SENATE BILL No. 193

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2; IC 31-19-30.

Synopsis: Child welfare provider protections. Prohibits the state from discriminating against adoption agencies, foster parents, or adoptive parents on the basis of religious beliefs. Defines certain terms. Waives sovereign immunity for purposes of the prohibition, except that state courts retain immunity. Allows suit under these provisions without exhausting administrative remedies. Provides for a private right of action and civil remedies.

Effective: July 1, 2024.

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January 9, 2024, read first time and referred to Committee on Family and Children Services.

Introduced

Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

SENATE BILL No. 193

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 31-9-2-5.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 5.2. "Adoption or foster care", "adoption service", or "foster care service", for purposes of IC 31-19-30, means the following provided to, or on behalf of, a child:**

(1) Promoting foster parenting.

(2) Providing foster homes, residential care, group homes, or temporary group shelters for children.

(3) Recruiting foster parents.

(4) Placing children in foster homes.

(5) Licensing foster homes or adoptive parents.

(6) Certifying foster homes or adoptive parents.

(7) Promoting adoption or recruiting adoptive parents.

(8) Assisting adoptions or supporting adoptive families.

(9) Performing or assisting home studies.

(10) Assisting kinship guardianships or kinship caregivers.

(11) Providing family preservation services.

(12) Providing family support services.

(13) Providing temporary family reunification services.

(14) Assisting abused or neglected children eligible for adoption or placement in a foster home.

(15) Teaching children and adoptive or foster care parents occupational, homemaking, and other domestic skills.

SECTION 2. IC 31-9-2-40.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 40.7. "Discriminate", for purposes of IC 31-19-30, includes the following:**

(1) Altering the tax treatment of, or causing any tax, penalty, or payment to be assessed against a person.

(2) Disallowing, denying, or otherwise making unavailable:

(A) an exemption from taxation; or

(B) a charitable contribution deduction.

(3) Withholding, reducing, excluding, terminating, adversely altering the terms or conditions of, or denying:

(A) a state grant, contract, subcontract, cooperative agreement, guarantee, loan, scholarship, or other similar benefit;

(B) an entitlement or benefit under a state benefit program; or

(C) a license, certification, accreditation, custody award or agreement, diploma, grade, recognition, or other similar benefit, position, or status.

(4) Imposing, levying, or assessing any of the following:

(A) A monetary fine.

(B) A fee.

(C) A penalty.

(D) A damages award.

(E) An injunction.

(5) Refusing to hire or promote, forcing to resign, firing, demoting, sanctioning, disciplining, materially altering the terms or conditions of employment, or retaliating or taking any other adverse employment action against a person.

SECTION 3. IC 31-9-2-89, AS AMENDED BY P.L.3-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 89. (a) "Person", for purposes of IC 31-19-19, IC 31-19-25, and the juvenile law, means:

(1) a human being;

(2) a corporation;

(3) a limited liability company;

(4) a partnership;

(5) an unincorporated association; or

(6) a governmental entity.

(b) "Person", for purposes of section 44.5 of this chapter, means an adult or a minor.

(c) "Person", for purposes of IC 31-27, means an individual who is at least twenty-one (21) years of age, a corporation, a partnership, a voluntary association, or other entity.

(d) "Person", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-13.

(e) "Person", for purposes of the Uniform Interstate Family Support Act under IC 31-18.5, has the meaning set forth in IC 31-18.5-1-2.

(f) "Person", for purposes of IC 31-19-30, means any of the following:

(1) A human being.

(2) A corporation.

(3) A limited liability company.

(4) A partnership.

(5) An unincorporated association.

SECTION 4. IC 31-9-2-119, AS AMENDED BY P.L.206-2015, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 119. (a) "State", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-19.

(b) "State", for purposes of the Uniform Interstate Family Support Act under IC 31-18.5, has the meaning set forth in IC 31-18.5-1-2.

(c) "State", for purposes of the Interstate Compact on Adoption Assistance under IC 31-19-29, has the meaning set forth in IC 31-19-29-2.

(d) "State", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

(e) "State", for purposes of IC 31-19-30, includes the following:

(1) A political subdivision (as defined in IC 36-1-2-13).

(2) An agency of the state, including the following:

(A) A department.

(B) A bureau.

(C) A board.

(D) A commission.

(E) A council.

(F) A court.

(3) Any person acting under color of state law.

(4) Any private individual suing under, or attempting to enforce:

(A) a law;

(B) ordinances;

(C) a rule; or

(D) a regulation;

adopted by the state or a political subdivision (as defined in IC 36-1-2-13).

SECTION 5. IC 31-9-2-119.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 119.5. "State benefit program", for purposes of section 40.7 of this chapter and IC 31-19-30, means any program administered, controlled, or funded by the state, or an agent on behalf of the state, that provides:**

(1) cash;

(2) payments;

(3) grants;

(4) contracts;

(5) loans; or

(6) in kind assistance.

SECTION 6. IC 31-19-30 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]:

Chapter 30. Child Welfare Provider Protection

Sec. 1. (a) This chapter must be construed and applied in favor of a broad protection of the free exercise of religious beliefs.

(b) The protections provided by this chapter supplement the protections provided under federal law, the Constitution of the United States, state law, and the Constitution of the State of Indiana.

(c) This chapter applies to the state (as defined in IC 31-9-2-119(e)).

(d) This chapter does not do the following:

(1) Preempt or repeal a state or local law or ordinance that is equally or more protective.

(2) Narrow the meaning or application of a state or local law or ordinance protecting free exercise of religious beliefs.

(3) Prevent the state from providing any benefit or service authorized under state law, whether directly or through an individual or entity that is not seeking relief under this chapter.

Sec. 2. (a) The state shall not discriminate against a person that

advertises, provides, or facilitates adoption or foster care because the person decides to provide or not to provide:

(1) an adoption service;

(2) a foster care service; or

(3) a related service;

based on the person's sincerely held religious belief.

(b) Except as provided in subsection (c), the state shall not discriminate against a person to which the state grants custody of a foster or adoptive child, or that seeks custody of a foster or adoptive child, because of the person's intended or actual:

(1) guidance;

(2) instruction; or

(3) upbringing;

of the child based on the person's sincerely held religious belief.

(c) The state may consider whether a person shares the same religion or faith tradition as a foster or adoptive child when considering placement of the child to prioritize the adoptive child's placement with a person of the same religion or faith tradition.

Sec. 3. (a) The state shall consider a person to be licensed, accredited, or certified if the person has been denied licensure, accreditation, or certification under state law because:

(1) of the person's sincerely held religious belief; or

(2) the person:

(A) maintains policies and procedures; or

(B) acts;

in accordance with a sincerely held religious belief.

(b) The state may not deny a contract, grant, or agreement because of a person's religion or faith based policies.

Sec. 4. (a) A person may assert a claim against the state under this chapter:

(1) in a judicial proceeding;

(2) in an administrative proceeding; or

(3) as a defense, regardless of whether the proceeding is brought:

(A) by or in the name of the state;

(B) by a private person; or

(C) by another party.

(b) A person is not required to:

(1) seek administrative relief; or

(2) exhaust administrative remedies;

before bringing a claim under this chapter.

Sec. 5. (a) Except as provided in subsection (b), a person may

sue the state under this chapter.

(b) A person may not sue a state court.

Sec. 6. A person must assert a claim or defense under this chapter not later than two (2) years after the date that the person knew or should have known that the claim or defense existed.

Sec. 7. (a) Except as provided in subsection (b), a person that successfully asserts a claim or defense under this chapter may recover:

(1) declaratory relief;

(2) injunctive relief;

(3) compensatory damages;

(4) reasonable attorney's fees and costs; and

(5) other appropriate relief.

(b) A person that successfully asserts a claim or defense under this chapter against a private person acting under color of state law may only recover the following:

(1) Declaratory relief.

(2) Injunctive relief.

Sec. 8. (a) Except as provided in subsection (b), if a conflict arises between this chapter and a provision of:

(1) the Indiana Code;

(2) an ordinance;

(3) a rule or regulation;

(4) an order, opinion, or decision; or

(5) any other exercise of state authority that impinges on the protections provided by this chapter;

this chapter is controlling.

(b) This chapter is not controlling if a conflicting provision expressly provides otherwise.