

SUBSTITUTE FOR
HOUSE BILL NO. 4928

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
(MCL 710.21 to 712B.41) by adding section 23g to chapter X.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER X

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SEC. 23G. (1) EXCEPT AS PROVIDED IN SUBSECTION (3), TO THE

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FULLEST EXTENT PERMITTED BY STATE AND FEDERAL LAW, INCLUDING, BUT

4

NOT LIMITED TO, THE FOSTER CARE AND ADOPTION SERVICES ACT, 1994 PA

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203, MCL 722.951 TO 722.960, AND THE MULTIETHNIC PLACEMENT ACT OF

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1994, 42 USC 1996B, A CHILD PLACING AGENCY SHALL NOT BE REQUIRED TO

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PROVIDE ADOPTION SERVICES IF THOSE ADOPTION SERVICES CONFLICT WITH,

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AND SHALL NOT BE REQUIRED TO PROVIDE ADOPTION SERVICES UNDER

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CIRCUMSTANCES THAT CONFLICT WITH, THE CHILD PLACING AGENCY'S

1 SINCERELY HELD RELIGIOUS BELIEFS CONTAINED IN A WRITTEN POLICY,
2 STATEMENT OF FAITH, OR OTHER DOCUMENT ADHERED TO BY THE CHILD
3 PLACING AGENCY.

4 (2) EXCEPT AS PROVIDED IN SUBSECTIONS (3) AND (5), TO THE
5 FULLEST EXTENT PERMITTED BY STATE AND FEDERAL LAW, INCLUDING, BUT
6 NOT LIMITED TO, THE FOSTER CARE AND ADOPTION SERVICES ACT, 1994 PA
7 203, MCL 722.951 TO 722.960, AND THE MULTIETHNIC PLACEMENT ACT OF
8 1994, 42 USC 1996B, THE STATE OR A LOCAL UNIT OF GOVERNMENT SHALL
9 NOT DISCRIMINATE OR TAKE AN ADVERSE ACTION AGAINST A CHILD PLACING
10 AGENCY ON THE BASIS THAT THE CHILD PLACING AGENCY HAS DECLINED OR
11 WILL DECLINE TO PROVIDE ADOPTION SERVICES THAT CONFLICT WITH, OR
12 HAS DECLINED OR WILL DECLINE TO PROVIDE ADOPTION SERVICES UNDER
13 CIRCUMSTANCES THAT CONFLICT WITH, THE CHILD PLACING AGENCY'S
14 SINCERELY HELD RELIGIOUS BELIEFS CONTAINED IN A WRITTEN POLICY,
15 STATEMENT OF FAITH, OR OTHER DOCUMENT ADHERED TO BY THE CHILD
16 PLACING AGENCY.

17 (3) A CHILD PLACING AGENCY UNDER CONTRACT WITH THE DEPARTMENT
18 MAY, UNDER SUBSECTIONS (1) AND (2), DECLINE TO PROVIDE ADOPTION
19 SERVICES REFERRED FROM THE DEPARTMENT ONLY IN 1 OF THE FOLLOWING
20 CIRCUMSTANCES:

21 (A) THE CHILD PLACING AGENCY DECLINES TO PROVIDE THE ADOPTION
22 SERVICES BEFORE THE COMPLETION OF A CHILD ADOPTIVE ASSESSMENT FOR
23 AN ADOPTIVE PLACEMENT.

24 (B) THE CHILD PLACING AGENCY DECLINES TO PROVIDE THE ADOPTION
25 SERVICES AFTER THE COMPLETION OF A CHILD ADOPTIVE ASSESSMENT FOR AN
26 ADOPTIVE PLACEMENT IF DECLINING TO PROVIDE THE ADOPTION SERVICES
27 WILL NOT DELAY A PLACEMENT OR PERMANENT PLACEMENT OF THE CHILD AND

1 WILL NOT HARM THE CHILD.

2 (4) IF A CHILD PLACING AGENCY DECLINES TO PROVIDE ADOPTION
3 SERVICES UNDER SUBSECTION (1), THE CHILD PLACING AGENCY SHALL DO 1
4 OF THE FOLLOWING:

5 (A) USE ITS BEST EFFORTS TO PROMPTLY REFER THE APPLICANT OR
6 ADOPTION CASE TO ANOTHER CHILD PLACING AGENCY THAT IS WILLING AND
7 ABLE TO PROVIDE THE DECLINED ADOPTION SERVICES.

8 (B) PROMPTLY REFER THE APPLICANT OR ADOPTION CASE TO THE
9 DEPARTMENT.

10 (C) IF THE DEPARTMENT REFERRED THE APPLICANT OR ADOPTION CASE
11 TO THE CHILD PLACING AGENCY, PROMPTLY PROVIDE NOTICE TO THE
12 DEPARTMENT THAT ANOTHER REFERRAL IS NECESSARY.

13 (5) THE STATE MAY TAKE AN ADVERSE ACTION AGAINST A CHILD
14 PLACING AGENCY THAT FAILS TO COMPLY WITH SUBSECTION (4).

15 (6) A CHILD PLACING AGENCY MAY ASSERT A DEFENSE IN AN
16 ADMINISTRATIVE OR JUDICIAL PROCEEDING BASED ON THIS SECTION.

17 (7) IF A CHILD PLACING AGENCY DECLINES TO PROVIDE ADOPTION
18 SERVICES UNDER SUBSECTION (1), THE CHILD PLACING AGENCY'S DECISION
19 DOES NOT LIMIT THE ABILITY OF THE DEPARTMENT OR ANOTHER CHILD
20 PLACING AGENCY TO PROVIDE THE ADOPTION SERVICES.

21 (8) FOR THE PURPOSE OF THIS SECTION:

22 (A) "ADOPTION SERVICES" INCLUDES COMPLETING A CHILD ADOPTIVE
23 ASSESSMENT FOR AN ADOPTIVE PLACEMENT FOR AN INDIVIDUAL OR
24 INDIVIDUALS WHO DESIRE TO ADOPT A CHILD OR OTHERWISE PARTICIPATING
25 IN A PLACEMENT.

26 (B) "ADVERSE ACTION" INCLUDES, BUT IS NOT LIMITED TO, DENYING
27 A CHILD PLACING AGENCY'S APPLICATION FOR FUNDING, REFUSING TO RENEW

1 THE CHILD PLACING AGENCY'S FUNDING, CANCELING THE CHILD PLACING
2 AGENCY'S FUNDING, DECLINING TO ENTER INTO A CONTRACT WITH THE CHILD
3 PLACING AGENCY, REFUSING TO RENEW A CONTRACT WITH THE CHILD PLACING
4 AGENCY, CANCELING A CONTRACT WITH THE CHILD PLACING AGENCY,
5 DECLINING TO ISSUE A LICENSE TO THE CHILD PLACING AGENCY, REFUSING
6 TO RENEW THE CHILD PLACING AGENCY'S LICENSE, CANCELING THE CHILD
7 PLACING AGENCY'S LICENSE, AND ANY ACTION THAT MATERIALLY ALTERS THE
8 TERMS OR CONDITIONS OF THE CHILD PLACING AGENCY'S FUNDING,
9 CONTRACT, OR LICENSE.

10 Enacting section 1. It is the intent of the legislature to
11 protect child placing agencies' free exercise of religion protected
12 by the United States constitution and the state constitution of
13 1963. This amendatory act is not intended to limit or deny any
14 person's right to adopt a child.

15 Enacting section 2. This amendatory act does not take effect
16 unless all of the following bills of the 97th Legislature are
17 enacted into law:

18 (a) House Bill No. 4927.

19 (b) House Bill No. 4991.