



Georgia adoption bill shows right and wrong way to argue for religious liberty

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Nicole Russell

A new adoption bill in Georgia meant to offer religious protections to faith-based adoption agencies has sparked the question of whether the fundamental right to religious freedom is being used as a guise for bigotry.

Republican state Sen. Marty Harbin recently sponsored a bill that would “prohibit child-placing agencies from being required to perform, assist, counsel, recommend, consent to, refer, or participate in any placement of a child for foster care or adoption when the placement violates certain religious or moral convictions of the child-placing agency.” While co-sponsors and proponents believe the bill will protect faith-based agencies from being forced to operate against their beliefs, critics worry it would keep gay couples, atheists, or others from being able to adopt and actually leave *more* children without families.

Harbin has made a somewhat novel economic argument for his bill. He said he hopes this bill attracts faith-based adoption agencies, keeping business in Georgia and discouraging agencies from moving elsewhere. However, Harbin said his bill is also geared toward respecting the wishes of some mothers and their religious views. “I believe that, for the mothers, it’s critically important where their children go,” Harbin said. “I think family and faith run together.”

Harbin also reportedly said his bill aims to “preserve choice” for birth mothers who want to make sure their children enjoy a certain religious upbringing. This is the wrong argument to make.

The valid argument in support of this bill and others like it is that we must protect religious agencies where religious rights are under attack, especially those that partner with the state and receive funding. In Michigan, for example, the attorney general worked tirelessly to sever state

ties with faith-based organizations because she viewed their religious decision-making as anti-gay bigotry.

This affected one of the largest and most effective charities, St. Vincent Catholic Charities, putting more kids at risk of not getting adopted at all. In September 2019, a state court told the Michigan attorney general that, while the case continues to be sorted out, they had to continue working together. The judge's reasoning? It was clear that "the State's real goal is not to promote nondiscriminatory child placements but to stamp out St. Vincent's religious belief and replace it with the State's own."

This is the fight religious liberty advocates must focus on: advocating tolerance for religious agencies as part of a pluralistic society and an all-hands-on-deck approach to helping at-risk children. As Stephanie Barclay said in a Cato Institute discussion, "We are richer as a country when we have a plurality of voices — when we have faith-based and secular agencies serving a range of populations, all working together to bring in as many homes as possible for children who so desperately need them."

I'm optimistic about our chances in the courts.

It seems clear to me that religious exemption for faith-based adoption agencies is protected under the proper interpretation of federal law and the First Amendment, but this concept is clearly under attack. The so-called Equality Act, passed by House Democrats, would explicitly prohibit adoption agencies from receiving federal funding if they don't serve same-sex prospective parents.

Yet, considering the Supreme Court's demonstrated support for religious exemptions in cases such as *Hobby Lobby* and *Masterpiece Cakeshop*, it would likely rule these mandates unconstitutional, but anything is possible. This is why we need state laws such as Georgia's adoption bill to protect the organizations' rights regardless.

Everyone can win. We should be able to ensure that orphans can find new families, faith-based organizations can live in accordance with their closely held beliefs without fear of legal action, and that prospective parents from all walks of life can adopt. After all, there are lots of nonreligious adoption agencies that will happily serve gay couples.

As far as Georgia's bill is concerned, private, faith-based agencies should not be forced to contradict their religious beliefs. If that is the GOP lawmakers' real intent, they should stick to it and offer these bills as a shield for protection, not a sword for division.

Nicole Russell (@russell_nm) is a contributor to the Washington Examiner's Beltway Confidential blog. She is a journalist in Washington who previously worked in Republican politics in Minnesota.