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FLOOR AMENDMENT NO._____ BY: _____

Amend S.B. No. 206 on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subtitle D, Title 2, Human Resources Code, is amended by adding Chapter 45 to read as follows:

CHAPTER 45. PROTECTION OF RIGHTS OF CONSCIENCE FOR CHILD WELFARE SERVICES PROVIDERS

Sec. 45.001. DEFINITIONS. In this chapter:

(1) "Adverse action" means any action that directly or indirectly adversely affects the person against whom the adverse action is taken, places the person in a worse position than the person was in before the adverse action was taken, or is likely to deter a reasonable person from acting or refusing to act. An adverse action includes:

(A) denying an application for, refusing to renew, or canceling funding;

(B) declining to enter into, refusing to renew, or canceling a contract;

(C) declining to issue, refusing to renew, or canceling a license;

(D) terminating, suspending, demoting, or reassigning a person; and

(E) limiting the ability of a person to engage in child welfare services.

(2) "Child welfare services" means social services provided to or on behalf of children, including:

(A) assisting abused or neglected children;

(B) counseling children or parents;

(C) promoting foster parenting;

(D) providing foster homes, residential care, group homes, or temporary group shelters for children;

(E) recruiting foster parents;

(F) placing children in foster homes;

(G) licensing foster homes;

(H) promoting adoption or recruiting adoptive parents;

(I) assisting adoptions or supporting adoptive families;

(J) performing or assisting home studies;

(K) assisting kinship guardianships or kinship caregivers;

(L) providing family preservation services;

(M) providing family support services; and

(N) providing temporary family reunification services.

(3) "Child welfare services provider" means a person that provides, seeks to provide, or applies for or receives a contract, subcontract, grant, subgrant, or cooperative agreement to provide child welfare services. The person is not required to be engaged exclusively in child welfare services to be a child welfare services provider.

(4) "Department" means the Department of Family and Protective Services.

Sec. 45.002. APPLICABILITY. (a) This chapter applies to a rule, order, decision, practice, or other exercise of authority by the department.

(b) This chapter applies to an act of the department, in the exercise of governmental authority, granting or refusing to grant a government benefit to a child welfare services provider.

Sec. 45.003. CHILD WELFARE SERVICES PROVIDERS PROTECTED.

The department or any person that contracts with this state or operates under department authority to refer or place children for child welfare services may not discriminate or take any adverse action against a child welfare services provider on the basis, wholly or partly, that the provider:

(1) has declined or will decline to provide, facilitate, or refer a person for child welfare services that conflict with, or under circumstances that conflict with, the provider's sincerely held religious beliefs;

(2) provides or intends to provide children under the control, care, guardianship, or direction of the child welfare services provider with a religious education, including through placing the children in a private or parochial school or otherwise providing a religious education in accordance with the laws of this state; or

(3) has declined or will decline to provide, facilitate, or refer a person for abortions, contraceptives, or drugs, devices, or services that are potentially abortion-inducing.

Sec. 45.004. PRIVATE RIGHT OF ACTION. A child welfare services provider may assert an actual or threatened violation of this chapter as a claim or defense in a judicial or administrative proceeding and obtain the relief specified in Section 45.005.

Sec. 45.005. REMEDIES. A child welfare services provider who successfully asserts a claim or defense under this chapter is entitled to recover:

(1) declaratory relief;

(2) injunctive relief to prevent the threatened or continued adverse action or effects of the action on the child welfare services provider;

(3) compensatory damages for pecuniary and

nonpecuniary losses;

(4) punitive damages; and

(5) reasonable attorney's fees, court costs, and other reasonable expenses.

Sec. 45.006. TWO-YEAR LIMITATIONS PERIOD. A child welfare services provider must bring an action to assert a claim for damages under this chapter not later than the second anniversary of the date the provider actually knew of the violation of this chapter.

Sec. 45.007. IMMUNITY WAIVED. (a) Sovereign, governmental, and qualified immunity to suit and from liability are waived and abolished to the extent of liability created by Section 45.005, and a claimant may sue the department or department official for damages allowed by that section.

(b) Notwithstanding Subsection (a), this chapter does not waive or abolish sovereign immunity to suit and from liability under the Eleventh Amendment to the United States Constitution.

Sec. 45.008. EFFECT ON RIGHTS; CONSTRUCTION OF LAW. (a) This chapter may not be construed to authorize the department to burden a person's free exercise of religion.

(b) The protections of religious freedom afforded by this chapter are in addition to the protections provided under federal or state law and the constitutions of this state and the United States.

(c) This chapter may not be construed to supersede any law of this state that is equally as protective of religious beliefs as, or more protective of religious beliefs than, this chapter.

(d) This chapter may not be considered to narrow the meaning or application of any other law protecting religious beliefs.

(e) This chapter may not be construed in a manner that allows a person to decline intake of a child into a welfare services program funded by this state.

1 (f) This chapter may not be construed to prevent law
2 enforcement officers from exercising duties imposed on the officers
3 under the Family Code and the Penal Code.
4 (g) This chapter may not be construed to allow a child
5 welfare services provider to deprive a minor of the rights,
6 including the right to medical care, provided by applicable
7 provisions of Chapter 42 and of Chapter 263, Family Code.
8 Sec. 45.009. INTERPRETATION. This chapter shall be
9 liberally construed to effectuate its remedial and deterrent
10 purposes.