May 7, 2018

The Honorable Mary Fallin
Office of the Governor
State of Oklahoma
2300 N. Lincoln Blvd.
Room 212
Oklahoma City, OK 73105

Re: Veto SB 1140, Which Would Allow Discrimination by State-Funded Child-Placing Agencies

Dear Governor Fallin:

On behalf of the Oklahoma chapter, members, and supporters of Americans United for Separation of Church and State, we urge you to veto SB 1140. This bill would allow state-funded child-placing 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 Oklahoma 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. Accordingly, you must veto the bill.

Child-placing agencies must provide services based solely on what is in the best interest of the child. SB 1140, 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. This bill would allow state-funded child-placing 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 family. Second, the bill would grant discretionary powers to state-funded foster and

¹ See e.g., Cutter v. Wilkinson, 544 U.S. 709, 720, 722, 726 (2005) (exemption may not “impose unjustified burdens on other[s]”).
adoption providers and allow them to place a religious litmus test on whom they serve and how they serve them.\(^2\)

SB 1140 is also unnecessary. The bill 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 1140 goes too far. The enclosed memorandum provides more detailed analysis of the bill’s troubling consequences.

We urge you to veto SB 1140.

Sincerely,

Nikolas Nartowicz Aimee Breeze
State Legislative Counsel President
Americans United for Separation of Oklahoma Chapter of Americans United for
Church and State Separation of Church and State