

By: Sanford

H. B. No. 3864

A BILL TO BE ENTITLED

# 1 AN ACT

2 relating to protection of the rights of conscience for child  
3 welfare services providers.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subtitle D, Title 2, Human Resources Code, is  
6 amended by adding Chapter 45 to read as follows:

## CHAPTER 45. PROTECTION OF RIGHTS OF CONSCIENCE FOR

## CHILD WELFARE SERVICES PROVIDERS

Sec. 45.001. DEFINITIONS. In this chapter:

24 (E) limiting the ability of a person to engage in

1   child welfare services.

2                   (2) "Child welfare services" means social services  
3   provided to or on behalf of children, including:

4                   (A) assisting abused or neglected children;

5                   (B) counseling children or parents;

6                   (C) promoting foster parenting;

7                   (D) providing foster homes, residential care,

8   group homes, or temporary group shelters for children;

9                   (E) recruiting foster parents;

10                   (F) placing children in foster homes;

11                   (G) licensing foster homes;

12                   (H) promoting adoption or recruiting adoptive  
13   parents;

14                   (I) assisting adoptions or supporting adoptive  
15   families;

16                   (J) performing or assisting home studies;

17                   (K) assisting kinship guardianships or kinship  
18   caregivers;

19                   (L) providing family preservation services;

20                   (M) providing family support services; and

21                   (N) providing temporary family reunification  
22   services.

23                   (3) "Child welfare services provider" means a person  
24   that provides, seeks to provide, or applies for or receives a

25   contract, subcontract, grant, subgrant, or cooperative agreement  
26   to provide child welfare services. The person is not required to be

27   engaged exclusively in child welfare services to be a child welfare

1 services provider.

2 (4) "Governmental entity" means:

3 (A) this state or a municipality or other  
4 political subdivision of this state; or

5 (B) any agency of this state or of a municipality  
6 or other political subdivision of this state, including a  
7 department, bureau, board, commission, office, agency, council,  
8 court, and public institution of higher education.

9 Sec. 45.002. APPLICABILITY. (a) This chapter applies to any  
10 ordinance, rule, order, decision, practice, or other exercise of  
11 governmental authority.

12 (b) This chapter applies to an act of a governmental entity,  
13 in the exercise of governmental authority, granting or refusing to  
14 grant a government benefit to a child welfare services provider.

15 Sec. 45.003. CHILD WELFARE SERVICES PROVIDERS PROTECTED. A  
16 governmental entity or any person that contracts with this state or  
17 operates under governmental authority to refer or place children  
18 for child welfare services may not discriminate or take any adverse  
19 action against a child welfare services provider on the basis,  
20 wholly or partly, that the provider:

21 (1) has declined or will decline to provide,  
22 facilitate, or refer a person for child welfare services that  
23 conflict with, or under circumstances that conflict with, the  
24 provider's sincerely held religious beliefs.

25 (2) provides or intends to provide children under the  
26 control, care, guardianship, or direction of the child welfare  
27 services provider with a religious education, including through

1 placing the children in a private or parochial school or otherwise  
2 providing a religious education in accordance with the laws of this  
3 state; or

4                   (3) has declined or will decline to provide,  
5 facilitate, or refer a person for abortions, contraceptives, or  
6 drugs, devices, or services that are potentially  
7 abortion-inducing.

8                   Sec. 45.004. PRIVATE RIGHT OF ACTION. A child welfare  
9 services provider may assert an actual or threatened violation of  
10 this chapter as a claim or defense in a judicial or administrative  
11 proceeding and obtain the relief specified in Section 45.005.

12                   Sec. 45.005. REMEDIES. A child welfare services provider  
13 who successfully asserts a claim or defense under this chapter is  
14 entitled to recover:

15                   (1) declaratory relief;  
16                   (2) injunctive relief to prevent the threatened or  
17 continued adverse action or effects of the action on the child  
18 welfare services provider;

19                   (3) compensatory damages for pecuniary and  
20 nonpecuniary losses;

21                   (4) punitive damages; and  
22                   (5) reasonable attorney's fees, court costs, and other  
23 reasonable expenses.

24                   Sec. 45.006. TWO-YEAR LIMITATIONS PERIOD. A child welfare  
25 services provider must bring an action to assert a claim for damages  
26 under this chapter not later than the second anniversary of the date  
27 the provider actually knew of the violation of this chapter.

1        Sec. 45.007. IMMUNITY WAIVED. (a) Sovereign, governmental,  
2 and qualified immunity to suit and from liability are waived and  
3 abolished to the extent of liability created by Section 45.005, and  
4 a claimant may sue a governmental entity or official for damages  
5 allowed by that section.

6        (b) Notwithstanding Subsection (a), this chapter does not  
7 waive or abolish sovereign immunity to suit and from liability  
8 under the Eleventh Amendment to the United States Constitution.

9        Sec. 45.008. EFFECT ON RIGHTS. (a) This chapter may not be  
10 construed to authorize a governmental entity to burden a person's  
11 free exercise of religion.

12        (b) The protections of religious freedom afforded by this  
13 chapter are in addition to the protections provided under federal  
14 or state law and the constitutions of this state and the United  
15 States.

16        (c) This chapter may not be construed to supersede any law  
17 of this state that is equally as protective of religious beliefs as,  
18 or more protective of religious beliefs than, this chapter.

19        (d) This chapter may not be considered to narrow the meaning  
20 or application of any other law protecting religious beliefs.

21        Sec. 45.009. INTERPRETATION. This chapter shall be  
22 liberally construed to effectuate its remedial and deterrent  
23 purposes.

24        SECTION 2. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2015.