



**EQUALITY VIRGINIA**

Seeking Equality for All Virginians

## **All Children Deserve Loving Permanent Homes Oppose SB 349 (McWaters)**

**OPPOSE SB 349 (MCWATERS)** This so-called "conscience clause" bills would authorize all licensed, state-funded adoption and foster care agencies to discriminate in making adoption and foster care services available to children and prospective parents.

- This is NOT a religious freedom issue. Offering adoption and foster care services to the public is a secular not a religious activity. Children in foster care are the state's children while they are in the system.
- Adoption is not a private act. No adoption can be finalized without the approval of the state and a court order.
- Agencies licensed to facilitate adoptions and foster care are functioning as agencies of the state.
- As agents of the state, licensed child-placing agencies are not engaged in private acts (as would be the case with respect to private employment decisions by those organizations).
- Just as the state cannot deny any citizen the equal protection of the laws, neither can the agents of the state, i.e., the licensed child-placing agencies, even if they are run by faith-based organizations.

The substitute offered for SB 349 goes far beyond existing regulations and makes sweeping changes in current law.

- 1) It is NOT limited to faith-based agencies. It allows all licensed agencies to make placement decisions in accordance with religious or moral policies, including agencies not yet in existence that could write their own moral principles and seek the exemption from state licensing laws.
- 2) It is NOT limited to religious beliefs. It sweeps into the protection it offers any private entity that has moral objections to any proposed child placements.
- 3) It is NOT limited to adoption or the rights of birth mothers to choose families consistent with their beliefs, but extends to all private agencies that contract with the state or local agencies to provide foster care services for children in the state's custody. Foster care children are the state's children in the state's custody.
- 4) It grants an affirmative exemption from licensure laws to any private agencies that express objections to placements on moral or religious grounds. The Commissioner is prohibited from denying or revoking a license based on the failure to comply with rules (such as those prohibiting use of corporal punishment by foster care parents).
- 5) It requires state and local agencies to contract with private agencies even if there are concerns about placements being made based on religious beliefs or moral policies that conflict with state licensing standards.
- 6) It includes sweeping language granting immunity from "any claim for damages" to any private agency that claims an objection to child placement rules or licensing standards based on religious or moral beliefs or policies.