

SUBSTITUTE FOR
HOUSE BILL NO. 4991

A bill to amend 1973 PA 116, entitled

"An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts,"

(MCL 722.111 to 722.128) by adding sections 14e and 14f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 14E. (1) TO THE FULLEST EXTENT PERMITTED BY STATE AND
2 FEDERAL LAW, A CHILD PLACING AGENCY SHALL NOT BE REQUIRED TO
3 PROVIDE ANY SERVICES IF THOSE SERVICES CONFLICT WITH, OR PROVIDE
4 ANY SERVICES UNDER CIRCUMSTANCES THAT CONFLICT WITH, THE CHILD
5 PLACING AGENCY'S SINCERELY HELD RELIGIOUS BELIEFS CONTAINED IN A

1 WRITTEN POLICY, STATEMENT OF FAITH, OR OTHER DOCUMENT ADHERED TO BY
2 THE CHILD PLACING AGENCY.

3 (2) TO THE FULLEST EXTENT PERMITTED BY STATE AND FEDERAL LAW,
4 THE STATE OR LOCAL UNIT OF GOVERNMENT SHALL NOT TAKE AN ADVERSE
5 ACTION AGAINST A CHILD PLACING AGENCY ON THE BASIS THAT THE CHILD
6 PLACING AGENCY HAS DECLINED OR WILL DECLINE TO PROVIDE ANY SERVICES
7 THAT CONFLICT WITH, OR PROVIDE ANY SERVICES UNDER CIRCUMSTANCES
8 THAT CONFLICT WITH, THE CHILD PLACING AGENCY'S SINCERELY HELD
9 RELIGIOUS BELIEFS CONTAINED IN A WRITTEN POLICY, STATEMENT OF
10 FAITH, OR OTHER DOCUMENT ADHERED TO BY THE CHILD PLACING AGENCY.

11 (3) IF A CHILD PLACING AGENCY DECLINES TO PROVIDE ANY SERVICES
12 UNDER SUBSECTION (1), THE CHILD PLACING AGENCY SHALL DO 1 OF THE
13 FOLLOWING:

14 (A) PROMPTLY REFER THE APPLICANT TO ANOTHER CHILD PLACING
15 AGENCY THAT IS WILLING AND ABLE TO PROVIDE THE DECLINED SERVICES.

16 (B) PROMPTLY REFER THE APPLICANT TO THE WEBPAGE ON THE
17 DEPARTMENT'S WEBSITE THAT IDENTIFIES OTHER LICENSED CHILD PLACEMENT
18 AGENCIES.

19 (4) A CHILD PLACING AGENCY MAY ASSERT A DEFENSE IN AN
20 ADMINISTRATIVE OR JUDICIAL PROCEEDING BASED ON THIS SECTION.

21 (5) IF A CHILD PLACING AGENCY DECLINES TO PROVIDE ANY SERVICES
22 UNDER SUBSECTION (1), THE CHILD PLACING AGENCY'S DECISION DOES NOT
23 LIMIT THE ABILITY OF ANOTHER CHILD PLACING AGENCY TO PROVIDE THOSE
24 SERVICES.

25 (6) FOR THE PURPOSE OF THIS SECTION:

26 (A) "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, TAKING AN ENFORCEMENT ACTION AGAINST A
8 CHILD PLACING AGENCY, DISCRIMINATING AGAINST THE CHILD PLACING
9 AGENCY IN REGARD TO PARTICIPATION IN A GOVERNMENT PROGRAM, AND
10 TAKING ANY ACTION THAT MATERIALLY ALTERS THE TERMS OR CONDITIONS OF
11 THE CHILD PLACING AGENCY'S FUNDING, CONTRACT, OR LICENSE.

12 (B) "SERVICES" INCLUDES ANY SERVICE THAT A CHILD PLACING
13 AGENCY PROVIDES, EXCEPT FOSTER CARE CASE MANAGEMENT AND ADOPTION
14 SERVICES PROVIDED UNDER A CONTRACT WITH THE DEPARTMENT.

15 SEC. 14F. (1) IF THE DEPARTMENT MAKES A REFERRAL TO A CHILD
16 PLACING AGENCY FOR FOSTER CARE CASE MANAGEMENT OR ADOPTION SERVICES
17 UNDER A CONTRACT WITH THE CHILD PLACING AGENCY, THE CHILD PLACING
18 AGENCY MAY DECLINE THE REFERRAL IF THE SERVICES WOULD CONFLICT WITH
19 THE CHILD PLACING AGENCY'S SINCERELY HELD RELIGIOUS BELIEFS
20 CONTAINED IN A WRITTEN POLICY, STATEMENT OF FAITH, OR OTHER
21 DOCUMENT ADHERED TO BY THE CHILD PLACING AGENCY.

22 (2) THE STATE OR A LOCAL UNIT OF GOVERNMENT SHALL NOT TAKE AN
23 ADVERSE ACTION AGAINST A CHILD PLACING AGENCY ON THE BASIS THAT THE
24 CHILD PLACING AGENCY HAS DECLINED OR WILL DECLINE A REFERRAL UNDER
25 SUBSECTION (1).

26 (3) IF A CHILD PLACING AGENCY DECLINES A REFERRAL UNDER
27 SUBSECTION (1), THAT OCCURRENCE SHALL NOT BE A FACTOR IN

1 DETERMINING WHETHER A PLACEMENT IN CONNECTION WITH THE REFERRAL IS
2 IN THE BEST INTEREST OF THE CHILD.

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

5 (5) FOR THE PURPOSE OF THIS SECTION, "ADVERSE ACTION"
6 INCLUDES, BUT IS NOT LIMITED TO, DENYING A CHILD PLACING AGENCY'S
7 APPLICATION FOR FUNDING, REFUSING TO RENEW THE CHILD PLACING
8 AGENCY'S FUNDING, CANCELING THE CHILD PLACING AGENCY'S FUNDING,
9 DECLINING TO ENTER INTO A CONTRACT WITH THE CHILD PLACING AGENCY,
10 REFUSING TO RENEW A CONTRACT WITH THE CHILD PLACING AGENCY,
11 CANCELING A CONTRACT WITH THE CHILD PLACING AGENCY, DECLINING TO
12 ISSUE A LICENSE TO THE CHILD PLACING AGENCY, REFUSING TO RENEW THE
13 CHILD PLACING AGENCY'S LICENSE, CANCELING THE CHILD PLACING
14 AGENCY'S LICENSE, TAKING AN ENFORCEMENT ACTION AGAINST A CHILD
15 PLACING AGENCY, DISCRIMINATING AGAINST THE CHILD PLACING AGENCY IN
16 REGARD TO PARTICIPATION IN A GOVERNMENT PROGRAM, AND TAKING ANY
17 ACTION THAT MATERIALLY ALTERS THE TERMS OR CONDITIONS OF THE CHILD
18 PLACING AGENCY'S FUNDING, CONTRACT, OR LICENSE.

19 Enacting section 1. It is the intent of the legislature to
20 protect child placing agencies' free exercise of religion protected
21 by the United States constitution and the state constitution of
22 1963. This amendatory act is not intended to limit or deny any
23 person's right to adopt a child or participate in foster care.

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

27 (a) House Bill No. 4927.

1 (b) House Bill No. 4928.