

HOUSE BILL No. 4991

September 17, 2013, Introduced by Reps. Leonard, Kurtz and LaFontaine and referred to the Committee on Families, Children, and Seniors.

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 section 14e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 14E. (1) TO THE FULLEST EXTENT PERMITTED BY FEDERAL LAW,
2 A CHILD PLACING AGENCY SHALL NOT BE REQUIRED TO PROVIDE A SERVICE
3 IN CONNECTION WITH ADOPTION OR FOSTER CARE IF THE SERVICE CONFLICTS
4 WITH, OR PROVIDE A SERVICE UNDER CIRCUMSTANCES THAT CONFLICT WITH,
5 THE CHILD PLACING AGENCY'S SINCERELY HELD RELIGIOUS BELIEFS
6 CONTAINED IN A WRITTEN POLICY, STATEMENT OF FAITH, OR OTHER
7 DOCUMENT ADHERED TO BY THE CHILD PLACING AGENCY.

8 (2) TO THE FULLEST EXTENT PERMITTED BY FEDERAL LAW, THE STATE

1 OR A LOCAL GOVERNMENTAL UNIT SHALL NOT DISCRIMINATE OR TAKE AN
2 ADVERSE ACTION AGAINST A CHILD PLACING AGENCY ON THE BASIS THAT THE
3 CHILD PLACING AGENCY HAS DECLINED OR WILL DECLINE TO PROVIDE A
4 SERVICE IN CONNECTION WITH ADOPTION OR FOSTER CARE THAT CONFLICTS
5 WITH, OR PROVIDE A SERVICE IN CONNECTION WITH ADOPTION OR FOSTER
6 CARE UNDER CIRCUMSTANCES THAT CONFLICT WITH, THE CHILD PLACING
7 AGENCY'S SINCERELY HELD RELIGIOUS BRIEFS CONTAINED IN A WRITTEN
8 POLICY, STATEMENT OF FAITH, OR OTHER DOCUMENT ADHERED TO BY THE
9 CHILD PLACING AGENCY.

10 (3) SUBSECTIONS (1) AND (2) DO NOT APPLY TO A SERVICE IF BOTH
11 OF THE FOLLOWING ARE TRUE:

12 (A) A CHILD PLACING AGENCY'S DECISION NOT TO PROVIDE THE
13 SERVICE OR PLACEMENT IS MADE AFTER EITHER OF THE FOLLOWING:

14 (i) THE COMPLETION OF A HOME STUDY FOR A FOSTER CARE PLACEMENT.

15 (ii) THE COMPLETION OF A CHILD ADOPTIVE ASSESSMENT FOR AN
16 ADOPTIVE PLACEMENT.

17 (B) A CHILD PLACING AGENCY'S DECISION NOT TO PROVIDE THE
18 SERVICE WILL INTERFERE WITH THE SAFE AND EFFECTIVE FAMILY
19 FUNCTIONING OR HARM A MINOR CHILD.

20 (4) IF A CHILD PLACING AGENCY DECLINES TO PROVIDE A SERVICE
21 UNDER SUBSECTION (1), THE CHILD PLACING AGENCY SHALL USE ITS BEST
22 EFFORTS TO REFER THE CASE TO ANOTHER CHILD PLACING AGENCY THAT IS
23 WILLING AND ABLE TO PROVIDE THE DECLINED SERVICE OR, IF THE STATE
24 REFERRED THE CASE TO THE CHILD PLACING AGENCY, PROVIDE NOTICE TO
25 THE DEPARTMENT THAT ANOTHER REFERRAL IS NECESSARY.

26 (5) A CHILD PLACING AGENCY AGGRIEVED BY A VIOLATION OF
27 SUBSECTION (1) OR (2) MAY ASSERT THAT VIOLATION AS A CLAIM OR

1 DEFENSE IN AN ADMINISTRATIVE OR JUDICIAL PROCEEDING AND MAY OBTAIN
2 ALL APPROPRIATE RELIEF, INCLUDING DECLARATORY RELIEF, INJUNCTIVE
3 RELIEF, AND COMPENSATORY DAMAGES, WITH RESPECT TO THAT VIOLATION.

4 (6) IF A CHILD PLACING AGENCY DECLINES TO PROVIDE A SERVICE
5 UNDER SUBSECTION (1), THE CHILD PLACING AGENCY'S DECISION DOES NOT
6 LIMIT THE ABILITY OF THE STATE OR ANOTHER CHILD PLACING AGENCY FROM
7 PROVIDING THE SERVICE.

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

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

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

- 1 (a) House Bill No. 4927.
- 2 (b) House Bill No. 4928.