

1 HB24
2 180607-2
3 By Representative Wingo
4 RFD: Health
5 First Read: 07-FEB-17
6 PFD: 12/01/2016

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ENROLLED, An Act,

To establish the Alabama Child Placing Agency Inclusion Act; to prohibit the state from discriminating against or refusing to license a provider of child placing services licensed by the state on the basis that the provider declines to provide a child placing service or carry out an activity that conflicts with the religious beliefs of the provider.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

Section 2. The Legislature finds all of the following:

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

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

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

(4) The faith of the people of the United States has always played a vital role in efforts to serve the most

1 vulnerable, and this act seeks to ensure that people of any
2 faith, or no faith at all, are free to serve children and
3 families who are in need in ways consistent with the
4 communities that first inspired their service.

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

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

9 (7) Child placing agencies, both individuals and
10 organizations, have the inherent, fundamental, and inalienable
11 right to free exercise of religion protected by the First
12 Amendment to the United States Constitution.

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

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

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

3 (11) Ensuring that religious organizations can
4 continue to provide child placing services will benefit the
5 children and families that receive those services.

6 (12) The state provides child placing services
7 through individual licensed child placing agencies with
8 varying religious beliefs.

9 (13) Because state and private entities provide
10 child placing services through many entities, each with
11 varying religious beliefs or no religious beliefs, the
12 religiously compelled inability of the entities to provide
13 child placement will not prevent any particular individual
14 from alternative equal access to child placing services.

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

19 (15) This act implements remedial measures that are
20 congruent and proportional to protecting the constitutional
21 rights of child placing agencies guaranteed under the First,
22 Fifth, and Fourteenth Amendments to the United States
23 Constitution.

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

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

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

- 9 a. Taking an enforcement action against the entity.
10 b. Refusing to issue a license.
11 c. Refusing to renew a license.
12 d. Revoking a license.
13 e. Suspending a license

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

21 (3) CHILD PLACEMENT SERVICE. The placement of any
22 child or children for adoption in an adoptive home or in a
23 foster home, apart from the custody of the child's or
24 children's parents.

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

1 (1) To prohibit governmental entities from
2 discriminating or taking an adverse action against a child
3 placing agency on the basis that the agency declines to make a
4 child placement that conflicts, or under circumstances that
5 conflict, with the sincerely held religious beliefs of the
6 agency, provided the agency is otherwise in compliance with
7 Minimum Standards for Child Placing Agencies.

8 (2) To protect the exercise of religion of child
9 placing agencies and to ensure that governmental entities will
10 not be able to force those agencies, either directly or
11 indirectly, to discontinue all or some of their child placing
12 services because they decline to place a child for adoption or
13 in a foster home that conflicts, or under circumstances that
14 conflict, with their sincerely held religious beliefs, when
15 otherwise the agency is in compliance with required Minimum
16 Standards for Child Placing Agencies.

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

19 Section 5. (a) The state may not refuse to license
20 or otherwise discriminate or take an adverse action against
21 any child placing agency that is licensed by or required to be
22 licensed by the state for child placing services on the basis
23 that the child placing agency declines to make, provide,
24 facilitate, or refer for a placement in a manner that
25 conflicts with, or under circumstances that conflict with, the

1 sincerely held religious beliefs of the child placing agency
2 provided the agency is otherwise in compliance with the
3 requirements of the Alabama Child Care Act of 1971, Chapter 7,
4 Title 38, Code of Alabama 1975, and the Minimum Standards for
5 Child Placing Agencies.

6 (b) If a child placing agency under subsection (a)
7 declines to make, provide, facilitate, or refer for a child
8 placement, the decision of the child placing agency may not
9 limit the ability of another child placing agency to make,
10 provide, facilitate, or refer for the placement.

11 Section 6. Child placing agencies shall otherwise
12 meet the Minimum Standards for Child Placing Agencies required
13 for child placement, pursuant to the Alabama Child Care Act of
14 1971, Chapter 7, Title 38, Code of Alabama 1975.

15 Section 7. A child placing agency injured by a
16 violation of subsection (a) of Section 5 may obtain all
17 appropriate relief provided by the Alabama Administrative
18 Procedure Act. In addition to the remedies provided therein,
19 an aggrieved agency shall be entitled to all rights, remedies,
20 and defenses available to it under the First Amendment Free
21 Exercise of Religion Clause of the United States Constitution
22 and The Alabama Religious Freedom Amendment, Amendment 622 to
23 the Constitution of Alabama of 1901, now appearing as Section
24 3.01 of the Official Recompilation of the Constitution of
25 Alabama of 1901, as amended.

1 Section 8. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 16-MAR-17.

Jeff Woodard
Clerk

Senate	18-APR-17	Amended and Passed
House	25-APR-17	Concurred in Senate Amendment