

By: Campbell, Perry

S.B. No. 1536

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the ability of a child-placing agency to decline to
3 provide services or accept a referral from the Department of Family
4 and Protective Services on the basis of sincerely held religious
5 beliefs.

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

7 SECTION 1. Subchapter C, Chapter 42, Human Resources Code,
8 is amended by adding Section 42.066 to read as follows:

9 Sec. 42.066. REFUSAL OF CHILD-PLACING AGENCY TO PROVIDE
10 SERVICES OR ACCEPT REFERRALS UNDER CERTAIN CIRCUMSTANCES. (a) In
11 this section:

12 (1) "Adverse action" includes:

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

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

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

19 (D) limiting a person's ability to participate in
20 a government program;

21 (E) pursuing an enforcement action against a
22 person; or

23 (F) taking any action that materially alters the
24 terms or conditions of funding, a contract, or a license.

1 (2) "Governmental entity" means:

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

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

8 (3) "Services" means any service provided by a
9 child-placing agency, excluding case management or adoption
10 services provided under contract with the department.

11 (4) "Sincerely held religious belief" means a
12 religious belief adhered to by a child-placing agency that is
13 contained in a written policy, statement of faith, or other
14 document created by the child-placing agency.

15 (b) A child-placing agency is not required to provide a
16 service if the service, or the circumstances under which the
17 service will be provided, conflicts with the child-placing agency's
18 sincerely held religious beliefs.

19 (c) If a child-placing agency declines to provide a service
20 under Subsection (b), the child-placing agency shall:

21 (1) provide the applicant for the service with the
22 written contact information for the department and any other
23 adoption or foster care service providers; and

24 (2) promptly refer the applicant to:

25 (A) another child-placing agency that performs
26 the service and is currently able to perform the service; or

27 (B) the list of child-placing agencies on the

1 department's website.

2 (d) If a child-placing agency has a contract with the
3 department, and the department makes a referral to the
4 child-placing agency for foster care case management or adoption
5 services under that contract, the child-placing agency may decline
6 the referral if providing the services required by the referral
7 would conflict with the child-placing agency's sincerely held
8 religious beliefs. The department may not control or influence the
9 child-placing agency's decision to engage in activities or provide
10 services required by a referral.

11 (e) For purposes of Subsection (d), a child-placing agency
12 accepts a referral when the child-placing agency:

13 (1) submits a written agreement to perform the
14 services required by the referral for a particular child to the
15 department; or

16 (2) engages in any activity in relation to the
17 referral that would result in the department being obligated to pay
18 the child-placing agency for the provision of services.

19 (f) A governmental entity may not take an adverse action
20 against a child-placing agency on the basis of the child-placing
21 agency's declining to provide services under Subsection (b) or
22 declining to accept a referral from the department under Subsection
23 (d).

24 (g) It is an affirmative defense in an administrative or
25 judicial proceeding against a child-placing agency regarding the
26 provision of services or acceptance of a referral that the
27 child-placing agency declined to provide services or accept a

1 referral from the department on the basis of a sincerely held
2 religious belief.

3 (h) A child-placing agency's decision to decline a referral
4 from the department to provide case management or adoption services
5 for a child may not be considered as a factor in determining whether
6 a placement in connection with the referral is in the best interest
7 of the child.

8 SECTION 2. This Act takes effect September 1, 2017.