

1 INTERIM STUDY PROPOSAL 2019-106

2 State of Arkansas
3 92nd General Assembly
4 Regular Session, 2019

As Engrossed: S3/27/19

A Bill

SENATE BILL 352

5
6 By: Senator A. Clark

7 Filed with: Senate Committee on Judiciary
8 pursuant to A.C.A. §10-3-217.

9 **For An Act To Be Entitled**

10 AN ACT TO AMEND THE LAW CONCERNING PROTECTIONS FOR
11 CHILD WELFARE AGENCIES; AND FOR OTHER PURPOSES.

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14 **Subtitle**

15 TO AMEND THE LAW CONCERNING PROTECTIONS
16 FOR CHILD WELFARE AGENCIES.

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. DO NOT CODIFY. Legislative findings.

22 The General Assembly finds that:

23 (1) Child placement agencies serve children, birth mothers, and
24 families;

25 (2) Child placement agencies provide some of the most vital
26 services to those in need;

27 (3) There are currently over four hundred thousand (400,000)
28 children in the foster care system, one hundred thousand (100,000) of whom
29 are awaiting adoption;

30 (4) Private, faith-based child placement agencies expand the
31 pool of qualified parents who want to adopt as child placement agencies excel
32 at recruiting adoptive and foster parents from their own faith-based
33 communities, including without limitation for special needs and hard-to-place
34 children;

35 (5) Despite the vital work performed by child welfare agencies,
36 providers of child placement services across the country are being forced to

1 close or face lawsuits due to state and local governments threatening these
2 providers with the loss of support, funding, and licensing they need to serve
3 children, birth mothers, and families;

4 (6) Ensuring protections for a diversity of child placement
5 agencies and the ability of child placement agencies to operate according to
6 their sincerely held beliefs, and with families who share those beliefs,
7 makes it more likely that the greatest possible number of children will be
8 connected with permanent, loving families;

9 (7) It is the policy of this state to allow all willing and
10 qualified child placement agencies to serve free from government
11 discrimination; and

12 (8) It is the policy of this state to protect all child
13 placement agencies from government discrimination and to keep children first
14 by ensuring that all qualified providers stay in the field to serve a diverse
15 community of children, birth mothers, and families.

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17 SECTION 2. Arkansas Code Title 9, Chapter 28, Subchapter 4, is amended
18 to add additional sections to read as follows:

19 9-28-415. Child welfare agencies – Conscience clause.

20 (a) To the fullest extent allowed under the Arkansas Constitution and
21 federal law, a child welfare agency shall be required to perform, assist,
22 counsel, recommend, consent to, refer, or otherwise participate in any
23 placement of a child in foster care or adoption unless the proposed placement
24 would violate the sincerely held religious beliefs of the child welfare
25 agency.

26 (b) A state agency or a political subdivision of the state shall not
27 take the following action against a child welfare agency solely due to the
28 decision of the child welfare agency to not perform, assist, counsel,
29 recommend, consent to, refer, or otherwise participate in a child placement
30 that violates the sincerely held religious beliefs of the child welfare
31 agency:

32 (1) Deny a license, permit, or other authorization, or the
33 renewal thereof; or

34 (2) Suspend or revoke a license, permit, or other authorization.

35 (c) A child welfare agency shall not be denied a grant, contract, or
36 participation in a local government program based on the decision of the

1 child welfare agency to refrain from performing, assisting, counseling,
2 recommending, consenting to, referring, or otherwise participating in a child
3 placement that violates the sincerely held religious beliefs of the child
4 welfare agency.

5 (d) The decision of a child welfare agency to refrain from performing,
6 assisting, counseling, recommending, consenting to, referring, or otherwise
7 participating in a child placement that violates the sincerely held religious
8 beliefs of the child welfare agency shall not form the basis for the
9 imposition of a civil fine, other adverse administrative action, or any claim
10 or cause of action under any state or local law.

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12 9-28-416. Claim or defense against state action.

13 A child welfare agency may assert a violation of § 9-28-415 as a claim
14 or defense in a judicial or administrative proceeding and obtain appropriate
15 relief against a state government.

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18 /s/A. Clark
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21 Referred requested by the Arkansas Senate

22 Prepared by: JNL/VJF
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