



Dear Arizona House of Representatives Members,

As organizations and individuals that support and advocate for the wellbeing of children and families in Arizona and nationally, we write to oppose SB1399. If passed, this bill will be harmful to children and families involved with Arizona's child welfare system.

- **Arizona is experiencing a shortage of licensed foster homes for children in foster care. Limiting who can become a foster parent by permitting taxpayer-funded foster care licensing agencies to discriminate is not in the best interest of Arizona children.** “There are currently 3,255 homes, an 11% drop compared with this time last year and down 33% from the recent high-water mark of 4,875 homes in 2017.” Arizona does not have a shortage of nonprofit agencies, it has a shortage of families seeking to foster. A law that permits agencies to turn qualified and willing families away for reasons that have nothing to do with their ability to parent does not encourage or support efforts to recruit and license more families.
- **SB1399 permits discrimination on the basis of religion.** While purporting to protect agencies from discrimination, SB1399 explicitly authorizes taxpayer-funded agencies to refuse to serve individuals because of their religion or religious beliefs. In states like Tennessee and South Carolina that have,

through laws or executive orders like SB1399, permitted agencies to use religious criteria, Jewish, Catholic, Unitarian, and same-sex married couples have been turned away because they don't meet a particular agency's religious litmus test. Arizona has a rich constellation of faith traditions and foster parents and needs to recruit more families and be more inclusive in its recruitment efforts. Families who believe they might be discriminated against because of their own religious beliefs, their marriage, or values are unlikely to step forward if SB1399 becomes law, creating a chilling effect on recruitment efforts.

- See <https://www.azcentral.com/story/news/local/arizona-child-welfare/2021/11/14/arizona-faces-foster-home-shortage-and-nonprofits-hope-to-fill-gap/6287753001>

- **Foster care licensing agencies play a critical role in recruiting, licensing, and supporting families who foster children. The existing array of agencies includes numerous faith-based agencies.** Faith based agencies have always been welcome and have the ability to participate fully in the child welfare system. The DCS contract for foster care licensing agencies has over 25 different licensing agencies, many of which are religious-based and/or actively recruit for foster and adoptive families at faith-based communities. Just last year, DCS created an online portal to orient interested families to the process and to help them connect with an agency that aligns with their needs and beliefs. Arizona law, A.R.S. § 8-530 reflects child welfare professional standards and protects foster parents from discrimination on the basis of religion, race, creed, sex, national origin, age, or physical handicap. There is a need in Arizona for more foster parents, not agencies and there is already a robust and diverse system of licensing agencies in place.
 - See <https://dcs.az.gov/foster/orientation/step2>
- **While a child is in foster care, the biological parents' and child's religious beliefs must be respected. The goal of the foster care system is to safely reunify children with their parents whenever possible.** In Arizona, the case plan goal for nearly 60% of foster children is reunification and over 35% of children will go home to their parents within twelve months of entering foster care. Foster care, by design, is temporary. When a child is in foster care, their parents retain their constitutional right to direct the education and religious upbringing of their child—unless and until their parental rights are terminated. Arizona law also gives foster children the right “To attend community, school and religious services and activities of the child's choice to the extent that it is appropriate for the child, as planned and discussed with the child's placement worker and caseworker...” A.R.S. § 8-529 (6). By allowing foster parents to proselytize, SB1399 jeopardizes these state and constitutional religious freedom protections.
- **LGBTQ+ Youth are overrepresented in foster care and Arizona needs to increase affirming family placements.** A recent study, funded by the Administration of Children and Families in Cuyahoga County, Ohio found that 32% of youth in foster care identified as LGBTQ+. Additionally, due to a lack of affirming placement options, LGBTQ+ youth are more likely to be placed in congregate care settings, leading to worse well-being and health outcomes. Therefore, Arizona should be focusing resources on recruiting and retaining family home placements that are affirming of diverse sexual orientations and gender identities. SB1399, by sanctioning discrimination of potential affirming families, sends a message that LGBTQ+ foster parents and others that are especially likely to provide affirming placements are not welcome, further limiting family home options and funneling LGBTQ+ youth into congregate care settings.
 - See <https://theinstitute.umaryland.edu/media/ssw/institute/Cuyahoga-Youth-Count.6.8.1.pdf>

- **In *Fulton v. City of Philadelphia*, the US Supreme Court rejected the idea of a blanket exemption for faith-based organizations to use religious criteria to discriminate against potential foster families.** SB1399 gives state-contracted agencies a broad license to discriminate while providing government services with taxpayer money with no regard to the harm, both stigmatic and practical, caused to prospective foster and adoptive parents or children in foster care. A district court in South Carolina recently found that *Fulton v. City of Philadelphia* did not decide the question of whether a state’s law explicitly permitting contracted agencies performing a government function to use religious criteria for screening prospective foster parents violated the Establishment Clause and the right to equal protection.

Signed,

American Atheists

American Civil Liberties Union of Arizona

Americans United for Separation of Church and State

Anti-Defamation League, Arizona

Arizona Council of Human Services Providers

Arizona Faith Network

Arizona Jews for Justice

Arizona’s Children Association

Children’s Action Alliance

Coconino Coalition for Children & Youth

Equality Arizona

Family Equality

GLSEN Phoenix

Human Rights Campaign

Jewish Community Relations Council of Greater Phoenix

Lambda Legal

Movement Advancement Project

National Association of Social Workers, Arizona Chapter

National Council of Jewish Women, Arizona

William E. Morris Institute for Justice