

HOUSE BILL No. 5316

October 23, 2001, Introduced by Reps. Jansen, Hart and DeWeese and referred to the Committee on Family and Children Services.

A bill to amend 1939 PA 280, entitled
"The social welfare act,"
(MCL 400.1 to 400.119b) by adding section 14h.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 14H. (1) IT IS THE INTENT OF THE LEGISLATURE TO PRO-
2 VIDE ASSISTANCE TO NEEDY INDIVIDUALS AND FAMILIES IN THE MOST
3 EFFECTIVE AND EFFICIENT MANNER; TO PROHIBIT DISCRIMINATION
4 AGAINST RELIGIOUS ORGANIZATIONS ON THE BASIS OF RELIGION IN THE
5 ADMINISTRATION AND DISTRIBUTION OF GOVERNMENT ASSISTANCE UNDER
6 COVERED PROGRAMS; TO ALLOW RELIGIOUS ORGANIZATIONS TO ASSIST IN
7 THE ADMINISTRATION AND DISTRIBUTION OF ASSISTANCE WITHOUT IMPAIR-
8 ING THEIR RELIGIOUS CHARACTER; AND TO PROTECT THE RELIGIOUS FREE-
9 DOM OF THOSE IN NEED WHO ARE ELIGIBLE FOR GOVERNMENTAL AID BY
10 EXPANDING THEIR OPPORTUNITY TO CHOOSE TO RECEIVE SERVICES FROM A
11 DIVERSITY OF FAITH-BASED ORGANIZATIONS IN A MANNER CONSISTENT

1 WITH THE FREE EXERCISE AND ESTABLISHMENT CLAUSES OF THE UNITED
2 STATES CONSTITUTION.

3 (2) THE FAMILY INDEPENDENCE AGENCY MAY CONTRACT WITH A CHAR-
4 ITABLE OR FAITH-BASED ORGANIZATION TO ADMINISTER A PROGRAM CRE-
5 ATED UNDER THIS ACT OR TO PERFORM A DUTY OF THE FAMILY INDEPEN-
6 DENCE AGENCY UNDER THIS ACT. THE FAMILY INDEPENDENCE AGENCY MAY
7 USE DIRECT OR INDIRECT FUNDING MECHANISMS TO CONTRACT WITH A
8 FAITH-BASED ORGANIZATION, AGENCY, OR ENTITY AS PROVIDED IN THIS
9 SECTION. FEDERAL, STATE, OR LOCAL GOVERNMENT FUNDS OR OTHER
10 DIRECT OR INDIRECT ASSISTANCE RECEIVED BY A FAITH-BASED ORGANIZA-
11 TION TO PROVIDE SERVICES UNDER THIS ACT CONSTITUTES AID TO INDI-
12 VIDUALS AND FAMILIES IN NEED, THE ULTIMATE BENEFICIARIES OF SUCH
13 SERVICES, AND NOT SUPPORT FOR, OR ENDORSEMENT OF, RELIGION OR THE
14 ORGANIZATION'S RELIGIOUS BELIEFS OR PRACTICES.

15 (3) THE FAMILY INDEPENDENCE AGENCY MAY CONTRACT WITH A CHAR-
16 ITABLE OR FAITH-BASED ORGANIZATION, OR ALLOW IT TO RECEIVE CER-
17 TIFICATES, VOUCHERS, OR OTHER FORMS OF DISBURSEMENT UNDER A PRO-
18 GRAM CREATED UNDER THIS ACT ON THE SAME BASIS AS ANY OTHER NON-
19 GOVERNMENTAL PROVIDER WITHOUT IMPAIRING THE RELIGIOUS CHARACTER
20 OF THE CHARITABLE OR FAITH-BASED ORGANIZATION, OR WITHOUT DIMIN-
21 ISHING THE RELIGIOUS FREEDOM OF BENEFICIARIES OF ASSISTANCE
22 FUNDED UNDER SUCH A PROGRAM, AS LONG AS THE PROGRAM IS IMPLE-
23 MENTED CONSISTENT WITH THE REQUIREMENTS OF THE ESTABLISHMENT
24 CLAUSE OF THE UNITED STATES CONSTITUTION. A STATE OR LOCAL GOV-
25 ERNMENT AGENCY RECEIVING FUNDS UNDER THIS ACT SHALL NOT DISCRIMI-
26 NATE AGAINST AN ORGANIZATION THAT PROVIDES ASSISTANCE UNDER, OR
27 APPLIES TO PROVIDE ASSISTANCE UNDER, A PROGRAM ADMINISTERED UNDER

1 THIS ACT ON THE BASIS THAT THE ORGANIZATION IS RELIGIOUS OR HAS A
2 RELIGIOUS CHARACTER.

3 (4) A FAITH-BASED ORGANIZATION SHALL NOT COMMINGLE STATE OR
4 FEDERAL FUNDS RECEIVED UNDER THIS ACT WITH FUNDS THAT FAITH-BASED
5 ORGANIZATION RECEIVES FOR ITS RELIGIOUS PURPOSE. FEDERAL AND
6 STATE FUNDS RECEIVED UNDER THIS ACT SHALL BE MAINTAINED IN A SEP-
7 ARATE ACCOUNT AND AUDITED AND ACCOUNTED FOR SEPARATELY. A CHARI-
8 TABLE OR FAITH-BASED ORGANIZATION CONTRACTING WITH THE STATE TO
9 PROVIDE ASSISTANCE IS SUBJECT TO THE SAME REGULATIONS AS ANY
10 OTHER PRIVATE INDIVIDUAL OR AGENCY CONTRACTING WITH THE STATE TO
11 ACCOUNT IN ACCORDANCE WITH GENERALLY ACCEPTED AUDITING PRINCIPLES
12 FOR THE USE OF FUNDS PROVIDED UNDER A PROGRAM ADMINISTERED UNDER
13 THIS ACT.

14 (5) A FAITH-BASED ORGANIZATION THAT CONTRACTS WITH THE
15 FAMILY INDEPENDENCE AGENCY TO ADMINISTER PROGRAMS UNDER THIS ACT
16 RETAINS AUTONOMY FROM THE STATE AND LOCAL GOVERNMENT. A
17 FAITH-BASED ORGANIZATION SHALL RETAIN CONTROL OF THE DEFINITION,
18 DEVELOPMENT, PRACTICE, AND EXPRESSION OF ITS RELIGIOUS BELIEF AND
19 THE DEFINITION, DEVELOPMENT, AND ADMINISTRATION OF ITS HIRING
20 PRACTICES AND EMPLOYMENT POLICIES, CONSISTENT WITH SECTION 702 OF
21 TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, 78 STAT. 255, 42
22 U.S.C. 2000e-1a. A RELIGIOUS ORGANIZATION'S EXEMPTION PROVIDED
23 UNDER SECTION 702 OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964,
24 78 STAT. 255, 42 U.S.C. 2000e-1a, REGARDING EMPLOYMENT PRACTICES
25 IS NOT AFFECTED BY PARTICIPATION IN, OR RECEIPT OF FUNDS RECEIVED
26 UNDER, A PROGRAM ADMINISTERED BY THIS ACT. A PROVISION IN SUCH A
27 PROGRAM INCONSISTENT WITH OR DIMINISHING THE EXERCISE OF A

1 CHARITABLE OR FAITH-BASED ORGANIZATION'S AUTONOMY RECOGNIZED IN
2 SECTION 702 OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, 78
3 STAT. 225, 42 U.S.C. 2000e-1a, OR IN THIS SECTION HAS NO EFFECT.

4 (6) THE STATE SHALL NOT REQUIRE A RELIGIOUS ORGANIZATION TO
5 ALTER ITS FORM OF INTERNAL GOVERNANCE OR REMOVE RELIGIOUS ART,
6 ICONS, SCRIPTURE, OR OTHER SYMBOLS IN ORDER TO PROVIDE ASSIST-
7 ANCE, OR TO ACCEPT CERTIFICATES, VOUCHERS, OR OTHER FORMS OF DIS-
8 BURSEMENT, FUNDED UNDER THIS ACT.

9 (7) IF A RECIPIENT HAS AN OBJECTION TO THE RELIGIOUS CHARAC-
10 TER OF THE ORGANIZATION FROM WHICH THE RECIPIENT RECEIVES, OR
11 WOULD RECEIVE, ASSISTANCE FUNDED UNDER A PROGRAM UNDER THIS ACT,
12 THE APPROPRIATE STATE OR LOCAL GOVERNMENTAL ENTITY SHALL PROVIDE
13 THE RECIPIENT, IF OTHERWISE ELIGIBLE FOR ASSISTANCE, WITHIN A
14 REASONABLE PERIOD OF TIME AFTER THE DATE OF THE OBJECTION ASSIST-
15 ANCE THAT MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

16 (A) PROVIDES AN ALTERNATIVE THAT IS ACCESSIBLE TO THE RECIP-
17 IENT, AND UNOBJECTIONABLE TO THE RECIPIENT ON RELIGIOUS GROUNDS.

18 (B) HAS VALUE THAT IS NOT LESS THAN THE VALUE OF THE ASSIST-
19 ANCE THAT THE RECIPIENT WOULD HAVE RECEIVED FROM THE CHARITABLE
20 OR FAITH-BASED ORGANIZATION.

21 (8) THE STATE SHALL GUARANTEE THAT NOTICE IS PROVIDED TO
22 RECIPIENTS OF THEIR RIGHTS UNDER THIS SECTION.

23 (9) A FAITH-BASED ORGANIZATION UNDER CONTRACT WITH THE
24 FAMILY INDEPENDENCE AGENCY OR PROVIDING ASSISTANCE THROUGH A
25 VOUCHER, CERTIFICATE, OR OTHER INDIRECT MEANS SHALL NOT DISCRIMI-
26 NATE AGAINST AN INDIVIDUAL RECEIVING BENEFITS THROUGH A PROGRAM

1 ESTABLISHED UNDER THIS ACT ON THE BASIS OF RELIGION, A RELIGIOUS
2 BELIEF, OR A REFUSAL TO HOLD A RELIGIOUS BELIEF.

3 (10) A PERSON WHO SEEKS TO ENFORCE HIS OR HER RIGHTS UNDER
4 THIS SECTION MAY ASSERT A CIVIL ACTION FOR INJUNCTIVE RELIEF
5 EXCLUSIVELY IN AN APPROPRIATE STATE COURT AGAINST THE ENTITY OR
6 AGENCY THAT ALLEGEDLY VIOLATES THIS SECTION.

7 (11) DIRECT FUNDS PROVIDED THROUGH A GRANT OR COOPERATIVE
8 AGREEMENT TO A CHARITABLE OR FAITH-BASED ORGANIZATION TO PROVIDE
9 ASSISTANCE UNDER A PROGRAM ADMINISTERED UNDER THIS ACT SHALL NOT
10 BE EXPENDED FOR SECTARIAN INSTRUCTION, WORSHIP, OR
11 PROSELYTIZATION. IF THE CHARITABLE OR FAITH-BASED ORGANIZATION
12 OFFERS SUCH AN ACTIVITY, THE ACTIVITY SHALL BE VOLUNTARY FOR
13 RECIPIENTS AND OFFERED SEPARATE FROM ANY PROGRAM FUNDED UNDER
14 THIS ACT. A CHARITABLE OR FAITH-BASED ORGANIZATION SHALL SIGN A
15 CERTIFICATE CERTIFYING THAT THE ORGANIZATION IS AWARE OF AND WILL
16 COMPLY WITH THIS SUBSECTION. THE CERTIFICATE SHALL BE FILED WITH
17 THE GOVERNMENT AGENCY THAT DISBURSES THE FUNDS.

18 (12) IF AN INTERMEDIATE GRANTOR IS GIVEN THE AUTHORITY TO
19 SELECT A NONGOVERNMENTAL ORGANIZATION TO PROVIDE ASSISTANCE UNDER
20 THIS ACT, THE INTERMEDIATE GRANTOR HAS THE SAME DUTIES UNDER THIS
21 SECTION AS THE FEDERAL, STATE, OR LOCAL GOVERNMENT WHEN SELECTING
22 OR DEALING WITH SUBGRANTORS. IF THE INTERMEDIATE GRANTOR IS A
23 RELIGIOUS ORGANIZATION, THAT INTERMEDIATE GRANTOR SHALL RETAIN
24 ALL RIGHTS OF A RELIGIOUS ORGANIZATION UNDER THIS SECTION. AS
25 USED IN THIS SUBSECTION, "INTERMEDIATE GRANTOR" MEANS A NONGOV-
26 ERNMENTAL ORGANIZATION ACTING UNDER A GRANT OR OTHER AGREEMENT
27 WITH THE FEDERAL GOVERNMENT OR STATE OR LOCAL GOVERNMENT.

1 (13) IF A FEDERAL, STATE, OR LOCAL GOVERNMENT CONTRIBUTES
2 FUNDS TO ADMINISTER A PROGRAM UNDER THIS ACT, THE STATE OR LOCAL
3 GOVERNMENT MAY SEGREGATE THE STATE AND LOCAL FUNDS FROM THE FED-
4 ERAL FUNDS PROVIDED TO ADMINISTER THE PROGRAM OR MAY COMMINGLE
5 THE STATE OR LOCAL FUNDS WITH FEDERAL FUNDS. IF THE STATE OR
6 LOCAL GOVERNMENT COMMINGLES THE STATE OR LOCAL FUNDS, THE PROVI-
7 SIONS OF THIS SECTION APPLY TO THE COMMINGLED FUNDS IN THE SAME
8 MANNER, AND TO THE SAME EXTENT, AS THE PROVISIONS APPLY TO THE
9 FEDERAL FUNDS.