May 7, 2018

The Honorable Jeff Colyer
Office of the Governor
State of Kansas
300 Southwest 10th Ave.
Ste. 241S
Topeka, KS 66612-1590

Re: Veto SB 284, Which Would Allow Discrimination by State-Funded Child Placement Agencies

Dear Governor Colyer:

On behalf of the Kansas members and supporters of Americans United for Separation of Church and State, we urge you to veto SB 284. This bill would allow state-funded child placement agencies to use religion to justify denying children homes and discriminating against prospective parents.

Freedom of religion is a fundamental American value that is protected by the U.S. and Kansas Constitutions. It allows all of us the freedom to believe or not as we see fit, but it does not allow anyone to use religion as an excuse to harm or take away the rights of others. Religion is no justification for denying children homes and discriminating against prospective parents. And more than 50 Kansas faith leaders and organizations signed a letter opposing SB 284 on religious freedom grounds. Accordingly, you must veto the bill.

Child placement agencies must provide services based solely on what is in the best interest of the child. SB 284, however, undermines this bedrock child welfare standard by putting the religious beliefs of agencies ahead of the best interests of the children whom the agencies contract with the state to serve. It would allow state-funded child placement agencies to deny children the loving, stable, and permanent homes they deserve.

Allowing adoption and foster care providers to use religion to refuse to serve children and qualified prospective parents would violate the Establishment Clause of the U.S. Constitution in two main ways. First, it would create a religious exemption that results in real harm to children and prospective parents.¹ Permitting discrimination would harm the human dignity of the parents, while at the same time, increasing both wait times for children in care as well as the number of youth leaving care without finding their forever

¹ See e.g., Cutter v. Wilkinson, 544 U.S. 709, 720, 722, 726 (2005) (exemption may not “impose unjustified burdens on other[s]”).
family. Second, the bill would grant discretionary powers to state-funded foster and adoption providers and allow them to place a religious litmus test on whom they serve and how they serve them.2

SB 284 is also unnecessary. It is not needed to allow faith-based groups to provide foster and adoption care services—the state already partners with these organizations to provide these services. Passing the bill, however, would not only sanction discrimination against prospective parents—most often LGBTQ parents—but also allow taxpayer-funded organizations to refuse to place children in a safe and happy family.

Although Americans United supports appropriately tailored accommodations to protect against government actions that substantially burden religious exercise, the exemption in SB 284 goes too far. The enclosed memorandum provides more detailed analysis of the bill's troubling consequences.

We urge you to veto SB 284.

Sincerely,

Nikolas Nartowicz
State Legislative Counsel
Americans United for Separation of Church and State

Barbara Chamberlin
President
Great Plains Chapter of Americans United for Separation of Church and State