



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature
Second Regular Session

Senate: JUD DP 5-3-0-0 | 3rd Read: 16-11-3-0

House: JUD DP 6-4-0-0 | 3rd Read 31-26-3-0

SB 1399: adoption; foster care; religious discrimination

Sponsor: Senator Kerr, LD 13

Transmitted to the Governor

Overview

Restricts the state government or any private person who sues under or attempts to enforce a state or local law from taking any discriminatory action against a person awarded custody of a fostered or adopted child or any person that advertises, provides or facilitates adoption or foster care services based on religion.

History

Current statute states only children and foreign-born persons under the age of 22 that are not illegal aliens and that reside in Arizona may be adopted, with certain exceptions ([A.R.S. § 8-102](#)). Any adult resident of the state, whether married, unmarried or legally separated, is eligible to adopt a child. Any nonresident may also adopt a child if: 1) the child is a dependent child that is currently under the jurisdiction of the Arizona juvenile court; 2) the child currently resides in the applicant's home; 3) the Department of Child Safety (DCS) placed the child in the home of the applicant pursuant to the Interstate Compact on the Placement of Children; 4) DCS recommends the adoption of the child by the applicant; and 5) the Foster Care Review Board has reviewed the child's case.

DCS and adoption agencies must place adopted children in homes that best meet the safety, social, emotional, physical and mental needs of the child. Other relevant considerations must include: 1) the marital status, length and stability of the marital relationship of prospective adoptive parents; 2) placement with the child's sibling; 3) established relationships between the child and the prospective adoptive family; 4) the prospective adoptive family's ability to meet the child's safety, social, emotional, physical and mental health needs; 5) the family's ability to financially provide for the child; 6) the wishes of a child at least 12 years old; 7) the wishes of the child's birth parents unless the parents' rights have been terminated; and 8) the availability or relatives, current foster parents, former foster parents or other significant persons to provide support to the prospective adoptive family and child ([A.R.S. § 8-103](#)).

Provisions

1. Prohibits state government or a private person suing to enforce a law or regulation adopted by the state from taking discriminatory action against a person involved with adoption or foster care services because the person provided, or declined to provide, services based on a manner consistent with the person's religious beliefs. (Sec. 1)
2. Specifies if a contractor has a religious objection to providing services required by a contract, the contractor must submit with their contract proposal an alternative approach to meet the required services and outlines specific examples. (Sec. 1)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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3. Prohibits state government or a private person suing to enforce a law or regulation adopted by the state from taking discriminatory action against a person to whom the state government granted custody of an adopted or foster child on the basis that person intends to raise the child in a manner consistent with the person's religious beliefs. (Sec. 1)
4. Allows the state government to consider whether a person shares the same religious belief with an adopted or foster child. (Sec. 1)
5. Allows a person to bring an action against state government without regard to whether the person commencing the action had exhausted available administrative remedies. (Sec. 1)
6. States the prevailing party who establishes a violation of the above must recover reasonable attorney fees. (Sec. 1)
7. Allows a person to assert a violation of the above as an action against the state, except a court, in any judicial or administrative proceeding or as a defense in any judicial or administrative proceeding whether the action is brought by or in the name of the state government or another party. (Sec. 1)
8. Allows a person bringing a claim against the state government, except the court, to receive compensatory damages, injunctive relief, declaratory relief or other appropriate relief. (Sec. 1)
9. Specifies a person bringing a claim for a violation of the above must bring the claim no later than two years after the day the cause of action accrues. (Sec. 1)
10. States this chapter applies to all state and local laws and ordinances, whether statutory or otherwise, and whether adopted before or after the effective date. (Sec. 1)
11. Defines *adoption or adoption services, foster care or foster care services, contractor, discriminatory action, person, religious organization, state benefit program and state government.* (Sec. 1)
12. Contains a legislative findings clause. (Sec. 2)
13. Contains a severability clause. (Sec. 3)