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## FIA CONTRACTS WITH RELIGIOUS ORGANIZATIONS

House Bill 5316 (Substitute H-1)  
Sponsor: Rep. Mark Jansen  
Committee: Family and Children  
Services

Complete to 10-29-01

### A SUMMARY OF HOUSE BILL 5316 (SUBSTITUTE H-1)

House Bill 5316 would amend the Social Welfare Act to allow the Family Independence Agency (FIA) to contract with religious organizations.

Legislative Intent. The bill specifies that it is the legislature's intent to provide assistance to needy families and individuals in the most effective and efficient manner; to prohibit discrimination against religious organizations in the administration and distribution of assistance under covered programs; to allow religious organizations to assist in the administration and distribution of assistance without impairing their religious character; and to protect the religious freedom of those in need who are eligible to receive governmental aid by expanding their opportunity to choose to receive services from a diversity of religious organizations in a manner consistent with the free exercise and establishment clauses of the Constitution.

FIA contracts with religious organizations. The FIA could contract with a charitable or religious organization to administer a program created under the Social Welfare Act or to perform a duty of the FIA under the act. The FIA could also allow a charitable or religious organization to receive certificates, vouchers, or other forms of indirect disbursement under a program created under the act on the same basis as any other nongovernmental provider without impairing the religious character of the charitable or religious organization, or without diminishing the religious freedom of those receiving assistance.

Furthermore, any state or local government agency that receives funds under the act could not discriminate against an organization that provides assistance on the basis that the organization is religious or has a religious character.

Any charitable or religious organization seeking to enforce its rights under the bill could initiate a civil action in an appropriate state court for injunctive relief against the official or agency that violated the provisions of the bill.

Funding. The FIA could use either direct or indirect funding mechanisms in its contracts with charitable or religious organizations. Any federal, state, or local government funds or other direct or indirect assistance received by the charitable or religious organization would be considered to be aid to individuals and families in need, who are the ultimate beneficiaries of such services, and would not be considered to be support for, or endorsement of, religion or the organization's religious beliefs or practices.

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A religious organization could not commingle state or federal funds received with any funds the organization receives for its religious purposes. Federal and state funds would have to be maintained in a separate account and would be audited and accounted for separately. A charitable or religious organization that contracts with the state to provide assistance would be subject to the same regulations as any other nongovernmental agency that contracts with the state to account for the use of funds pursuant to the Social Welfare Act.

Any direct funds provided through a contract to a charitable or religious organization to provide assistance could not be expended for sectarian instruction, worship, or proselytization (to convert persons from one religion to another). If the charitable or religious organization offered any of these activities, it would have to be voluntary for the recipients and be offered separately from any program receiving funds. The charitable or religious organization would have to sign a certificate certifying that it is aware of and will comply with this requirement. The certificate would be filed with the governmental agency that distributes the funds.

Autonomy. The bill specifies that a religious organization that contracts with the FIA would retain its autonomy from the state and local government. The organization would retain control over the definition, development, practice, and expression of its religious belief, and would also retain the control of its employment policies in a manner consistent with section 702 of Title VII of the federal Civil Rights Act of 1964. The religious organization's exemption regarding employment practices pursuant to the Civil Rights Act of 1964 would not be affected by participating in or receiving funds for a program administered by the FIA.

In addition, the state could not require a religious organization to alter its form of internal governance or to remove any religious art, icons, scripture or other symbols due to their religious nature in order to provide assistance or accept certificates, vouchers, or other forms of disbursement.

Recipients of Services. If a recipient objects to the religious character of the organization from which he or she receives assistance, the state or local governmental agency would provide the recipient, within a reasonable period of time, accessible alternative assistance that he or she does not object to on religious grounds. The alternative assistance would have to be at least of the same value as the initial assistance provided by the charitable or religious organization.

A religious organization that contracted with the FIA could not discriminate against an individual who receives benefits based on religion, religious belief, or a refusal to hold a particular religious belief. The state would be required to provide notice to recipients of their rights.

Intermediate Grantor. The bill defines an "intermediate grantor" to mean a nongovernmental organization acting under a grant or other agreement with the federal, state, or any local government. Under the bill, if an intermediate grantor were given the authority to

select a nongovernmental organization to provide assistance under the Social Welfare Act, the intermediate grantor would have the same duties as the government has when selecting or dealing with subgrantors. If the intermediate grantor were a religious organization, it would retain all of the rights afforded to a religious organization under the bill.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.