



# Charitable Freedom Protection Act

## A BILL

To protect the fundamental right to charitable giving and voluntary service, consistent with the First Amendment and Due Process Clauses of the Fifth and Fourteenth Amendments of the Constitution.

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Charitable Freedom Protection Act”.

### SEC. 2. FINDINGS.

Congress finds the following:

- (a) **CONSTITUTIONAL FOUNDATION.**—The First Amendment to the Constitution protects freedoms of speech, association, religion, and assembly, which encompass the rights of individuals and organizations to engage in charitable giving and voluntary service.
- (b) **DUE PROCESS PROTECTIONS.**—The Due Process Clauses of the Fifth and Fourteenth Amendments protect fundamental liberties, including the right to use one's resources and time to assist others.
- (c) **HISTORICAL TRADITION.**—Private charitable giving and voluntary service have been cornerstones of American civil society since before the founding of the Republic, with individuals, religious organizations, and secular associations providing essential aid to vulnerable populations.
- (d) **CIVIL SOCIETY FOUNDATION.**—Voluntary associations and charitable activities foster civic engagement, community bonds, and social cohesion, serving as essential mediating institutions between individuals and government.
- (e) **REGULATORY EXPANSION.**—In recent decades, Federal, State, and local governments have increasingly enacted regulations that prohibit, restrict, or substantially burden private charitable activities, including:
  - (1) Restrictions on food sharing and distribution to persons experiencing homelessness.
  - (2) Prohibitions on operating temporary or emergency shelters.

- (3) Licensing requirements that effectively exclude charitable volunteers from providing assistance.
- (4) Restrictions on medical care, hygiene services, and other; and
- (5) Regulations that impose disproportionate costs or requirements on small charitable organizations.

(f) **PRETEXTUAL REGULATION.**—Some governmental restrictions on charitable activities appear designed to centralize control over social services, discriminate against religious organizations, or respond to complaints about the visible presence of homeless or indigent individuals, rather than to address genuine and substantial public health or safety concerns.

(g) **HARM TO VULNERABLE POPULATIONS.**—Restrictions on charitable giving and service harm vulnerable individuals who depend on private charity, particularly when government services are inadequate, inaccessible, or unavailable.

(h) **CHILLING EFFECT.**—Overly broad or vague restrictions on charitable activities create uncertainty and deter individuals and organizations from engaging in constitutionally protected conduct.

(i) **CONSTITUTIONAL STANDARDS REQUIRED.**—Restrictions on fundamental rights must satisfy strict scrutiny, requiring narrow tailoring, compelling governmental interest, and use of the least restrictive means available.

(j) **NEED FOR FEDERAL PROTECTION.**—A uniform Federal standard is necessary to protect the fundamental rights of charitable organizations and volunteers from State and local restrictions that fail to meet constitutional standards.

(k) **EFFICACY OF CHARITABLE ORGANIZATIONS AND AVOIDANCE OF DEPENDENCY.**—Private charitable organizations, through their direct community engagement and flexible, individualized approaches, often achieve superior outcomes in addressing poverty and social need while promoting self-sufficiency and personal dignity, whereas government assistance programs may inadvertently create long-term dependency that undermines the goal of helping individuals achieve economic independence.

## **SEC. 2. DEFINITIONS.**

In this Act:

(a) **CHARITABLE ACTIVITIES.**—The term “charitable activities” means voluntary provision of goods or services without expectation of compensation, including but not limited to:

- (1) Providing food, beverages, or meals.
- (2) Providing temporary or emergency shelter, housing assistance, or overnight accommodation.

- (3) Distributing clothing, blankets, hygiene products, or other necessities.
- (4) Providing medical care, first aid, or health services.
- (5) Offering educational services, job training, or counseling.
- (6) Providing transportation assistance; and
- (7) Any other services intended to meet basic human needs or promote human dignity.

(b) GOVERNMENT.—The term “government” means the Federal Government and any State or local government, including any department, agency, instrumentality, or official thereof acting under color of law.

(c) PRIVATE INDIVIDUAL OR ORGANIZATION.—The term “private individual or organization” includes natural persons, businesses, religious organizations, secular nonprofit organizations, informal associations, and any other non-governmental entity.

(d) RESTRICT.—The term “restrict” means to prohibit, limit, substantially burden, penalize, or impose conditions that make the exercise of a right significantly more difficult or costly so as to chill the exercise of the right to engage in charitable activities, whether through statute, ordinance, regulation, policy, custom, or practice.

(e) CLEAR AND CONVINCING EVIDENCE.—The term “clear and convincing evidence” means evidence that produces in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, a higher standard than preponderance of the evidence but lower than proof beyond a reasonable doubt.

(f) COMPENSATION.—The term “compensation” means any payment, remuneration, consideration, or benefit of value received or expected to be received from a recipient of goods or services, including but not limited to:

- (1) Money, currency, or monetary equivalents.
- (2) Goods, property, or services provided in exchange.
- (3) Fee-for-service payments, whether full or partial.
- (4) Barter or trade arrangements.
- (5) Creation of a debt, obligation, or expectation of future reciprocation from the recipient; or
- (6) Any other thing of value provided as payment or exchange for goods or services rendered.

### **SEC. 3. PROTECTION OF CHARITABLE ACTIVITIES.**

(a) GENERAL RULE.—Neither the Federal Government nor any State or local government shall enact, maintain, enforce, or apply any law, regulation, ordinance, policy, or practice that:

- (1) Restricts private individuals or organizations from engaging in charitable activities; or
- (2) Discriminates against private individuals or organizations on the basis of their engagement in charitable activities.

(b) EXCEPTION FOR COMPELLING INTERESTS.—A government may restrict charitable activities only if the government demonstrates by clear and convincing evidence that:

- (1) The restriction serves a compelling governmental interest in public health or safety.
- (2) The compelling interest is direct, substantial, and not speculative.
- (3) The restriction is narrowly tailored to serve that compelling interest.
- (4) The restriction is the least restrictive means of achieving the compelling interest; and
- (5) The restriction is not based on:
  - (A) Aesthetic concerns about the visible presence of persons receiving charitable services.
  - (B) Economic concerns about property values or business interests.
  - (C) Complaints from residents or businesses about the presence of persons receiving charitable services.
  - (D) A desire to centralize control over social services in government hands; or
  - (E) Discrimination against the religious or ideological character of the charitable organization.

(c) PROHIBITED JUSTIFICATIONS.—The following shall not constitute compelling governmental interests justifying restrictions on charitable activities:

- (1) General concerns about potential public health or safety risks not supported by clear and convincing evidence of actual risk.
- (2) Availability of government-provided services as an alternative to private charity.
- (3) Desire to direct persons receiving charitable services to government facilities or services.
- (4) Concerns that charitable activities attract or enable persons experiencing homelessness to remain in an area; or
- (5) Administrative convenience or uniformity in regulation.

(d) NARROW TAILORING REQUIREMENT.—To satisfy the narrow tailoring requirement, a government must demonstrate that:

- (1) The restriction directly addresses the specific public health or safety concern identified.

- (2) The restriction does not burden substantially more charitable activity than necessary to address the concern.
- (3) Reasonable alternative measures that would be less restrictive are inadequate to address the concern; and
- (4) The restriction includes appropriate exemptions or accommodations for charitable activities that do not implicate the identified concern.

#### **SEC. 4. CAUSE OF ACTION.**

(a) **RIGHT TO SUE.**—Any private individual or organization whose rights under this Act have been violated may bring a civil action for declaratory or injunctive relief in an appropriate United States district court.

(b) **JURISDICTION.**—The district courts of the United States shall have jurisdiction over actions brought under this Act without regard to the amount in controversy.

(c) **BURDEN OF PROOF.**—In any action brought under this Act:

- (1) The plaintiff bears the initial burden of demonstrating that a government action restricts charitable activities as defined in this Act;
- (2) Once the plaintiff meets this initial burden, the government bears the burden of demonstrating by clear and convincing evidence that the restriction satisfies all requirements of Section 3(b); and
- (3) The government's burden may not be satisfied by speculation, hypothetical concerns, or general assertions of governmental interest.

(d) **INJUNCTIVE RELIEF.**—Upon a finding of a violation of this Act, the court shall:

- (1) Enjoin the enforcement of the challenged restriction; and
- (2) May award such other equitable relief as may be appropriate.

(e) **ATTORNEY'S FEES.**—The court may award reasonable attorney's fees and costs to a prevailing plaintiff.

(f) **EXPEDITED CONSIDERATION.**—Courts shall accord priority to proceedings brought under this Act to the extent practicable.

#### **SEC. 5. PRESERVATION OF REASONABLE HEALTH AND SAFETY REGULATIONS.**

(a) **LEGITIMATE REGULATIONS PRESERVED.**—Nothing in this Act shall be construed to prevent governments from enforcing reasonable, content-neutral, and generally applicable health and safety regulations that:

- (1) Apply equally to charitable activities and commercial activities of similar nature.
- (2) Are supported by clear and convincing evidence of actual health or safety risks.
- (3) Are narrowly tailored and represent the least restrictive means of addressing such risks; and
- (4) Do not have the purpose or effect of suppressing charitable activities.

(b) **EXAMPLES OF LEGITIMATE REGULATIONS.**—Legitimate regulations may include:

- (1) Food safety requirements applicable to all food service operations, provided such requirements include reasonable accommodations for volunteer charitable operations.
- (2) Building and fire safety codes applicable to all structures used for shelter or assembly, provided such codes include reasonable accommodations for emergency and temporary shelter operations; and
- (3) Requirements for medical practitioners to be appropriately licensed when providing medical services, provided such requirements include appropriate exceptions for emergency care and basic first aid.

(c) **DISCRIMINATORY APPLICATION PROHIBITED.**—Regulations that are applied more stringently to charitable activities than to comparable commercial or governmental activities shall be presumed to violate this Act.

## **SEC. 6. RULE OF CONSTRUCTION.**

(a) **PROTECTION OF FUNDAMENTAL RIGHTS.**—This Act shall be construed in favor of broad protection of the fundamental rights to charitable giving and service, consistent with First Amendment freedoms and Due Process protections.

(b) **NO DIMINUTION OF EXISTING RIGHTS.**—Nothing in this Act shall be construed to diminish any rights or remedies otherwise available under the Constitution or laws of the United States or of any State.

(c) **SEVERABILITY.**—If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected.

## **SEC. 7. EFFECTIVE DATE.**

This Act shall take effect 180 days after the date of enactment.