

FAMILY ISSUE FACT SHEET

NO. 2022-02 (JANUARY 2022)

KEEP KIDS FIRST ACT

SB 1399 Adoption; Religious Discrimination; Prohibition

EXECUTIVE SUMMARY

SB 1399 protects the interest of children and the religious freedoms of faith-based agencies by prohibiting discrimination against faith-based agencies in adoption and foster care placement. The city of Philadelphia refused to contract with Catholic Social Services (CSS) for foster care and adoption placement because of CSS' religious views on human sexuality. The agency, in accordance with its religious beliefs, did not certify same-sex couples as foster parents. The U.S. Supreme Court unanimously ruled in *Fulton v. City of Philadelphia, Pennsylvania* that the city discriminated against Catholic Social Services by violating the Free Exercise Clause of the First Amendment.

Although a strong message from a unanimous Court, the decision was narrowly tailored based on exemptions in the Philadelphia law. Arizona must act to protect the interest of children and the religious freedoms of faith-based adoption agencies, because every child in need of a forever home deserves the chance to be adopted or cared for by a foster family. That's what it means to keep kids first.

WHAT IS THE PROBLEM?

The ever-changing sexual ethic demands conformity in all corners of society, regardless of the cost. States have given in to pressure to exclude individuals, companies, and organizations that hold a historical or religious view of human sexuality. This unconstitutional mandate forces religious organizations to either violate their religious convictions or stop providing adoption and foster care services, which they have done for decades.

In Chief Justice Roberts' opinion in *Fulton*, he wrote, "Maximizing the number of foster families and minimizing liability are important goals, but the City fails to show that granting CSS an exception will put those goals at risk. If anything, including CSS in the program seems likely to increase, not reduce, the number of available foster parents."

If Philadelphia was putting kids first, it would not have cut Catholic Social Services from its foster care program just days after putting out an urgent call for 300 more foster parents in March 2018. The city made that call just a year after Catholic Social Services placed 226 children in foster homes. But Philadelphia chose to cut a meaningful program that was clearly helping children find forever homes because it disagrees with the Catholic Church's marriage view.

WHAT DOES THE BILL DO?

SB 1399 protects adoption agencies and foster care providers by prohibiting the state government from taking any discriminatory action against a person who advertises, provides, or facilitates adoption or foster care based upon, or in a manner consistent with, a religious belief or exercise of religion.

The bill protects foster and adoptive parents by prohibiting the state government from taking any discriminatory action against a prospective foster or adoptive parent on the basis that the person guides, instructs, or raises a child, or intends to guide, instruct, or raise a child based upon, or in a manner consistent with, a religious belief or exercise of religion. State government may consider whether a person shares the same religion or faith tradition as a foster or adoptive child when considering placement of the child, in order to prioritize placement with a person of the same religion or faith tradition.

SB 1399 prohibits discriminatory actions such as altering the way religious adoption agencies are taxed, altering the grant process, denying benefits, imposing fees, denying licenses and accreditations, and hiring, firing, and disciplinary actions.

The bill provides for a claim or defense against the state in any judicial or administrative proceeding. Remedies may include declaratory relief, injunctive relief, compensatory damages, reasonable attorneys' fees, and other appropriate relief.

TALKING POINTS

- 1. Every child in need of a forever home deserves the chance to be adopted or cared for by a foster family. That's what it means to keep kids first.**
- 2. All Americans have the freedom to live and work according to their religious beliefs. Adoption and foster care providers are no different.**
- 3. We live in a pluralistic society; we should not punish those who believe that the best home for a child includes a married mother and father, especially when punishment necessarily means more children with no home at all.**
- 4. Shutting down faith-based adoption and foster care providers—like Philadelphia tried to do—means *fewer* children will have a chance to find a home. That's not keeping kids first.**

CONCLUSION

Contact: Cathi Herrod, President, Center for Arizona Policy, Inc. This Fact Sheet may be reproduced without change and in its entirety for non-commercial purposes without prior permission from Center for Arizona Policy, Inc. © 2022 CAP. All rights reserved.

Arizona must act to protect the interest of children and the religious freedoms of faith-based adoption agencies, because every child in need of a forever home deserves the chance to be adopted or cared for by a foster family. That's what it means to keep kids first.