

By: Campbell

S.B. No. 1935

A BILL TO BE ENTITLED

AN ACT

relating to protection of the rights of conscience for child welfare services providers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. 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

1 child welfare services.

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

4 (A) assisting abused or neglected children;

5 (B) counseling children or parents;

6 (C) promoting foster parenting;

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

9 (E) recruiting foster parents;

10 (F) placing children in foster homes;

11 (G) licensing foster homes;

12 (H) promoting adoption or recruiting adoptive  
13 parents;

14 (I) assisting adoptions or supporting adoptive  
15 families;

16 (J) performing or assisting home studies;

17 (K) assisting kinship guardianships or kinship  
18 caregivers;

19 (L) providing family preservation services;

20 (M) providing family support services; and

21 (N) providing temporary family reunification  
22 services.

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

1 services provider.

2 (4) "Governmental entity" means:

3 (A) this state or a municipality or other  
4 political subdivision of this state; or

5 (B) any agency of this state or of a municipality  
6 or other political subdivision of this state, including a  
7 department, bureau, board, commission, office, agency, council,  
8 court, and public institution of higher education.

9 Sec. 45.002. APPLICABILITY. (a) This chapter applies to  
10 any ordinance, rule, order, decision, practice, or other exercise  
11 of governmental authority.

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

15 Sec. 45.003. CHILD WELFARE SERVICES PROVIDERS PROTECTED. A  
16 governmental entity or any person that contracts with this state or  
17 operates under governmental authority to refer or place children  
18 for child welfare services may not discriminate or take any adverse  
19 action against a child welfare services provider on the basis,  
20 wholly or partly, that the provider:

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

27 (2) has declined or will decline to provide,

1 facilitate, or refer a person for abortions, contraceptives, or  
2 drugs, devices, or services that are potentially  
3 abortion-inducing.

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

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

11 (1) declaratory relief;

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

15 (3) compensatory damages for pecuniary and  
16 nonpecuniary losses;

17 (4) punitive damages; and

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

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

24 Sec. 45.007. IMMUNITY WAIVED. (a) Sovereign,  
25 governmental, and qualified immunity to suit and from liability are  
26 waived and abolished to the extent of liability created by Section  
27 45.005, and a claimant may sue a governmental entity or official for

1 damages allowed by that section.

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

5 Sec. 45.008. EFFECT ON RIGHTS. (a) This chapter may not be  
6 construed to authorize a governmental entity to burden a person's  
7 free exercise of religion.

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

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

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

17 Sec. 45.009. INTERPRETATION. This chapter shall be  
18 liberally construed to effectuate its remedial and deterrent  
19 purposes.

20 SECTION 2. This Act takes effect immediately if it receives  
21 a vote of two-thirds of all the members elected to each house, as  
22 provided by Section 39, Article III, Texas Constitution. If this  
23 Act does not receive the vote necessary for immediate effect, this  
24 Act takes effect September 1, 2015.