

1 HB24  
2 180607-1  
3 By Representative Wingo  
4 RFD: Health  
5 First Read: 07-FEB-17  
6 PFD: 12/01/2016

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8 SYNOPSIS: This bill would establish the Alabama Child  
9 Placing Agency Inclusion Act.

10 This bill would prohibit the state from  
11 discriminating against child placing agencies on  
12 the basis that the provider declines to provide a  
13 child placement that conflicts with the religious  
14 beliefs of the provider.

15 This bill would prohibit the state from  
16 refusing to license or renew the license of a child  
17 placing agency on the basis that the provider  
18 declines to carry out an activity that conflicts  
19 with the religious beliefs of the agency.

20  
21 A BILL  
22 TO BE ENTITLED  
23 AN ACT  
24

25 To establish the Alabama Child Placing Agency  
26 Inclusion Act; to prohibit the state from discriminating  
27 against or refusing to license a provider of child placing

1 services licensed by the state on the basis that the provider  
2 declines to provide a child placing service or carry out an  
3 activity that conflicts with the religious beliefs of the  
4 provider.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. This act may be cited as the Alabama  
7 Child Placing Agency Inclusion Act.

8 Section 2. The Legislature finds all of the  
9 following:

10 (1) Alabama provides state licensed child placing  
11 services through various state, charitable, religious, and  
12 private organizations.

13 (2) Religious organizations, in particular, have a  
14 lengthy and distinguished history of providing child placing  
15 services that predate government involvement.

16 (3) Religious organizations have long been licensed  
17 and should continue to contract with and be licensed by the  
18 state to provide child placing services.

19 (4) The faith of the people of the United States has  
20 always played a vital role in efforts to serve the most  
21 vulnerable, and this act seeks to ensure that people of any  
22 faith, or no faith at all, are free to serve children and  
23 families who are in need in ways consistent with the  
24 communities that first inspired their service.

25 (5) Religious organizations display particular  
26 excellence when providing child placing services.

1           (6) Religious organizations cannot provide certain  
2 child placing services without receiving a state license.

3           (7) Child placing agencies, both individuals and  
4 organizations, have the inherent, fundamental, and inalienable  
5 right to free exercise of religion protected by the First  
6 Amendment to the United States Constitution.

7           (8) The Alabama Religious Freedom Amendment,  
8 Amendment 622 to the Constitution of Alabama of 1901, now  
9 appearing as Section 3.01 of the Official Recompilation of the  
10 Constitution of Alabama of 1901, as amended, protects the free  
11 exercise of religious rights of Alabama citizens by  
12 prohibiting the government from burdening the freedom of  
13 religion of a person unless the burden is in furtherance of a  
14 compelling governmental interest and is done in the least  
15 restrictive means.

16           (9) The right to free exercise of religion for child  
17 placing agencies includes the freedom to refrain from conduct  
18 that conflicts with their sincerely held religious beliefs.

19           (10) Children and families benefit greatly from the  
20 child placing services provided by religious organizations.

21           (11) Ensuring that religious organizations can  
22 continue to provide child placing services will benefit the  
23 children and families that receive those services.

24           (12) The state provides child placing services  
25 through individual licensed child placing agencies with  
26 varying religious beliefs.

1           (13) Because state and private entities provide  
2 child placing services through many entities, each with  
3 varying religious beliefs or no religious beliefs, the  
4 religiously compelled inability of the entities to provide  
5 child placement will not prevent any particular individual  
6 from alternative equal access to child placing services.

7           (14) There is no compelling reason to require a  
8 child placing agency to violate its sincerely held religious  
9 beliefs in providing any service, since alternative access to  
10 the services is equally available.

11           (15) This act implements remedial measures that are  
12 congruent and proportional to protecting the constitutional  
13 rights of child placing agencies guaranteed under the First,  
14 Fifth, and Fourteenth Amendments to the United States  
15 Constitution.

16           (16) This act is not intended to limit or deny the  
17 eligibility of any individual to adopt a child or participate  
18 in foster care.

19           Section 3. For the purposes of this act, the  
20 following terms shall have the following meanings:

21           (1) ADVERSE ACTION. With respect to a child placing  
22 agency, any action that materially alters the license under a  
23 state program, including any of the following:

- 24           a. Taking an enforcement action against the entity.
- 25           b. Refusing to issue a license.
- 26           c. Refusing to renew a license.
- 27           d. Revoking a license.

1 e. Suspending a license

2 (2) CHILD PLACING AGENCY. A private child-care  
3 facility which receives no federal funds and which receives,  
4 places, or arranges for the placement of any child or children  
5 in adoptive or foster family homes apart from the custody of  
6 the child's or children's parents, in accordance with the  
7 Alabama Child Care Act of 1971, Chapter 7, Title 38, Code of  
8 Alabama 1975.

9 (3) CHILD PLACEMENT SERVICE. The placement of any  
10 child or children for adoption in an adoptive home or in a  
11 foster home, apart from the custody of the child's or  
12 children's parents.

13 Section 4. The purposes of this act are as follows:

14 (1) To prohibit governmental entities from  
15 discriminating or taking an adverse action against a child  
16 placing agency on the basis that the agency declines to make a  
17 child placement that conflicts, or under circumstances that  
18 conflict, with the sincerely held religious beliefs of the  
19 agency, provided the agency is otherwise in compliance with  
20 Minimum Standards for Child Placing Agencies.

21 (2) To protect the exercise of religion of child  
22 placing agencies and to ensure that governmental entities will  
23 not be able to force those agencies, either directly or  
24 indirectly, to discontinue all or some of their child placing  
25 services because they decline to place a child for adoption or  
26 in a foster home that conflicts, or under circumstances that  
27 conflict, with their sincerely held religious beliefs, when

1 otherwise the agency is in compliance with required Minimum  
2 Standards for Child Placing Agencies.

3 (3) To provide relief to child placing agencies  
4 whose rights have been violated.

5 Section 5. (a) The state may not refuse to license  
6 or otherwise discriminate or take an adverse action against  
7 any child placing agency that is licensed by or required to be  
8 licensed by the state for child placing services on the basis  
9 that the child placing agency declines to make, provide,  
10 facilitate, or refer for a placement in a manner that  
11 conflicts with, or under circumstances that conflict with, the  
12 sincerely held religious beliefs of the child placing agency  
13 provided the agency is otherwise in compliance with the  
14 requirements of the Alabama Child Care Act of 1971, Chapter 7,  
15 Title 38, Code of Alabama 1975, and the Minimum Standards for  
16 Child Placing Agencies.

17 (b) If a child placing agency under subsection (a)  
18 declines to make, provide, facilitate, or refer for a child  
19 placement, the decision of the child placing agency may not  
20 limit the ability of another child placing agency to make,  
21 provide, facilitate, or refer for the placement.

22 Section 6. Child placing agencies shall otherwise  
23 meet the Minimum Standards for Child Placing Agencies required  
24 for child placement, pursuant to the Alabama Child Care Act of  
25 1971, Chapter 7, Title 38, Code of Alabama 1975.

26 Section 7. A child placing agency injured by a  
27 violation of subsection (a) of Section 5 may obtain all

1 appropriate relief provided by the Alabama Administrative  
2 Procedure Act. In addition to the remedies provided therein,  
3 an aggrieved agency shall be entitled to all rights, remedies,  
4 and defenses available to it under the First Amendment Free  
5 Exercise of Religion Clause of the United States Constitution  
6 and The Alabama Religious Freedom Amendment, Amendment 622 to  
7 the Constitution of Alabama of 1901, now appearing as Section  
8 3.01 of the Official Recompilation of the Constitution of  
9 Alabama of 1901, as amended.

10 Section 8. This act shall become effective  
11 immediately following its passage and approval by the  
12 Governor, or its otherwise becoming law.