

The Senate Committee on Judiciary offered the following substitute to SB 375:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated,
2 relating to children and youth services, so as to allow a child-placing agency to decline to
3 accept a referral from the department and decline to perform services not referred under a
4 contract with the department based on the child-placing agency's sincerely held religious
5 beliefs; to prevent the department from discriminating against or causing any adverse action
6 against a child-placing agency based on its sincerely held religious beliefs; to provide for
7 assertion of such rights; to provide for definitions; to provide for a short title; to provide for
8 legislative findings; to provide for related matters; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

11 This Act may be known and may be cited as the "Keep Faith in Adoption and Foster Care
12 Act."
13

SECTION 2.

14 The General Assembly finds that maintaining a diverse network of adoption and foster care
15 service providers which accommodate children from various cultural backgrounds is a high
16 priority of this state such that reasonable accommodations should be made to allow people
17 of different geographical regions, backgrounds, and beliefs to remain within and become a
18 part of such network. The General Assembly finds that it is important that decisions
19 regarding the placement of children be made using the best interests of the child standard,
20 including using child-placing organizations best able to provide for a child's physical,
21 psychological, spiritual, and emotional needs and development. The General Assembly finds
22 that child-placing agencies have the right to provide services in accordance with the agencies'
23 sincerely held religious beliefs.
24

SECTION 3.

Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to children and youth services, is amended by adding a new Code section to read as follows:

"49-5-25.

(a) As used in this Code section, the term 'adverse action' means an action that results in, directly or indirectly, the denial of funding; the refusal to renew funding; the cancellation of funding; the denial of a contract for services; the refusal to renew a contract for services; the cancellation of a contract for services; the denial of a license; the refusal to renew a license; the cancellation of a license; an enforcement action; deterrence or prevention of reasonable actions; and any other similar action that materially alters the terms of funding, a contract, or a license.

(b) When making referrals for adoption or foster care services to child-placing agencies under contract with the department, the department shall use its best efforts to refer services to a child-placing agency that is able to provide such services. If a child-placing agency declines to accept the department's referral, the department shall not use such declination in determining whether such referral is in the best interests of the child. To the extent allowed by federal law, including compliance with the Americans with Disabilities Act and Title VI of the Civil Rights Act of 1964, a child-placing agency may decline to accept a referral for adoption or foster care services under a contract with the department based on the child-placing agency's sincerely held religious beliefs. If a child-placing agency declines to accept a referral, the department shall immediately refer those services to another child-placing agency. The department shall not take any adverse action against a child-placing agency or an organization that seeks to become a child-placing agency on the basis, wholly or partly, that such child-placing agency or organization has declined to accept a referral for adoption or foster care services that do not comply with such child-placing agency's or organization's sincerely held religious beliefs.

(c) For services not referred under a contract with the department, a child-placing agency may decline to perform any service that conflicts with the child-placing agency's sincerely held religious beliefs, and the department shall not take any adverse action against such child-placing agency for declining to perform such service.

(d) The department or child-placing agency may assert this Code section as a defense in any judicial or administrative proceeding and otherwise allowed by law. Nothing in this Code section shall be construed to constitute a waiver of sovereign immunity of the state or any of its boards, departments, bureaus, or agencies, or any officer or employee thereof."

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.