing forward with the amendment. This is essentially the language that DOJ has proposed in the past, but we do not believe has ever been transmitted to the Hill as an official Administration position. Nevertheless folks on the Hill and elsewhere know that DOJ has proposed this language and it's hard to oppose the language on the merits. We have quietly suggested through DOL that Edward's amendment could have unintended consequences by (a) creating inconsistencies btwn the fatherhood grants and TANF and (b) possibly resulting in a no vote on the floor. We're not sure how they responded but based on my subsequent conversation with Cardin's staff, I wouldn't imagine Edwards would be receptive to these arguments. Cardin's staff has actually tried encouraging Rs to support the Edward's language since the TANF charitable choice provision is supposed to be implemented consistent with the Establishment Clause and the courts say that means not funding pervasively sectarian organizations and funding specific religious activities. So far R's aren't biting, and it isn't clear where Johnson is on the issue.

We have given VP's folks a heads up about this.

Also, once the House votes on the Fathers Count bill tomorrow, Johnson will immediately introduce a scaled-back version (probably with Cardin's support), which does the Welfare-to-Work fixes we need to get enacted this year, the modified child support SDU fixes that are also needed this year, a few other provisions in the bill, but will not include the Fatherhood grants. It's still not clear how Senate will respond. They've passed SDU fix on UC, and currently have WTW fix on Independent Living bill which is not guaranteed to pass this year.