

CREATING A LICENSE TO DISCRIMINATE: 2018 FEDERAL CHILD WELFARE AMENDMENT

Amendment to Appropriations Bill Harms Most Vulnerable Children

Issue Brief | July 2018



INTRODUCTION

The U.S. House of Representatives is currently considering an appropriations bill that could potentially cut federal funding for state child welfare services by 15%—a \$1.04 billion cut around the country—to any state that requires that its taxpayer-funded child welfare providers to not discriminate against families or children in care.¹ The bill would also eliminate federal agencies' ability to enforce key nondiscrimination provisions on behalf of children and families or other conditions on receipt of federal funds. **This bill seeks to create a license to discriminate for child welfare providers, prioritizes the interests of providers over the welfare of children, will reduce the likelihood that the most vulnerable children find stability with a foster or adoptive family, and could cut more than \$1.04 billion to state child welfare budgets—all of which mean that the more than 395,000 children in the child welfare system across the country will pay the price.**

KIDS PAY THE PRICE WHEN PROVIDERS CAN DISCRIMINATE

The bill targets the 46 states that have laws and policies in place to ensure that all children served by state contracted, government-funded child welfare providers are served without discrimination and that all qualified families are considered to care for these children.² These laws and policies prohibit discrimination against interfaith couples, single parents, parents who are of a different religion, or lesbian, gay, bisexual, or transgender (LGBT) parents, and they ensure that all youth in state care are treated with dignity and respect. For example, 44 states and the District of Columbia prohibit discrimination against children in the child welfare system based on religion.³ This amendment would allow providers to use a religious litmus test to decide which children to care for, require children participate in compulsory religious activities, or subject a child to harmful, medically discredited “conversion therapy,” for example.

These nondiscrimination laws and policies are necessary. Discrimination in the child welfare system harms children—both because they themselves can be treated unfairly or refused services and because it allows otherwise qualified families to be turned away. The result is a reduced pool of eligible families and increased congregate care placements, negatively impacting outcomes for children. Ten states currently permit child placing agencies to flatly refuse to consider well-qualified prospective foster or adoptive families, and some states even allow these state-contracted child welfare providers to refuse to serve certain children.⁴ In 2018, a state-contracted child welfare provider in South Carolina refused to consider a Jewish couple who had previously served as foster parents in another state simply because they were Jewish and didn't meet the religious litmus test of the child welfare provider.⁵

PROPOSED CUTS TO STATES HARM CHILDREN

The bill goes even farther than condoning discrimination by child welfare providers. It would not only license discrimination by state contracted, government-funded providers, but it would actually punish states that act to protect children and families from discrimination. It would penalize such states by cutting up to 15% of federal funding for child welfare services, simply for enforcing nondiscrimination provisions. This would slash capacity for the state to serve children waiting to be reunited with their families or to be placed in a forever home. In total, 46 states and the District of Columbia risk a 15% reduction in funding because of this amendment, **a cumulative cut of \$1.04 billion** to a system that is already strained to adequately serve for the more than 395,000 children in foster care.

Specifically, this bill would allow the federal government to withhold two types of federal funding—Title IV-B and Title IV-E funding—from states which refuse to license, contract with, or reimburse providers who do not want to follow state laws and regulations governing the children in their care. These federal funds are vital sources of funding for child welfare services, including for family support and connection and family reunification (Title IV-B) and for adoption and foster care services (Title IV-E). Through Title IV-E, states are reimbursed for the costs associated with placing children in foster or adoptive homes, and

in guardianships. In 2014, Title IV-E reimbursements to states totaled \$7 billion.⁶ These two sources of funding are crucial to the success of state foster and adoption services.

This table lists each state, the number of children in the state’s system, and the potential amount of each state’s funding that this amendment puts at risk.

THE COST OF THE ADERHOLT AMENDMENT: KIDS PAY THE PRICE

NUMBER OF CHILDREN AT RISK	STATE	TITLE IV-B AND IV-E FUNDS TO STATE AT RISK
4,880	Arkansas	\$9,905,305
54,685	California	\$249,332,373
5,733	Colorado	\$12,962,021
4,119	Connecticut	\$15,656,933
780	Delaware	\$1,770,848
826	District of Columbia	\$9,476,919
23,810	Florida	\$47,669,773
1,605	Hawai'i	\$4,513,662
1,518	Idaho	\$2,895,427
16,113	Illinois	\$47,366,423
19,837	Indiana	\$28,589,286
6,004	Iowa	\$9,629,730
7,302	Kansas	\$6,508,649
7,812	Kentucky	\$13,419,758
4,461	Louisiana	\$10,445,684
1,837	Maine	\$4,932,556
3,841	Maryland	\$13,535,005
10,910	Massachusetts	\$15,307,232
11,599	Michigan	\$44,202,427
8,793	Minnesota	\$9,148,592
5,486	Mississippi	\$6,037,928
12,408	Missouri	\$16,614,345
3,366	Montana	\$3,187,175
4,012	Nebraska	\$8,391,060
4,251	Nevada	\$10,151,701
1,220	New Hampshire	\$2,467,304
6,527	New Jersey	\$25,608,902
2,610	New Mexico	\$6,271,681
19,702	New York	\$86,755,774
10,425	North Carolina	\$20,614,515
1,407	North Dakota	\$2,885,356
13,725	Ohio	\$61,221,629
10,047	Oklahoma	\$15,205,015
7,625	Oregon	\$19,655,828
16,086	Pennsylvania	\$40,202,877
1,654	Rhode Island	\$3,528,158
3,968	South Carolina	\$9,569,009
1,416	South Dakota	\$1,697,129
8,333	Tennessee	\$15,820,815
30,738	Texas	\$55,321,823
2,838	Utah	\$5,655,800
1,323	Vermont	\$2,980,986
4,890	Virginia	\$15,544,454
10,959	Washington	\$19,573,179
5,973	West Virginia	\$12,404,727
7,382	Wisconsin	\$18,091,328
993	Wyoming	\$309,347
395,829 CHILDREN	TOTAL	\$1,043,036,443 IN FEDERAL CHILD WELFARE FUNDING

Source for Number of Children in State Child Welfare Services: U.S. Department of Health and Human Services, Administration for Children and Families, "Adoption and Foster Care Analysis and Reporting System (AFCARS): Number of Children Served in Foster Care, by State, FY 2007-2016," Data as of October 2017, https://www.acf.hhs.gov/sites/default/files/cb/afcars_state_data_tables_07thru16.xlsx;
Source for Funding (Title VI-B and Title IV-E Funding only): Child Trends, "Child Welfare Financing SFY 2014: State-Level Data Table," October 3, 2016, <https://www.childtrends.org/publications/child-welfare-financing-sfy-2014-state-level-data-table>.

ENDNOTES

¹ The Aderholt Amendment passed on July 11 as part of an appropriations bill that will be considered by the U.S. House of Representatives. “Amendment to Labor, HHS, Education Appropriations Bill, 2019, Offered by Mr. Aderholt of Alabama,” <https://docs.house.gov/meetings/AP/AP00/20180711/108538/HMKP-115-AP00-20180711-SD005.pdf>.

² Analyses by Lambda Legal shows that 46 states and the District of Columbia have statutes, regulations or agency policies which explicitly prohibit discrimination against children in foster care on the basis of sex or gender, religion, and/or sexual orientation or gender identity. The four states that lack these protections are: Alabama, Alaska, Arizona, and Georgia. Lambda Legal, “Child Welfare Map,” <https://www.lambdalegal.org/map/child-welfare>.

³ Forty-six (46) states and the District of Columbia prohibit discrimination against children in foster care based on sex or gender; 44 states and the District of Columbia have statutes, regulations, or agency policies which prohibit discrimination on the basis of religion; 38 states and the District of Columbia have statutes, regulations, or agency policies prohibiting discrimination based on sexual orientation and sex or gender; 29 states and the District of Columbia have protections for gender identity. Lambda Legal, “Child Welfare Map,” <https://www.lambdalegal.org/map/child-welfare>.

Eight states and the District of Columbia that have laws explicitly prohibiting discrimination against foster and adoptive parents based on sexual orientation in the child welfare system, while three states and the District of Columbia also prohibit discrimination against foster or adoptive parents based on gender identity. Movement Advancement Project, “Foster and Adoption Law,” as of July 16, 2018, http://www.lgbtmap.org/equalitymaps/foster_and_adoption_laws.

⁴ Movement Advancement Project, “Foster and Adoption Law,” as of July 16, 2018, http://www.lgbtmap.org/equality-maps/foster_and_adoption_laws.

⁵ Angelia Davis, “Scrutiny of Miracle Hill’s faith-based approach reaches new level,” *Greenville News*, March 1, 2018, <https://www.greenvilleonline.com/story/news/2018/03/01/miracle-hill-foster-care/362560002/>.

⁶ National Conference of State Legislatures, “Child Welfare Financing 101,” May 2017, <http://www.ncsl.org/research/human-services/child-welfare-financing-101.aspx>.

Learn more at www.EveryChildDeservesAFamily.com

