A BILL TO BE ENTITLED
AN ACT
relating to protection of the rights of conscience for child
welfare services providers.

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

SECTION 1. Subtitle D, Title 2, Human Resources Code, is
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:

(1) "Adverse action" means any action that directly or
indirectly adversely affects the person against whom the adverse
action is taken, places the person in a worse position than the
person was in before the adverse action was taken, or is likely to
deter a reasonable person from acting or refusing to act. An adverse
action includes:

(A) denying an application for, refusing to
renew, or canceling funding;

(B) declining to enter into, refusing to renew,
or canceling a contract;

(C) declining to issue, refusing to renew, or
canceling a license;

(D) terminating, suspending, demoting, or
reassigning a person; and

(E) limiting the ability of a person to engage in
(2) "Child welfare services" means social services provided to or on behalf of children, including:

(A) assisting abused or neglected children;
(B) counseling children or parents;
(C) promoting foster parenting;
(D) providing foster homes, general residential operations, residential care, adoptive homes, group homes, or temporary group shelters for children;
(E) recruiting foster parents;
(F) placing children in foster homes;
(G) licensing foster homes;
(H) promoting adoption or recruiting adoptive parents;
(I) assisting adoptions or supporting adoptive families;
(J) performing or assisting home studies;
(K) assisting kinship guardianships or kinship caregivers;
(L) providing family preservation services;
(M) providing family support services;
(N) providing temporary family reunification services;
(O) placing children in adoptive homes; and
(P) serving as a foster parent.

(3) "Child welfare services provider" means a person, other than a governmental entity, that provides, seeks to provide,
or applies for or receives a contract, subcontract, grant, subgrant, or cooperative agreement to provide child welfare services. The person is not required to be engaged exclusively in child welfare services to be a child welfare services provider.

(4) "Governmental entity" means:

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

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

(C) a single source continuum contractor in this state.

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

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

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

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

(2) provides or intends to provide children under the
care, control, guardianship, or direction of the provider with a
religious education, including through placing the children in a
private or parochial school or otherwise providing a religious
education in accordance with the laws of this state;

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

(4) refuses to enter into a contract that is
inconsistent with or would in any way interfere with or force a
provider to surrender the rights created by this chapter.

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

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

(1) declaratory relief under Chapter 37, Civil
Practice and Remedies Code;

(2) injunctive relief to prevent the threatened or
continued adverse action;

(3) compensatory damages for pecuniary and
nonpecuniary losses; and
reasonable attorney's fees, court costs, and other reasonable expenses.

(b) Compensatory damages awarded under Subsection (a)(3) may not exceed $250,000 for each distinct controversy, without regard to the number of members or other persons associated with a child welfare services provider who claim injury under this chapter.

(c) A person may not bring an action for damages or declaratory or injunctive relief against an individual, other than an action brought against an individual acting in the individual's official capacity.

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

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

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

Sec. 45.008. EFFECT ON RIGHTS; CONSTRUCTION OF LAW. (a) This chapter may not be construed to authorize a governmental entity to burden a person's free exercise of religion.

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

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

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

(e) This chapter may not be construed to prevent law
enforcement officers from exercising duties imposed on the officers
under the Family Code and the Penal Code.

(f) This chapter may not be construed to allow a child
welfare services provider to decline to provide, facilitate, or
refer a person for child welfare services on the basis of that
person’s race, ethnicity, or national origin.

(g) This chapter may not be construed to allow a child
welfare services provider to deprive a minor of the rights,
including the right to medical care, provided by Chapters 32, 263,
and 266, Family Code.

(h) This chapter may not be construed to prohibit the
department from obtaining necessary child welfare services from an
alternate child welfare services provider.

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

SECTION 2. This Act takes effect immediately if it receives
a vote of two-thirds of all the members elected to each house, as
provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.