



ARIZONA STATE SENATE

Fifty-Fifth Legislature, Second Regular Session

AMENDED FACT SHEET FOR S.B. 1399

adoption; religious discrimination; prohibition

Purpose

Prohibits 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 on the basis of religion.

Background

In Arizona, 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](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Prohibits 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 that advertises, provides or facilitates adoption or foster care services on the basis that the person provides or declines to provide services consistent with the person's religious belief or exercise of religion.

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2. Prohibits the state government or any private person who sues under or attempts to enforce a state or local law from discriminating against a person awarded custody of a fostered or adopted child on the basis that the person guides, instructs, raises or intends to raise a child in a manner consistent with the person's religious belief or exercise of religion.
3. Requires contractors that have a religious objection to services required by a contract to submit an alternative approach to meet the services required by the contract.
4. Stipulates that, if a contract requires an evidence-based curriculum, the alternative approach must be evidence-based and listed on the appropriate clearinghouse.
5. Permits a contractor to satisfy contractual obligations by collaborating with other contractors to provide the services objected to.
6. Permits the state government, in the placement of a child, to consider whether a person shares the same religious beliefs as the child.
7. Allows any judicial action that relates to religious discrimination in the adoption process to be commenced against a state government entity that is not a court, with relief granted, regardless of whether the individual bringing action has sought or exhausted all available administrative remedies.
8. Specifies that a prevailing party that brings claim of religious discrimination in the adoption process is to recover all reasonable attorney fees.
9. Allows a person to bring judicial or administrative action against the state government for any act of religious discrimination in the adoption process, regardless of whether the action is brought by the state or another person.
10. Permits a person to assert a violation of the prohibition on religious discrimination as a claim or defense in any judicial or administrative proceeding and entitles the person compensatory damages, injunctive relief, declaratory relief and any other appropriate relief.
11. Requires claims of religious discrimination in the adoption process to be brought within two years of the violation.
12. Specifies that the prohibition on religious discrimination in the adoption process applies to all state and local laws and ordinances, statutory or otherwise, regardless of whether adopted before or after the effective date of this legislation.
13. Defines *discriminatory action* as an action of the state government, on the basis of a person's religious belief or exercise of religion, to:
 - a) alter the tax treatment of a person, including assessing penalties and refusing tax exemptions;
 - b) disallow or deny a tax deduction for charitable donations;
 - c) withhold, reduce, exclude, terminate or materially alter the terms or conditions of a state grant, contract, subcontract, cooperative agreement, guarantee, loan, scholarship or other similar benefit from or to a person;

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- d) withhold, reduce, exclude, terminate or adversely alter the terms or conditions of or deny any entitlement or benefit under a state benefit program from or to a person;
- e) impose, levy or assess a monetary fine, fee, penalty, damages or an injunction;
- f) withhold, reduce, exclude, terminate, materially alter the terms or conditions of or deny license, certification, accreditation, custody award or agreement, diploma, grade, recognition or other similar benefit, position or status from or to a person; and
- g) refuse to hire or promote, force to resign, fire, demote, sanction, discipline, adversely alter the terms or conditions of employment, retaliate or take other adverse employment action against a person employed or commissioned by the state government if the person subject to the adverse action has provided notice to the employer of their religious objection.

14. Defines terms.

15. Contains a legislative findings clause.

16. Contains a severability clause.

17. Becomes effective on the general effective date.

Amendments Adopted by Committee of the Whole

- 1. Requires contractors that have a religious objection to services required by a contract to submit an alternative approach to meet the services required by the contract.
- 2. Stipulates that, if a contract requires an evidence-based curriculum, the alternative approach must be evidence-based and listed on the appropriate clearinghouse.
- 3. Permits a contractor to satisfy contractual obligations by collaborating with other contractors to provide the services objected to.
- 4. Prohibits judicial or administrative actions for violations of the discrimination prohibition from being brought against a court.
- 5. Specifies that refusing to hire, firing, demoting or adversely altering the terms of an employee's employment is only considered a discriminatory action if the person subject to the adverse action has provided notice to the employer of their religious objection.
- 6. Defines *contractor* as a person that advertises, provides or facilitates adoption or foster care services and that contracts with the state to provide educational training for adopted or foster care children and parents.
- 7. Makes technical changes.

Senate Action

HHS 2/9/22 DP 5-3-0

Prepared by Senate Research

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MM/sr