

1 SB145
2 180607-1
3 By Senators Hightower, Bussman, Williams, Glover and Scofield
4 RFD: Health and Human Services
5 First Read: 09-FEB-17

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8 SYNOPSIS: This bill would establish the Alabama Child
9 Placing Agency Inclusion Act.

10 This bill would prohibit the state from
11 discriminating against child placing agencies on
12 the basis that the provider declines to provide a
13 child placement that conflicts with the religious
14 beliefs of the provider.

15 This bill would prohibit the state from
16 refusing to license or renew the license of a child
17 placing agency on the basis that the provider
18 declines to carry out an activity that conflicts
19 with the religious beliefs of the agency.

20
21 A BILL
22 TO BE ENTITLED
23 AN ACT

24
25 To establish the Alabama Child Placing Agency
26 Inclusion Act; to prohibit the state from discriminating
27 against or refusing to license a provider of child placing

1 services licensed by the state on the basis that the provider
2 declines to provide a child placing service or carry out an
3 activity that conflicts with the religious beliefs of the
4 provider.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. This act may be cited as the Alabama
7 Child Placing Agency Inclusion Act.

8 Section 2. The Legislature finds all of the
9 following:

10 (1) Alabama provides state licensed child placing
11 services through various state, charitable, religious, and
12 private organizations.

13 (2) Religious organizations, in particular, have a
14 lengthy and distinguished history of providing child placing
15 services that predate government involvement.

16 (3) Religious organizations have long been licensed
17 and should continue to contract with and be licensed by the
18 state to provide child placing services.

19 (4) The faith of the people of the United States has
20 always played a vital role in efforts to serve the most
21 vulnerable, and this act seeks to ensure that people of any
22 faith, or no faith at all, are free to serve children and
23 families who are in need in ways consistent with the
24 communities that first inspired their service.

25 (5) Religious organizations display particular
26 excellence when providing child placing services.

1 (6) Religious organizations cannot provide certain
2 child placing services without receiving a state license.

3 (7) Child placing agencies, both individuals and
4 organizations, have the inherent, fundamental, and inalienable
5 right to free exercise of religion protected by the First
6 Amendment to the United States Constitution.

7 (8) The Alabama Religious Freedom Amendment,
8 Amendment 622 to the Constitution of Alabama of 1901, now
9 appearing as Section 3.01 of the Official Recompilation of the
10 Constitution of Alabama of 1901, as amended, protects the free
11 exercise of religious rights of Alabama citizens by
12 prohibiting the government from burdening the freedom of
13 religion of a person unless the burden is in furtherance of a
14 compelling governmental interest and is done in the least
15 restrictive means.

16 (9) The right to free exercise of religion for child
17 placing agencies includes the freedom to refrain from conduct
18 that conflicts with their sincerely held religious beliefs.

19 (10) Children and families benefit greatly from the
20 child placing services provided by religious organizations.

21 (11) Ensuring that religious organizations can
22 continue to provide child placing services will benefit the
23 children and families that receive those services.

24 (12) The state provides child placing services
25 through individual licensed child placing agencies with
26 varying religious beliefs.

1 (13) Because state and private entities provide
2 child placing services through many entities, each with
3 varying religious beliefs or no religious beliefs, the
4 religiously compelled inability of the entities to provide
5 child placement will not prevent any particular individual
6 from alternative equal access to child placing services.

7 (14) There is no compelling reason to require a
8 child placing agency to violate its sincerely held religious
9 beliefs in providing any service, since alternative access to
10 the services is equally available.

11 (15) This act implements remedial measures that are
12 congruent and proportional to protecting the constitutional
13 rights of child placing agencies guaranteed under the First,
14 Fifth, and Fourteenth Amendments to the United States
15 Constitution.

16 (16) This act is not intended to limit or deny the
17 eligibility of any individual to adopt a child or participate
18 in foster care.

19 Section 3. For the purposes of this act, the
20 following terms shall have the following meanings:

21 (1) ADVERSE ACTION. With respect to a child placing
22 agency, any action that materially alters the license under a
23 state program, including any of the following:

- 24 a. Taking an enforcement action against the entity.
- 25 b. Refusing to issue a license.
- 26 c. Refusing to renew a license.
- 27 d. Revoking a license.

1 e. Suspending a license

2 (2) CHILD PLACING AGENCY. A private child-care
3 facility which receives no federal funds and which receives,
4 places, or arranges for the placement of any child or children
5 in adoptive or foster family homes apart from the custody of
6 the child's or children's parents, in accordance with the
7 Alabama Child Care Act of 1971, Chapter 7, Title 38, Code of
8 Alabama 1975.

9 (3) CHILD PLACEMENT SERVICE. The placement of any
10 child or children for adoption in an adoptive home or in a
11 foster home, apart from the custody of the child's or
12 children's parents.

13 Section 4. The purposes of this act are as follows:

14 (1) To prohibit governmental entities from
15 discriminating or taking an adverse action against a child
16 placing agency on the basis that the agency declines to make a
17 child placement that conflicts, or under circumstances that
18 conflict, with the sincerely held religious beliefs of the
19 agency, provided the agency is otherwise in compliance with
20 Minimum Standards for Child Placing Agencies.

21 (2) To protect the exercise of religion of child
22 placing agencies and to ensure that governmental entities will
23 not be able to force those agencies, either directly or
24 indirectly, to discontinue all or some of their child placing
25 services because they decline to place a child for adoption or
26 in a foster home that conflicts, or under circumstances that
27 conflict, with their sincerely held religious beliefs, when

1 otherwise the agency is in compliance with required Minimum
2 Standards for Child Placing Agencies.

3 (3) To provide relief to child placing agencies
4 whose rights have been violated.

5 Section 5. (a) The state may not refuse to license
6 or otherwise discriminate or take an adverse action against
7 any child placing agency that is licensed by or required to be
8 licensed by the state for child placing services on the basis
9 that the child placing agency declines to make, provide,
10 facilitate, or refer for a placement in a manner that
11 conflicts with, or under circumstances that conflict with, the
12 sincerely held religious beliefs of the child placing agency
13 provided the agency is otherwise in compliance with the
14 requirements of the Alabama Child Care Act of 1971, Chapter 7,
15 Title 38, Code of Alabama 1975, and the Minimum Standards for
16 Child Placing Agencies.

17 (b) If a child placing agency under subsection (a)
18 declines to make, provide, facilitate, or refer for a child
19 placement, the decision of the child placing agency may not
20 limit the ability of another child placing agency to make,
21 provide, facilitate, or refer for the placement.

22 Section 6. Child placing agencies shall otherwise
23 meet the Minimum Standards for Child Placing Agencies required
24 for child placement, pursuant to the Alabama Child Care Act of
25 1971, Chapter 7, Title 38, Code of Alabama 1975.

26 Section 7. A child placing agency injured by a
27 violation of subsection (a) of Section 5 may obtain all

1 appropriate relief provided by the Alabama Administrative
2 Procedure Act. In addition to the remedies provided therein,
3 an aggrieved agency shall be entitled to all rights, remedies,
4 and defenses available to it under the First Amendment Free
5 Exercise of Religion Clause of the United States Constitution
6 and The Alabama Religious Freedom Amendment, Amendment 622 to
7 the Constitution of Alabama of 1901, now appearing as Section
8 3.01 of the Official Recompilation of the Constitution of
9 Alabama of 1901, as amended.

10 Section 8. This act shall become effective
11 immediately following its passage and approval by the
12 Governor, or its otherwise becoming law.