

# Legislative Analysis



## **CHILD PLACING AGENCIES CAN DECLINE SERVICES BASED ON SINCERELY HELD RELIGIOUS BELIEFS**

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 4188 as introduced**  
**Sponsor: Rep. Andrea LaFontaine**

Analysis available at  
<http://www.legislature.mi.gov>

**House Bill 4189 as introduced**  
**Sponsor: Rep. Harvey Santana**

**House Bill 4190 as introduced**  
**Sponsor: Rep. Eric Leutheuser**

**Committee: Families, Children, and Seniors**  
**Complete to 2-17-15**

### **SUMMARY:**

Taken together, the bills would specify the following:

\*\* To the fullest extent permitted by state and federal law, a child placing agency (for adoption or foster care) could not be required to provide any services if those services conflicted with the agency's "sincerely held religious beliefs" contained in a written policy, statement of faith, or other document adhered to by the agency. This applies also to referrals made by the Department of Human Services for foster care management or adoption services under a contract with the department. An agency could decline such referrals.

\*\* To the fullest extent permitted by state and federal law, the state or a local unit of government would be prohibited from taking an "adverse action" against a child placing agency on the basis that the agency has declined or will decline to provide services, or declined referrals, that conflict with, or provide services under circumstances that conflict with, those sincerely held beliefs. (The term "adverse action" is defined later.)

A placing agency could assert a defense in an administrative or judicial proceeding based on the provisions in the bills.

**House Bill 4188** would amend Public Act 116 of 1973 (MCL 722.114e), which regulates child care organizations, to apply to child placing agencies involved in both foster care and adoption services.

**House Bill 4189** would amend the Adoption Code (which is Chapter X of the Probate Code of 1939, MCL 710.23g) to apply to child placing agencies engaged in adoption services.

**House Bill 4190** would amend the Social Welfare Act (MCL 400.5a) to specifically prohibit the state Department of Human Services from taking an adverse action against a child placing agency.

The bills are tie-barred to one another, meaning all must be enacted for any to take effect.

## House Bill 4188

Under this bill, if a child placing agency declined to provide services, it would have to do one of the following:

- Promptly refer the applicant to another child placing agency that is willing and able to provide the declined services.
- Promptly refer the applicant to the webpage on the website of the Department of Human Services that identifies other licensed child placement agencies.

If an agency declines to provide services, its decision would not limit the ability of another child placing agency to provide those services. Also if a child placing agency declines a referral, that occurrence would not be a factor in determining whether the placement in connection with the referral is in the best interests of the child.

### ***Adverse Action***

The term "adverse action" would include, but not be limited to, denying an agency's application for funding, refusing to renew the agency's funding, canceling the agency's funding, declining to enter into a contract with the agency, refusing to renew a contract with the agency, canceling a contract with the agency, refusing to renew a license, canceling a license, taking an enforcement action against the agency, discriminating against the agency in regard to participating in a government program, and taking any action that materially alters the terms or conditions of an agency's funding, contract, or license.

### ***Enacting section***

Each bill contains an enacting section stating:

*It is the intent of the legislature to protect child placing agencies' free exercise of religion protected by the United States Constitution and the State Constitution of 1963. [The legislation] is not intended to limit or deny any person's right to adopt a child or participate in foster care.*

## **FISCAL IMPACT:**

The bills should have a negligible fiscal impact on the state or local units of government or on the judiciary.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.