

1 State of Arkansas  
2 95th General Assembly  
3 Regular Session, 2025  
4

# A Bill

HOUSE BILL 1669

5 By: Representative Bentley  
6 By: Senator A. Clark  
7

## For An Act To Be Entitled

8  
9 AN ACT TO CREATE THE KEEP KIDS FIRST ACT; TO PROVIDE  
10 FOR PROTECTIONS FROM DISCRIMINATION FOR ADOPTION AND  
11 FOSTER CARE PROVIDERS ACTING IN ACCORDANCE WITH  
12 SINCERELY HELD RELIGIOUS BELIEFS; TO PROVIDE A  
13 VEHICLE FOR RECOVERY BY ADOPTION AND FOSTER CARE  
14 PROVIDERS ACTING IN ACCORDANCE WITH SINCERELY HELD  
15 RELIGIOUS BELIEFS WHEN CERTAIN DISCRIMINATORY ACTIONS  
16 ARE TAKEN AGAINST THE FAITH-BASED ADOPTION AND FOSTER  
17 CARE PROVIDERS; AND FOR OTHER PURPOSES.  
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## Subtitle

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21 TO CREATE THE KEEP KIDS FIRST ACT; AND  
22 TO PROVIDE FOR PROTECTIONS FROM  
23 DISCRIMINATION FOR ADOPTION AND FOSTER  
24 CARE PROVIDERS ACTING IN ACCORDANCE WITH  
25 SINCERELY HELD RELIGIOUS BELIEFS.  
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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29 SECTION 1. DO NOT CODIFY. Title.

30 This act shall be known and may be cited as the "Keep Kids First Act".  
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32 SECTION 2. DO NOT CODIFY. Legislative findings.

33 (a) The General Assembly finds and declares that:

34 (1) The State of Arkansas seeks to place children in a safe,  
35 loving, and supportive home when it must place a child with an adoptive or  
36 foster family;



1           (2) The adoption and foster care agencies of the State of  
2 Arkansas represent diverse organizations and groups, some of which are faith-  
3 based and some of which are not faith-based, and faith-based organizations  
4 and groups have a lengthy and distinguished history of providing adoption and  
5 foster care services in the State of Arkansas;

6           (3) The United States Supreme Court has recognized the benefits  
7 of having more, not fewer, adoption and foster care providers, stating that  
8 "[m]aximizing the number of foster families and minimizing liability are  
9 important goals, but the City fails to show that granting CSS an exception  
10 will put those goals at risk. If anything, including CSS in the program  
11 seems likely to increase, not reduce, the number of available foster  
12 parents." *Fulton v. City of Philadelphia*, 593 U.S. 522, 541-42;

13           (4)(A) Private child placement agencies and individuals,  
14 including faith-based child placement agencies and individuals, have the  
15 right to the free exercise of religion under both the Arkansas Constitution  
16 and the United States Constitution.

17           (B) Under well-settled principles of constitutional law,  
18 free exercise of religion includes the freedom to abstain from conduct that  
19 conflicts with child placement agencies' sincerely held religious beliefs;  
20 and

21           (5) Ensuring that faith-based child placement agencies can  
22 continue to provide adoption and foster care services will benefit the  
23 children and families who receive those services.

24           (b) Therefore, the General Assembly declares that the Keep Kids First  
25 Act is necessary to ensure that faith-based adoption and foster care  
26 providers remain free to serve children in need and work with the State of  
27 Arkansas to find loving, forever homes for children.

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29           SECTION 3. Arkansas Code Title 9, Chapter 28, Subchapter 4, is amended  
30 to add an additional section to read as follows:

31           9-28-417. Child welfare agencies – Conscience clause – Claim or  
32 defense.

33           (a) As used in this section:

34           (1) "Discriminatory action" means any action taken by state  
35 government to:

36           (A) Alter in any way the tax treatment of, or cause any

1 tax, penalty, or payment to be assessed against, or deny, delay, revoke, or  
 2 otherwise make unavailable an exemption from taxation of a person whom the  
 3 state government places custody of a foster or preadoptive child with;

4 (B) Disallow, deny, or otherwise make unavailable a  
 5 deduction for state tax purposes of any charitable contribution made to or by  
 6 a person whom the state government places custody of a foster or preadoptive  
 7 child with;

8 (C) Withhold, reduce, exclude, terminate, materially alter  
 9 the terms or conditions of, or otherwise make unavailable or deny any state  
 10 grant, contract, subcontract, cooperative agreement, guarantee, loan,  
 11 scholarship, or other similar benefit from or to a person whom the state  
 12 government places custody of a foster or preadoptive child with;

13 (D) Withhold, reduce, exclude, terminate, adversely alter  
 14 the terms or conditions of, or otherwise make unavailable or deny any  
 15 entitlement or benefit under a state benefit program from or to a person whom  
 16 the state government places custody of a foster or preadoptive child with;

17 (E) Impose, levy, or assess a monetary fine, fee, penalty,  
 18 damages award, or injunction on a person whom the state government places  
 19 custody of a foster or preadoptive child with;

20 (F) Withhold, reduce, exclude, terminate, materially alter  
 21 the terms or conditions of, or otherwise make unavailable or deny any  
 22 license, certification, accreditation, custody award or agreement, diploma,  
 23 grade, recognition, or other similar benefit, position, or status from or to  
 24 a person whom the state government places custody of a foster or preadoptive  
 25 child with; or

26 (G) Refuse to hire or promote, force to resign, fire,  
 27 demote, sanction, discipline, adversely alter the terms or conditions of  
 28 employment, or retaliate or take other adverse employment action against a a  
 29 person whom the state government places custody of a foster or preadoptive  
 30 child with and who is employed or commissioned by the state government; and

31 (2) "State government" means:

32 (A) The state or a political subdivision of the state,  
 33 including without limitation a court;

34 (B) Any agency of the state or an agency of a political  
 35 subdivision of the state, including without limitation a:

36 (i) Board;

- (ii) Bureau;
- (iii) Commission;
- (iv) Council;
- (v) Department;
- (vi) Division; or
- (vii) Office;

(C) Any city, county, local government, special district, or combination thereof;

(D) Any person acting under color of state law; or

(E) Any private person suing under or attempting to enforce a law, rule, or regulation adopted by the state or a political subdivision of the state.

(b)(1) The state government shall not require any private child placement agency to perform, assist, counsel, recommend, consent to, refer, or participate in any placement of a child for foster care or adoption when the proposed placement would violate the private child placement agency's sincerely held religious or moral beliefs.

(2)(A) The state government shall not take any discriminatory action against a person whom the state government places custody of a foster or preadoptive child with, whether in whole or in part, based on the person's:

(i) Sincerely held religious belief, or intent to guide, instruct, or raise a child, based upon or in a manner that is consistent with that person's sincerely held religious belief; or

(ii) Refusal to accept or support any government policy regarding sexual orientation or gender identity that conflicts with the person's sincerely held religious beliefs.

(B) The state government shall not establish or enforce any per se standard, rule, or policy that precludes consideration of a current or prospective foster or preadoptive parent for any particular placement based in whole or in part on the person's sincerely held religious beliefs regarding sexual orientation or gender identity.

(C) Nothing in subdivision (b)(2)(A) or subdivision (b)(2)(B) shall:

(i) Alter the fact that, in accordance with § 9-28-106, the state government may consider whether a person shares the same

1 religious background as a foster or preadoptive child's genetic parent when  
2 considering placement of the child to prioritize placement with a person of  
3 the same religious background or, if a person with the same or similar  
4 religious background is not available, to a person of a different religious  
5 background that is knowledgeable and appreciative of the child's religious  
6 background;

7 (ii) Preclude the state government from taking into  
8 consideration the religious or moral beliefs of a particular foster or  
9 preadoptive child, or his or her family of origin, when determining the most  
10 appropriate placement for the child, including without limitation religious  
11 or moral beliefs regarding sexual orientation and gender identity and how  
12 those beliefs relate to the religious or moral beliefs of a prospective  
13 foster or preadoptive parent; or

14 (iii) Be construed to prohibit the state government  
15 from making, or relieving the state government from its duty to make, all  
16 individual placements consistent with the best interests of the child as  
17 otherwise required by law.

18 (3)(A) The state government shall not take any adverse action  
19 against a person whom the state grants custody of a foster child or grants  
20 adoption of an adoptive child, or who seeks from the state custody of a  
21 foster child or adoption of an adoptive child, wholly or partially on the  
22 basis that the person guides, instructs, or raises a child, or intends to  
23 guide, instruct, or raise a child, based upon or in a manner consistent with  
24 a sincerely held religious belief.

25 (B) However, in accordance with § 9-28-106, the state  
26 government may consider whether a person shares the same religious background  
27 as a foster or adoptive child's genetic parent or parents when considering  
28 placement of the child in order to prioritize placement of the child with a  
29 person of the same religious background or, if a person with the same or  
30 similar religious background is not available, with a person of a different  
31 religious background who is knowledgeable and appreciative of the child's  
32 religious background.

33 (c)(1) A person may assert a violation of this section as a claim  
34 against the state government in any judicial or administrative proceeding or  
35 as a defense in any judicial or administrative proceeding without regard to  
36 whether the proceeding is brought by or in the name of the state government,

1 any private person, or any other party.

2 (2) Refusal of a private child placement agency to perform,  
3 assist, counsel, recommend, consent to, refer, or participate in a child  
4 placement that violates the private child placement agency's religious or  
5 moral convictions shall not form the basis for the imposition of civil  
6 liability, other adverse administrative action, or any claim or cause of  
7 action under any state or local law.

8 (3) Notwithstanding any other provision of law, an action under  
9 this section may be commenced, and relief may be granted, without regard to  
10 whether the person commencing the action has sought or exhausted available  
11 administrative remedies.

12 (d)(1) Any person who successfully asserts a claim or defense under  
13 this section may recover:

14 (A) Declaratory relief;

15 (B) Injunctive relief to prevent or remedy a violation of  
16 this section or the effects of a violation of this section;

17 (C) Compensatory damages;

18 (D) Reasonable attorneys' fees and costs; and

19 (E) Any other appropriate relief.

20 (2) Notwithstanding subdivision (e)(1) of this section, only  
21 declaratory relief and injunctive relief shall be available to recover  
22 against a private person not acting under color of state law if there is a  
23 successful assertion of a defense under this section.

24 (e)(1) Sovereign, governmental, and qualified immunities to suit and  
25 from liability are waived and abolished to the extent of liability created by  
26 subsection (d) of this section.

27 (2) A person may sue the state government, except for state  
28 courts, for damages allowed under subsection (d) of this section.

29 (f) A person must bring an action to assert a claim under this section  
30 no later than two (2) years after the date that the person knew or should  
31 have known that a discriminatory action was taken against the person.

32 (g)(1) This section shall be construed in favor of a broad protection  
33 of free exercise of religious beliefs to the maximum extent permitted under  
34 the Arkansas Constitution and the United States Constitution.

35 (2)(A) The protection of free exercise of religious beliefs  
36 afforded by this section are in addition to existing protections under

1 federal law, state law, the Arkansas Constitution, and the United States  
 2 Constitution.

3 (B) Nothing in this section shall be construed to:

4 (i) Preempt or repeal any state or local law that is  
 5 equally or more protective of free exercise of religious beliefs;

6 (ii) Narrow the meaning or application of any state  
 7 or local law protecting free exercise of religious beliefs; or

8 (iii) Prevent the state government from providing,  
 9 either directly or through an individual or entity not seeking protection  
 10 under this section, any benefit or service authorized under state law.

11 (3)(A) This section applies to, and in case of conflict,  
 12 supersedes each statute of the State of Arkansas that impinges upon the free  
 13 exercise of religious beliefs and moral convictions protected by this  
 14 section, unless a conflicting statute is expressly made exempt from the  
 15 application of this section.

16 (B) This section also applies to, and, in case of  
 17 conflict, supersedes any ordinance, rule, regulation, order, opinion,  
 18 decision, practice, or other exercise of the state government's authority  
 19 that impinges upon the free exercise of religious beliefs protected by this  
 20 section.

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 22 SECTION 4. DO NOT CODIFY. Severability.

23 If any provision of this section or any application of such provision  
 24 to any particular person or circumstance is held to be invalid under law, the  
 25 remainder of this section and the application of its provisions to any other  
 26 person or circumstance shall not be affected.

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