

HOUSE BILL NO. HB0149

Adoption discrimination-keep kids first act.

Sponsored by: Representative(s) Rodriguez-Williams, Angelos, Haroldson, Hoeft, Neiman, Pendergraft and Singh and Senator(s) Brennan, Hutchings, Ide, Olsen and Salazar

A BILL

for

1 AN ACT relating to children; providing legislative
2 findings; specifying protections for specified adoption and
3 foster care providers and parents; prohibiting
4 discriminatory actions associated with adoption and foster
5 care; specifying remedies and causes of action; making
6 conforming amendments; providing definitions; and providing
7 for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.**

12

13 (a) The legislature finds that:

14

1 (i) The state seeks to place children in a safe,
2 loving and supportive home when the state is required to
3 place a child with an adoptive or foster family;

4

5 (ii) There are several adoption and foster care
6 agencies in this state that assist families with adoption
7 and foster parent placements of children;

8

9 (iii) The adoption and foster care agencies in
10 Wyoming represent diverse organizations and groups, some of
11 which are faith-based and some of which are not
12 faith-based;

13

14 (iv) Children in need of adoption and foster
15 care placement services benefit from having as many
16 adoption and foster parent agencies available as possible,
17 because the more agencies that participate in these
18 services, the greater the likelihood that children will
19 find permanent placements;

20

21 (v) The United States Supreme Court has
22 recognized the benefits of having more, not fewer, adoption
23 and foster care providers. "Maximizing the number of foster

1 families and minimizing liability are important goals, but
2 the City fails to show that granting [Catholic Social
3 Services] an exception will put those goals at risk. If
4 anything, including [Catholic Social Services] in the
5 program seems likely to increase, not reduce, the number of
6 available foster parents." Fulton v. City of Philadelphia,
7 141 S. Ct. 1868, 1881-82 (2021);

8

9 (vi) Children and families benefit greatly from
10 the adoption and foster care services provided by
11 faith-based and nonfaith-based child placement agencies;

12

13 (vii) Faith-based organizations and groups have
14 a lengthy and distinguished history of providing adoption
15 and foster care services in Wyoming;

16

17 (viii) Private child placement agencies and
18 persons, including faith-based child placement agencies and
19 persons, have the right to free exercise of religion under
20 both the United States and Wyoming Constitutions. Under
21 well-settled principles of constitutional law, this right
22 includes the freedom to abstain from conduct that conflicts
23 with an agency's sincerely held religious beliefs;

1

2 (ix) Ensuring that faith-based child placement
3 agencies can continue to provide adoption and foster care
4 services will benefit the children and families who receive
5 those services;

6

7 (x) The United States Constitution allows all
8 adoption and foster care providers to operate according to
9 their beliefs without fear of unjust government punishment;

10

11 (xi) In a unanimous decision, the United States
12 Supreme Court made clear that state governments violate the
13 requirements of religious neutrality when they undermine
14 religious beliefs or practices, stating that government
15 "fails to act neutrally when it proceeds in a manner
16 intolerant of religious beliefs or restricts practices
17 because of their religious nature." Fulton v. City of
18 Philadelphia, 141 S. Ct. 1868, 1877 (2021);

19

20 (xii) "The Constitution forbids laws that
21 prohibit the free exercise of religion. That guarantee
22 protects not just the right to be a religious person,
23 holding beliefs inwardly and secretly; it also protects the

1 right to act on those beliefs outwardly and publicly."
2 Espinoza v. Mont. Dep't of Revenue, 591 U.S. 464, 510
3 (2020) (Gorsuch, J., concurring) (emphases in original);

4
5 (xiii) The United States Supreme Court has "long
6 recognized the importance of protecting religious actions,
7 not just religious status." Espinoza, 591 U.S. at 511
8 (Gorsuch, J., concurring). The "First Amendment protects
9 the 'freedom to act' as well as the 'freedom to believe.'"
10 Espinoza, 591 U.S. at 511 (Gorsuch, J., concurring)
11 (quoting Cantwell v. Connecticut, 310 U.S. 296, 303
12 (1940));

13
14 (xiv) The government violates the Free Exercise
15 Clause whenever it "conditions receipt of an important
16 benefit upon conduct proscribed by a religious faith, or
17 where it denies such a benefit because of conduct mandated
18 by religious belief, thereby putting substantial pressure
19 on an adherent to modify his behavior to violate his
20 beliefs." Thomas v. Review Bd. of Ind. Employment Sec.
21 Div., 450 U.S. 707, 717-18 (1981).

22

1 **Section 2.** W.S. 1-39-124 and 14-1-301 through
2 14-1-304 are created to read:

3

4 **1-39-124. Liability; discrimination against adoption**
5 **and foster care providers and parents.**

6

7 A governmental entity is liable for damages resulting from
8 a violation of W.S. 14-1-301 through 14-1-304 pursuant to
9 W.S. 14-1-303.

10

11

ARTICLE 3

12

ADOPTION AND FOSTER CARE PROTECTION

13

14 **14-1-301. Definitions.**

15

16 (a) As used in this article:

17

18 (i) "Adoption or foster care" means any social
19 service provided to or on behalf of children for adoption
20 or foster care, including:

21

22 (A) Promoting foster parenting;

23

1 (B) Providing foster homes, residential
2 care, group homes or temporary group shelters for children;

3

4 (C) Recruiting foster parents;

5

6 (D) Placing children in foster homes;

7

8 (E) Licensing or certifying foster homes;

9

10 (F) Promoting adoption or recruiting
11 adoptive parents;

12

13 (G) Assisting adoptions or supporting
14 adoptive families;

15

16 (H) Performing or assisting home studies;

17

18 (J) Assisting kinship guardianships or
19 kinship caregivers;

20

21 (K) Providing family preservation services;

22

23 (M) Providing family support services;

1

2 (N) Providing temporary family
3 reunification services.

4

5 (ii) "Governmental entity" means the state and
6 its agencies and political subdivisions, the University of
7 Wyoming, cities, towns and counties and their agencies,
8 instrumentalities and institutions;

9

10 (iii) "Religious organization" means one (1) or
11 more of the following:

12

13 (A) A house of worship, including churches,
14 synagogues, shrines, mosques and temples;

15

16 (B) A religious group, corporation,
17 association, school, educational institution, ministry,
18 order, society or other entity, regardless of whether the
19 entity is integrated or affiliated with a church or other
20 house of worship;

21

1 (C) An officer, owner, employee, manager,
2 religious leader, clergy or minister of an entity or
3 organization described in this paragraph.

4

5 (iv) "State benefit program" means any program
6 administered, controlled or funded by the state or any
7 other governmental entity that provides cash, payments,
8 grants, contracts, loans or other in-kind assistance.

9

10 **14-1-302. Protections for adoption agencies and**
11 **foster care providers and adoptive and foster parents;**
12 **discrimination prohibited.**

13

14 (a) No governmental entity shall take any
15 discriminatory action against a person:

16

17 (i) That advertises, provides or facilitates
18 adoption or foster care, wholly or partially on the basis
19 that the person has provided or declined to provide any
20 adoption or foster care service or related service based on
21 or in a manner consistent with a sincerely held religious
22 belief;

23

1 (ii) To whom the governmental entity grants
2 custody of a foster or adoptive child, or who seeks the
3 custody of a foster or adoptive child, wholly or partially
4 on the basis that the person guides, instructs or raises a
5 child, or intends to guide, instruct or raise a child,
6 based on or in a manner consistent with a sincerely held
7 religious belief. For purposes of this paragraph, a
8 governmental entity may consider whether a person shares
9 the same religion or faith tradition as a foster or
10 adoptive child when considering placement of the child in
11 order to prioritize placement with a person of the same
12 religion or faith tradition.

13

14 (b) No governmental entity shall take any of the
15 following discriminatory actions against any person
16 protected under subsection (a) of this section because of a
17 sincerely held religious belief:

18

19 (i) Alter in any way the tax treatment of, or
20 cause any additional tax, penalty or payment to be assessed
21 against, or deny, delay, revoke or otherwise make
22 unavailable an exemption from taxation;

23

1 (ii) Disallow, deny or otherwise make
2 unavailable a deduction for state taxation purposes of any
3 charitable contribution made to or by a person protected
4 under subsection (a) of this section;

5

6 (iii) Withhold, reduce, exclude, terminate,
7 materially alter the terms and conditions of or otherwise
8 make unavailable or deny any state grant, contract,
9 subcontract, cooperative agreement, guarantee, loan,
10 scholarship or other similar benefit;

11

12 (iv) Withhold, reduce, exclude, terminate,
13 adversely alter the terms or conditions of or otherwise
14 make unavailable or deny any entitlement or benefit under a
15 state benefit program;

16

17 (v) Impose, levy or assess a monetary fine, fee,
18 penalty, damages award or injunction, unless otherwise
19 expressly provided by law;

20

21 (vi) Withhold, reduce, exclude, terminate,
22 materially alter the terms or conditions of or otherwise
23 make unavailable or deny any license, certification,

1 accreditation, custody award, agreement, diploma, grade,
2 recognition or other similar benefit, position or status,
3 unless otherwise expressly provided by law;

4

5 (vii) Refuse to hire or promote, force to
6 resign, fire, demote, sanction, discipline, adversely alter
7 the terms or conditions of employment or retaliate or take
8 any other adverse employment action, if the person is
9 employed or is seeking employment with a governmental
10 entity.

11

12 (c) Except as otherwise provided by state and federal
13 law, each governmental entity shall consider a person
14 protected under subsection (a) of this section to be
15 accredited, licensed or certified as an adoptive parent or
16 foster care parent if the person would otherwise be
17 accredited, licensed or certified as an adoptive parent or
18 foster care parent under state law but for a determination
19 against the person wholly or partially on the basis that
20 the person believes, maintains policies and procedures or
21 acts in accordance with a sincerely held religious belief.

22

1 (d) Each governmental entity shall consider any
2 person for a contract, grant or agreement related to
3 adoption or foster care if the person otherwise would be
4 considered but for a determination against the person
5 wholly or partially on the basis that the person believes,
6 maintains policies and procedures or acts in accordance
7 with a sincerely held religious belief.

8

9 **14-1-303. Remedies; claims; defenses; immunity**
10 **waived.**

11

12 (a) Any person may assert a violation of this article
13 as a claim against a governmental entity in any judicial or
14 administrative proceeding, or as a defense in any judicial
15 or administrative proceeding.

16

17 (b) Notwithstanding any other provision of law, an
18 action arising from this article may be commenced, and
19 relief may be granted, without regard to whether the person
20 commencing the action has sought or exhausted remedies
21 available under the Wyoming Administrative Procedure Act.

22

1 (c) Any person who successfully asserts a claim or
2 defense under this article may recover:

3
4 (i) Declaratory relief;

5
6 (ii) Injunctive relief;

7
8 (iii) Compensatory damages;

9
10 (iv) Reasonable attorney fees and costs;

11
12 (v) Any other appropriate relief.

13
14 (d) For purposes of subsection (c) of this section,
15 declaratory relief and injunctive relief shall only be
16 available upon a successful assertion of a defense under
17 this article.

18
19 (e) Any action commenced under this section shall be
20 brought not later than two (2) years after the date the
21 person knew or reasonably should have known that a
22 discriminatory action was taken against a person in
23 violation of this article.

1

2 **14-1-304. Applicability.**

3

4 (a) This article shall be construed in favor of a
5 broad protection of free exercise of religious beliefs, to
6 the maximum extent permitted by the constitutions of the
7 United States and Wyoming.

8

9 (b) The protection of free exercise of religious
10 beliefs afforded by this article are in addition to the
11 protections provided under federal law, state law and the
12 constitutions of the United States and Wyoming. Nothing in
13 this article shall be construed to:

14

15 (i) Preempt or repeal any state or local law
16 that is equally or more protective of the free exercise of
17 religious beliefs;

18

19 (ii) Narrow the meaning or application of any
20 state or local law protecting the free exercise of
21 religious beliefs;

22

1 (iii) Prevent the state or a governmental entity
2 from providing, either directly or through a person not
3 seeking protection under this article, any benefit or
4 service authorized under state law.

5
6 (c) This act shall apply to, and in cases of conflict
7 shall supersede, any other statute, rule or regulation that
8 infringes upon the free exercise of religious beliefs and
9 moral convictions protected by this article, unless a
10 conflicting statute is expressly made exempt from the
11 application of this article. This act shall apply to and
12 supersede any ordinance, rule, regulation, order, opinion,
13 decision, practice or other exercise of the state's and
14 each governmental entity's authority that infringes on the
15 free exercise of religious beliefs protected by this
16 article.

17

18 **Section 3.** W.S. 1-39-104(a) is amended to read:

19

20 **1-39-104. Granting immunity from tort liability;**
21 **liability on contracts; exceptions.**

22

1 (a) A governmental entity and its public employees
2 while acting within the scope of duties are granted
3 immunity from liability for any tort except as provided by
4 W.S. 1-39-105 through 1-39-112, and 1-39-122 ~~and 1-39-123~~
5 through 1-39-124. Any immunity in actions based on a
6 contract entered into by a governmental entity is waived
7 except to the extent provided by the contract if the
8 contract was within the powers granted to the entity and
9 was properly executed and except as provided in W.S.
10 1-39-120(b). The claims procedures of W.S. 1-39-113 apply
11 to contractual claims against governmental entities.

12

13 **Section 4.** This act is effective July 1, 2025.

14

15

(END)