

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CATHOLIC CHARITIES  
WEST MICHIGAN,

Plaintiff,

2:19-CV-11661-DPH-DRG

v.

Hon. Denise Page Hood

Hon. David R. Grand

MICHIGAN DEPARTMENT  
OF HEALTH AND HUMAN  
SERVICES; ROBERT GORDON, in  
his official capacity as Director  
of the Michigan Department of  
Health and Human Services;  
MICHIGAN CHILDREN'S  
SERVICES AGENCY; JENNIFER  
WRAYNO, in her official capacity as  
Acting Executive Director of  
Michigan Children's Services Agency;  
DANA NESSEL, in her official  
capacity as Attorney General of  
Michigan.

**PLAINTIFF CATHOLIC  
CHARITIES WEST  
MICHIGAN'S REPLY IN  
SUPPORT OF MOTION FOR  
PRELIMINARY  
INJUNCTION**

Defendants.

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James R. Wierenga (P48946)  
Attorney for Plaintiff  
David, Wierenga & Lauka, PC  
99 Monroe Ave., NW  
Ste. 1210  
Grand Rapids, MI 49503  
(616) 454-3883  
jim@dwlawpc.com

David A. Cortman (GA Bar #188810)  
Attorney for Plaintiff  
Alliance Defending Freedom  
1000 Hurricane Shoals Rd. NE  
Ste. D-1100  
Lawrenceville, GA 30043  
(770) 339-0774  
dcortman@ADFlegal.org

Roger Brooks (NC Bar #16317)  
Jeremiah Galus (AZ Bar #030469)  
Attorneys for Plaintiff  
Alliance Defending Freedom  
15100 N. 90<sup>th</sup> Street  
Scottsdale, AZ 85260  
(480) 444-0020  
rbrooks@ADFlegal.org  
jgalus@ADFlegal.org

Toni L. Harris (P63111)  
Joshua S. Smith (P63349)  
Precious S. Boone (P81631)  
Elizabeth R. Husa Briggs  
(P73907)  
Attorneys for Defendants  
Michigan Department of  
Attorney General  
Health, Education & Family  
Services Division  
P.O. Box 30758  
Lansing, MI 48909  
(517) 335-7603  
HarrisT19@michigan.gov  
Smithj46@michigan.gov

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**PLAINTIFF CATHOLIC CHARITIES WEST MICHIGAN'S  
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## INTRODUCTION

Plaintiff Catholic Charities West Michigan has been serving foster children for over 70 years. But this long-established ministry is now threatened with closure because new government officials are defying the Legislature's religious accommodation laws and demanding that Catholic Charities violate its beliefs or lose all existing and future State contracts that allow it to serve foster children. With current contracts set to expire or renew on September 30, and Catholic Charities likely to prevail on one or more of its claims, a preliminary injunction is warranted.

## ARGUMENT

### **I. Catholic Charities is likely to succeed on the merits of one or more of its claims.**

#### **A. The new policy violates Public Acts 53, 54, and 55.**

Defendants advocate for an interpretation of Public Acts 53, 54, and 55 that would render these statutes meaningless, eviscerate their protections, and bring about the exact opposite of what the Michigan Legislature expressly intended when it passed them.

Defendants' interpretation is quite astonishing. According to Defendants, the 2015 laws merely allow a child placing agency to decline a referral from MDHHS up until it accepts its first one. Once an agency has accepted a *single* referral, Defendants contend that the agency must then perform all services for prospective foster and

adoptive parents regardless of whether they have identified a particular child for foster or adoptive placement. (ECF No. 22 at 21.)

This interpretation not only guts the entire text, but also directly contradicts that fact that Michigan law expressly allows child placing agencies to decline “any services” that conflict with their religious beliefs. Mich. Comp. Laws § 722.124e(2). And while “foster care case management and adoption services provided under a contract with the department” are excluded from those protections, *id.* § 722.124e(7)(b), Defendants improperly read the exception to swallow the rule. The exception relates to services performed for a *specific* child *after* accepting that *particular child’s* referral, *i.e.*, a contract to which Catholic Charities does not object. It does not prevent Catholic Charities from “turn[ing] away an Applicant,” as Defendants contend. (ECF No. 22 at 18). Nor could it plausibly be read to do so, as Public Act 53 plainly instructs agencies that decline “any services” to “[p]romptly refer” the “applicant” to another agency or the department’s website. Mich. Comp. Laws § 722.124e(4). Defendants cannot legitimately argue that Applicants cannot be referred when the Act specifically states they can.

**B. The new policy burdens Catholic Charities’ religion and thus triggers strict scrutiny under Article I, § 4 of the Michigan Constitution.**

Defendants concede that strict scrutiny applies to free-exercise claims brought under Article I, § 4 of the Michigan Constitution, but try

to avoid that stringent test by saying that their policy does not burden Catholic Charities' religion. (*See* ECF No. 22 at 28–29.) The record shows, however, that Defendants are attempting to terminate Catholic Charities' longstanding contracts with the State unless Catholic Charities does exactly what its religious beliefs forbid it to do. As explained in Catholic Charities' opening brief, this is a substantial burden. (*See* ECF No. 11 at 27.)

**C. The new policy also triggers strict scrutiny under the Free Exercise Clause of the U.S. Constitution.**

Defendants next argue that Catholic Charities' federal free-exercise claim does not trigger strict scrutiny because their policy is “neutral, generally applicable, and presumed valid.” (ECF No. 22 at 23.)

As explained in Catholic Charities' opening brief, a law or government action burdening religion is not “presumed valid” merely because it is neutral and generally applicable. (*See* ECF No. 11 at 28–30.)

Regardless, Defendants' new policy is neither. Defendants are not enforcing a longstanding nondiscrimination provision (as they claim), but rather are imposing a new policy (ignoring the legislature's religious accommodation) that targets particular religious beliefs about marriage. Indeed, the nondiscrimination provision was added to the State's foster care and adoption contracts at the same time the Legislature enacted the 2015 laws, and the contracts incorporate those

statutory protections. (Slater Decl. ¶ 24, attached as Ex. 1; *see also* ECF No. 22-3 at 9 [Hoover Aff. ¶ 22].)

Nor can Defendants' express and pervasive hostility be ignored. First, Defendants are trying to eliminate a religious accommodation enacted by the people's representatives. Targeting faith-based agencies is not neutral. Second, this new policy fulfills AG Nessel's promise to prohibit faith-based providers from participating in the State's foster care system unless they agree to violate their beliefs. Indeed, Nessel has stated that "[p]roponent[s]" of Public Acts 53, 54, and 55 "dislike gay people more than [they] care about the needs of foster care kids"; that Public Acts 53, 54, and 55 are "a victory for the hate monger"; and that religious communities should be "educate[d]" "as much as possible" about "the importance of accepting LGBTQ people" because many religious organizations "have changed their views on this over the course of time." (Compl. ¶¶ 138–42, ECF No. 1-2.) Such "hostility [i]s inconsistent with the First Amendment's guarantee that our laws be applied in a manner that is neutral toward religion." *Masterpiece Cakeshop v. Colo. Civil Rights Comm'n*, 138 S. Ct. 1719, 1732 (2018).<sup>1</sup>

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<sup>1</sup> This case is distinguishable from *Fulton v. City of Philadelphia*, 922 F.3d 140, 157 (3d Cir. 2019), where the court determined that the government official making the most anti-religious statements did not play "a direct role, or even a significant role, in the process." In contrast, Nessel's role is both direct and significant. Additionally, *Fulton* did not involve government officials ignoring a law allowing religious agencies to continue to place children in accordance with their beliefs.

**D. The policy compels speech, triggering strict scrutiny.**

In response to Catholic Charities’ free-speech claims, Defendants claim that their new policy does not compel speech because the required “assessments” are based on “licensing guidelines.” (ECF No. 22 at 32.)

But the home study process necessarily involves subjective analyses of a variety of important (and sensitive) factors, including “[m]arital and family status” and “[s]pirituality or religious beliefs.” Mich. Admin. Code, R. 400.12310(3)(a), R. 400.12605(3)(a). And in the end, a child placing agency must submit to the State—*in writing*—whether it recommends (“yes” or “no”) that an applicant be licensed for foster care and whether an adoptive placement would be in the child’s best interests. (Ex. 1, Slater Decl. ¶ 12.) While Defendants try to diminish the significance of Catholic Charities’ beliefs, they do not (and cannot) dispute that Catholic Charities sincerely believes making these recommendations for same-sex couples would violate its beliefs. *See Hernandez v. Comm’r of Internal Revenue*, 490 U.S. 680, 699 (1989) (cannot question “the validity of particular litigants’ interpretations of those creeds”).

In addition, the Supreme Court has held that the “general rule” that the “speaker has the right to tailor the speech, applies not only to expressions of value, opinion, or endorsement, but equally to statements of fact the speaker would rather avoid.” *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Boston*, 515 U.S. 557, 573 (1995).

**E. The new policy fails strict scrutiny.**

Defendants' claimed interests in "ending" discrimination and "promoting" the interests of Michigan's children are in direct conflict with the specific findings of the Legislature. They are also not enough to satisfy strict scrutiny. (ECF No. 22 at 29.)

First, Defendants cannot be heard to argue that they are "promoting the best interests of Michigan's children" (ECF No. 22 at 29), when the Legislature has already found that it is in the best interest of children to allow Catholic Charities to continue serving. *See Mich. Comp. Laws § 722.124e(1)*. Defendants cannot claim harm to a government interest the Legislature has already decided does not exist.

Second, strict scrutiny requires this Court to "scrutinize the asserted harm of granting specific exemptions to particular religious claimants." *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 726–27 (2014) (citation omitted). And such "broadly formulated interests" are insufficient to carry the heavy burden under strict scrutiny. *Id.*

Third, Defendants admit that "Michigan law and MDHHS policy" allow child placing agencies to decline referrals "for any reason," including a discriminatory one. (ECF No. 22 at 21). The new policy thus "cannot be regarded as protecting an interest of the highest order" when existing exemptions already permit "appreciable damage to that supposedly vital interest." *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 547 (1993).

**II. The remaining preliminary injunction factors weigh in favor of Catholic Charities.**

Any “balance of harms” or “equities” analysis also heavily weigh in favor of Catholic Charities. Defendants have not identified any “harm” that will result from preserving the status quo—as it has existed for over 70 years—by allowing Catholic Charities to operate consistently with its faith during the pendency of this litigation along with the dozens of secular agencies. By contrast, if a preliminary injunction is denied, the disruption of operations, having to cut 100 employees, loss of decades of goodwill, loss of family relationships (both prospective and existing), and loss of reputation, to name a few, that Catholic Charities would suffer is undeniable. (Ex. 1, Slater Decl. ¶¶ 29–32.) And these are all in addition to the legally sufficient harm of even temporary loss of its constitutional freedom to continue its ministry and speak as it chooses.

**CONCLUSION**

For the foregoing reasons, and the reasons set forth in the opening brief, this Court should grant the motion for preliminary injunction.

Dated: August 7, 2019

Respectfully submitted,

/s/ Jeremiah Galus  
Jeremiah Galus (AZ Bar 030469)  
Alliance Defending Freedom  
15100 N. 90th Street  
Scottsdale, AZ 85260  
(480) 444-0020  
jgalus@ADFlegal.org

## CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2019, I caused the foregoing to be filed with the Clerk of the Court using the ECF system, which will provide electronic copies to counsel of record.

/s/ Jeremiah Galus  
Jeremiah Galus (AZ Bar 030469)  
Alliance Defending Freedom  
15100 N. 90th Street  
Scottsdale, AZ 85260  
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# **EXHIBIT 1**

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capacity as Attorney General of  
Michigan.

**DECLARATION OF CHRIS  
SLATER**

Defendants.

\_\_\_\_\_ /

**DECLARATION OF CHRIS SLATER**

I, Chris Slater, hereby declare and state as follows:

1. I am over 18 years of age and of sound mind. I have personal knowledge of the facts stated in this declaration and, if called upon, could testify competently to these facts.

2. I am the CEO of Catholic Charities West Michigan, and have served in that position since July 2018. I first began working at Catholic Charities in 2015. Before being named CEO, I served as Catholic Charities' CFO and interim CEO. I received a bachelor's degree in business administration from Western Michigan University in 2009. I am also a certified public accountant.

3. Having ministered to foster children for over 70 years and having placed roughly 4,500 children in the past decade alone, Catholic Charities has a proven track record of recruiting and training reliable foster families. Although MDHHS says it is unaware of faith-based providers being effective at recruiting families who otherwise might not choose to foster or adopt, I know this is true for Catholic Charities.

4. Catholic Charities has a distinctly religious mission and identity. Because of this, it is effective at mobilizing religious families to serve as foster parents. This is accomplished, in part, by making in-person visits to Catholic parishes throughout western Michigan, where Catholic Charities encourages and empowers parishioners to put their faith into action by serving as foster and adoptive parents. These efforts (and many others) have directly resulted in the successful recruitment of numerous foster families and adoptive parents who share Catholic

Charities' faith and values. I am aware of no other child placing agencies that actively recruit in the Catholic parishes in western Michigan.

5. In my experience, many families are reluctant to take the first step towards fostering because they are concerned about exposing their families to government oversight, regulation, and intrusions into their daily lives. For religious families in particular, Catholic Charities excels at assuaging these concerns and providing the critical emotional and spiritual support that these families need.

6. Numerous prospective foster and adoptive parents choose to work with Catholic Charities precisely because of its religious beliefs, identity, and mission. This includes Catholic Charities' beliefs about marriage. In fact, shortly after MDHHS issued its new policy requiring faith-based providers to violate their beliefs about marriage to preserve their contracts with the State, one large faith-based provider publicly announced that it was going to comply with the new policy. In response to that announcement, several prospective foster parents began working with Catholic Charities instead of the faith-based provider that announced it was going to comply with State's new policy. I was not surprised by this because prospective foster and adoptive parents seek out agencies that share their beliefs and values.

7. There are religious foster families that will not work with secular agencies or religious agencies that compromise their beliefs.

8. The importance of shared beliefs and values is not limited to initial recruitment. Keeping foster parents in the system is just as hard (if not harder) than getting them to participate in the first place. Many foster parents burn out after the first year. Because Catholic Charities shares the faith and values of religious foster families, it is uniquely equipped to help these particular families persevere during challenging times.

9. Furthermore, Catholic Charities provides counseling and guidance to prospective foster and adoptive parents at each step of the application, home study, placement, supervision, and finalization process. As explained in my earlier declaration, the home study process is an especially personal experience because it involves assessing the characteristics of each applicant and determining whether he or she would be suitable to adopt or foster children.

10. The home study process requires Catholic Charities to visit the applicant's home and to meet with every person living in the home. Although MDHHS may claim that a home study merely involves an objective analysis of state licensing criteria, that is not an accurate depiction of what actually occurs. During a home study, Catholic Charities interviews applicants, subjectively evaluate their strengths and weaknesses, and explores important and sensitive topics related to parenting experience, parenting philosophy, family origin and dynamics, faith and religious practice, financial stability, the ability to

parent a child of a different race or culture or a child with special needs, and marital stability, among other things.

11. For married couples, in particular, Catholic Charities is concerned about ensuring the intimacy and strength of the marriage for the benefit of any child placed with them. The home study process also gives Catholic Charities the opportunity to provide prospective parents with counseling and guidance about the proper environment for and approach to raising children.

12. After the home study and assessment, Catholic Charities must tell the State whether it recommends (“yes” or “no”) that an applicant be licensed for foster care or that an adoptive placement would be in the child’s best interests. This recommendation is conveyed through a written report analyzing the home environment and relationships in the home and explaining the reasons for the recommendation.

13. Because of its Catholic beliefs about human nature and the nature of marriage and family, Catholic Charities cannot affirmatively recommend that children be placed with same-sex couples. Yet that is what MDHHS’s new policy requires Catholic Charities to recommend to keep its contracts with the State. Instead of saying things it cannot in good conscience say, Catholic Charities exercises its statutory and constitutional right to refer the couple to one of the numerous other

child placing agencies that do not share Catholic Charities' religious beliefs.

14. For the families that Catholic Charities studies and recommends to the State for licensing, they join Catholic Charities' pool of homes waiting to help children in need (assuming they are in fact licensed). On average, it takes about 6 months for an individual or family to become a licensed foster or adoptive home. Catholic Charities has spent decades developing its pool of foster and adoptive parents.

15. Under the State's contracts, Catholic Charities has just *one* hour to review its list of foster homes and determine whether there is a home willing and able to care for the child referred by MDHHS. Catholic Charities thus has very little time to evaluate and contact its list of families. If Catholic Charities is unable to identify a foster home for that child, MDHHS moves on to the next agency.

16. MDHHS does not pay Catholic Charities until it accepts a referral to perform specific foster care or adoption services for a particular child or individual.

17. If Catholic Charities accepts a referral from MDHHS for foster care or adoption placement services, it enters into a separate individual service contract for the particular child or individual who was referred by MDHHS. If the placement goal for the referred child changes (*e.g.*, from foster care to adoption), then Catholic Charities must enter in another separate service agreement contract with

MDHHS depending on whether it is able to perform the new placement services for that particular child.

18. For accepted foster care referrals, MDHHS provides Catholic Charities a daily rate to perform case management services for the referred child. For accepted adoption referrals, MDHHS provides Catholic Charities a lump sum whenever the referred child is placed, the adoption is finalized, and the adoption becomes permanent.

19. The State does not compensate Catholic Charities for any of the time and resources expended recruiting, training, studying, and recommending prospective foster and adoptive parents. Catholic Charities uses its own private funds for these efforts.

20. Catholic Charities' contracts with the State do not require it to perform a certain number of home studies, and it does not matter how many foster or adoptive parents Catholic Charities successfully recruits, trains, and studies. These are considered pre-referral activities and not compensated by the State. The State does not (and will not) pay anything unless Catholic Charities accepts a referral from MDHHS. In fact, Catholic Charities often performs home studies for prospective parents who decide not to move forward with fostering or adopting. Catholic Charities does not bill the State for these home studies (or any others), and the State does not provide any reimbursement payments for them.

21. But Catholic Charities pays for much more than just recruitment, training, and home studies. Catholic Charities' foster care and public adoption ministry far exceeds state minimum requirements, providing numerous opportunities that the State does not—and could not—pay for. As just a few examples, Catholic Charities provides monthly foster parent training opportunities; comprehensive consultations, mentors, and support groups; access to behavioral specialists; transportation services; and a “Family Visit House.”

22. Catholic Charities also supplements from its own funds the money that foster parents receive from the State to help with the costs associated with children's medical and dental expenses, school events, clothing, athletics, and other extracurricular activities. For instance, just last month, Catholic Charities delivered hundreds of bikes, tricycles, wagons, and helmets to the children in its foster and adoption programs. This alone cost approximately \$25,000.

23. To be clear, the State does not pay for *any* of these extra services. Nor does Catholic Charities expect it to, as our nonprofit ministry to children and families has never been about making money. Catholic Charities is motivated by its Catholic beliefs and convictions to serve and support individuals, families, and communities in their emotional, social, and spiritual development.

24. The nondiscrimination provision referenced by Defendants was added to Catholic Charities' contracts for the first time in the fall of

2015. This occurred at the same time the Michigan Legislature enacted Public Acts 53, 54, and 55, which are laws protecting Catholic Charities' right to operate according to its religious beliefs and convictions.

Because the contracts expressly incorporate these statutory protections, it was (and continues to be) Catholic Charities' understanding that the nondiscrimination provision must be read along with and is consistent with the religious protections set out in Public Acts 53, 54, and 55.

25. I am informed that MDHHS has identified two instances where Catholic Charities was investigated for purported noncompliance with the nondiscrimination provision. The first investigation occurred in January 2017, and the second occurred in March 2018.

26. The January 2017 investigation involved a situation where one of Catholic Charities' employees improperly placed children in violation of the organization's beliefs about marriage, without the knowledge of the Catholic Charities leadership. When Catholic Charities later tried to transfer the case back to MDHHS, the department initiated an investigation. Catholic Charities was asked to submit a corrective action plan and did so in January 2017. A copy of that corrective action is attached here as Exhibit A.

27. The January 2017 corrective action plan, which MDHHS accepted, proposed certain steps that Catholic Charities would take to avoid similar situations in the future and to ensure that adoptions would be accepted and completed consistent with the contract and

Catholic Charities' sincerely held religious beliefs. Specifically, Catholic Charities told MDHHS that it would "implement [a] revised program statement clarifying that [Catholic Charities] will serve children and families through the placement and adoption of children with individuals, including single parents, meeting our sincerely held Catholic social teachings and beliefs and married couples made up of two parents of the opposite sex." Catholic Charities also said that it would, among other things, create a Statement of Faith; distribute the Statement of Faith to all new adoptive parent inquiries and current adoptive parents; conduct internal training related to the revised program statement and Statement of Faith; and ensure that a consultation would occur whenever a case was initially assessed as presenting potential conflicts with Catholic Charities' sincerely held religious beliefs. Catholic Charities has complied with this corrective action plan. And, as noted, MDHHS approved the plan.

28. In response to the March 2018 investigation, Catholic Charities submitted a corrective action plan in May 2018. That corrective action plan addressed a situation where a sibling placement presented a conflict with Catholic Charities' religious beliefs. The corrective action plan proposed steps that Catholic Charities would take to avoid similar conflicts in the future and to ensure decisions are made in the best interest of the child if a similar situation happened to arise in the future. In addition, the corrective action plan stated that Catholic

Charities would “follow Catholic Charities USA code of ethics.” A copy of that corrective action plan, which MDHHS approved, is attached as Exhibit B.

29. If Defendants cancel Catholic Charities’ contracts because of its religious beliefs about marriage, the effect would be devastating and irreversible. Because a child placing agency cannot perform foster care services without receiving referrals from the State, Catholic Charities would have no choice but to shut down its foster care and adoption ministry.

30. No amount of money could undo the harm this would cause. Catholic Charities’ foster care ministry is over 70 years old. Countless hours have been spent developing and growing the ministry, with hundreds of foster children now in Catholic Charities’ care and approximately 170 foster homes ready and able to serve Michigan’s children. This would all be stripped away if MDHHS cancels Catholic Charities’ contracts. The disruption to the hundreds of foster children and foster families would be immeasurable.

31. Moreover, forcing Catholic Charities’ foster care and public adoption program to close would deprive around 100 employees of their jobs and damage Catholic Charities’ reputation as an effective and reliable social services provider. It would also force foster families that have *chosen* to work with Catholic Charities out of the system altogether, as these families have developed close relationships with

Catholic Charities' case workers and depend on them for support. Some foster families would be unwilling to work with another agency.

32. Additionally, if Catholic Charities were forced to shut down its foster care and public adoption program, we would lose donors, supporters, and clients who choose to work with Catholic Charities precisely because of our foster care work and shared religious beliefs and mission. Some of Catholic Charities' largest donors support Catholic Charities *because of* its longstanding ministry to foster children.

33. I understand that the State believes no real harm would result to the hundreds of children and families in Catholic Charities' care because they could simply be transferred to another agency. This does not comport with common sense or my experience.

34. Such a transfer would be especially traumatic for the foster children, as it takes months and sometimes years for a foster child to develop trust with his or her caseworker. Moreover, the demand for foster homes far exceeds the supply. If other child placing agencies could easily handle additional foster care cases, they would already be doing so. Yet Catholic Charities *regularly* receives desperate calls from local MDHHS offices asking us to take on even more foster children.

I declare under penalty of perjury pursuant to 28 U.S.C. 1746 that the foregoing is true and correct to the best of my knowledge.

Executed this 7th day of August 2019, in Grand Rapids, Michigan.



Chris Slater, CEO  
Catholic Charities West Michigan

# Attachment A

Kathy Fiorletta, Licensing Consultant  
MDHHS/Division of Child Welfare Licensing  
121 Franklin Street, S.E., 3rd Floor  
Grand Rapids, MI 49507

January 27, 2017

RE: Catholic Charities West Michigan  
Corrective Action Plan  
License Number CB610201023

Dear Colleague:

Please find following our amended corrective action plan subsequent to your most recent findings dated January 13, 201 and subsequent correspondence of January 23, 2017. If you have any questions or concerns regarding our intended actions, please do not hesitate to contact us. Catholic Charities West Michigan regrets the delayed response leading to this investigation and trusts that the corrective actions detailed below will help ensure adoptions are accepted and completed in line with the DHHS contract and our sincerely held religious beliefs moving forward.

APPLICABLE RULE	
A12-61001	Contractor Responsibilities

*2.9 Compliance Requirements*

*a. The Contractor shall comply with all applicable MDHHS policy and MDHHS policy amendments including fingerprint-based criminal history policy. MDHHS policies and MDHHS policy amendments/bulletins are published on the following internet link: <http://www.michigan.gov/mdhhs-manuals>*

*c. The Contractor shall comply with the MDHHS non- discrimination statement:*

*Michigan Department of Health and Human Services (MDHHS) will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, height, weight, marital status, gender identity or expression, sexual orientation, political beliefs or disability.*



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ADMINISTRATION 616.551.4747 360 DIVISION AVENUE SOUTH – SUITE 3A GRAND RAPIDS, MI 49503-4501

[www.ccwestmi.org](http://www.ccwestmi.org)

*The above statement applies to all applications filed for adoption of MDHHS supervised children, including MDHHS supervised children assigned to a contracted agency.*

*d. The Contractor accepts a referral from MDHHS under this Agreement by doing either of the following:*

*1) Submitting to MDHHS a written agreement to perform the services related to the particular child or particular individuals that the Department referred to the Contractor, or*

*2) Engaging in any other activity that results in MDHHS being obligated to pay the Contractor for the services related to the particular child or particular individuals that the Department referred to the Contractor.*

<b>How Compliance will be achieved</b>	<b>Persons responsible</b>	<b>Target Date</b>
CCWM will implement revised program statement clarifying that CCWM will serve children and families through the placement and adoption of children with individuals, Including single parents, meeting our sincerely held Catholic social teachings and beliefs and married couples made up of two parents of the opposite sex.	Pam Cohn, Interim CEO Kelli Arrendondo, Senior Child Welfare Director Moir Monahan, Muskegon Child Welfare Director Child Welfare Adoption Managers and Workers	January 28, 2016

**Action Steps:**

1. CCWM program statement is revised as attached to include eligibility requirement of individuals, including single parents, meeting our sincerely held Catholic social teachings and beliefs and married couples made up of two parents of the opposite sex.
2. CCWM will update the program statement information on all informational materials and documents.
3. CCWM will create a "Statement of Faith" and distribute to all new adoptive parent inquiries and current adoptive parents.
4. CCWM will conduct internal training for adoption managers and workers related to the revised program statement and "Statement of Faith" by February 1, 2017.
5. CCWM will have weekly documented collaboration with foster care and adoption staff regarding any cases pending permanent ward status (e.g. foster cases with potential goal of termination) to assess the potential adoption referral and acceptance based on identified adoptive placements.
6. At the time of the adoption referral (internal and external), if there are no identified adoptive placements or the family does not meet CCWM sincerely held religious beliefs, CCWM will not accept the adoption case and rather, will refer it back to the local DHHS office of wardship. CCCWM would maintain the foster care case until the child(ren) is adoptively placed.
7. CCWM Adoption managers will review all new adoption referrals and ask clarifying questions, using the attached revised checklist, within the contractual time frames to determine if the referral meets the sincerely held religious beliefs for acceptance/rejection.
8. Consultation with our DCWL consultant and/or DHHS monitor/supervisor will occur when a case is assessed as presenting potential conflicts with our sincerely held religious beliefs.
9. CCWM has reviewed current adoption cases and none conflict with its sincerely held religious beliefs.
10. CCWM Senior CW Director will meet with all DHHS Directors, within 45 days of the accepted CAP, in the 11 county dioceses, to inform them of our revised program statement and adoption referral acceptance process moving forward.

<b>Action Steps for Continued Compliance</b>	
<b>Action Steps:</b>	
1. Effective immediately, CCWM will not accept new adoption referrals, pursuant to contractual terms and procedures, in conflict with its sincerely held religious beliefs and program statement consistent with PA 116, thus preventing a repeat violation of the above citations.	

<b>APPLICABLE RULE</b>	
PA 116	<b>Child Care Organizations</b>

**722.124e Legislative findings and declaration; requirement to provide services that conflict with child placing agency’s religious beliefs prohibited; adverse action against child placing agency prohibited; information to be provided to applicant; defense in administrative or judicial proceeding; ability of another child placing agency to provide services not limited; definitions.**

- (1) *The legislature finds and declares all of the following:*
  - (a) *When it is necessary for a child in this state to be placed with an adoptive or foster family, placing the child in a safe, loving, and supportive home is a paramount goal of this state.*
  - (b) *As of the effective date of the amendatory act that added this section, there are 105 licensed adoption and foster care agencies in this state that are authorized to participate in and assist families with adoption and foster parent placements of children.*
  - (c) *Having as many possible qualified adoption and foster parent agencies in this state is a substantial benefit to the children of this state who are in need of these placement services and to all of the citizens of this state because the more qualified agencies taking part in this process, the greater the likelihood that permanent child placement can be achieved.*
  - (d) *As of the effective date of the amendatory act that added this section, the adoption and foster care licensees of this state represent a broad spectrum of organizations and groups, some of which are faith based and some of which are not faith based.*
  - (e) *Private Child placing agencies, including faith-based child placing agencies, have the right to free exercise of religion under both the state and federal constitutions. Under well-settled principles of constitutional law, this right includes the freedom to abstain from conduct that conflicts with an agency’s sincerely held religious beliefs.*
  - (f) *Faith-based and non-faith-based child placing agencies have a long and distinguished history of providing adoption and foster care services in this state.*
  - (g) *Children and families benefit greatly from the adoption and foster care services provided by faith-based and non-faith-based child placing agencies. Ensuring that faith-based child placing agencies can continue to provide adoption and foster care services will benefit the children and families who receive publicly funded services.*
  - (h) *Under well-established department contracting practices, a private child placing agency does not receive public funding with respect to a particular child or particular individuals referred by the department unless that agency affirmatively accepts the referral.*
  - (i) *Under well-settled principles of constitutional law distinguishing “private action” from “state action”, a private child placing agency does not engage in state action when the agency performs private-adoption or direct-placement services. Similarly, a private child placing agency does not engage in state action relative to a referral for services under a contract with the department before the agency accepts the referral.*
- (2) *To the fullest extent permitted by state and federal law, a child placing agency shall not be required to provide any services if those services conflict with, or provide any services under circumstances that conflict with, the child placing agency’s sincerely held religious beliefs contained in a written*

- policy, state of faith, or other document adhered to by the child placing agency.*
- (3) *To the fullest extent permitted by state and federal law, the state or a local unit of government shall not take an adverse action against a child placing agency on the basis that the child placing agency has declined or will decline to provide any services that conflict with, or provide any services under circumstances that conflict with the child placing agency's sincerely held religious beliefs contained in a written policy, statement of faith, or other document adhered to by the child placing agency.*
  - (4) *If a child placing agency declines to provide any services under subsection (2), the child placing agency shall provide in writing information advising the applicant of the department's website, the Michigan adoption resource exchange or similar subsequently utilized websites, and a list of adoption or foster care services providers with contact information and shall do at least 1 of the following:*
    - (a) *Promptly refer the applicant to another child placing agency that is willing and able to provide the declined services.*
    - (b) *Promptly refer the applicant to the webpage on the department's website that identifies other licensed child placement agencies.*
  - (5) *A child placing agency may assert a defense in an administrative or judicial proceeding based on this section.*
  - (6) *If a child placing agency declines to provide any services under subsection (2), the child placing agency's decision does not limit the ability of another child placing agency to provide those services.*
  - (7) *For the purpose of this section:*
    - (a) *"Adverse action" includes, but is not limited to, denying a child placing agency's application for funding, refusing to renew the child placing agency's funding, canceling the child placing agency's funding, declining to enter into a contract with the child placing agency, refusing to renew a contract with the child placing agency, canceling a contract with the child placing agency, declining to issue a license to the child placing agency, refusing to renew the child placing agency's license, canceling the child placing agency's license, taking an enforcement action against a child placing agency, discriminating against the child placing agency in regard to participation in a government program, and taking any action that materially alters the terms or conditions of the child placing agency's funding, contract, or license.*
    - (b) *"Services" includes any service that a child placing agency provides, except foster care case management and adoption services provided under a contract with the department.*

*History: Add. 2015, Act 53, Eff. Sept. 9, 2015*

**722.124f Decision to accept or not referral; defense in administrative or judicial proceeding; "adverse action" defined.**

- (1) *If the department makes a referral to a child placing agency for foster care case management or adoption services under a contract with the child placing agency, the child placing agency may decide not to accept the referral if the services would conflict with the child placing agency's sincerely held religious beliefs contained in a written policy, statement of faith, or other document adhered to by the child placing agency. Before accepting a referral for services under a contract with the department, the child placing agency has the sole discretion to decide whether to engage in activities and perform services related to that referral. The department shall not control the child placing agency's decision whether to engage in those activities or perform those services. For purposes of this subsection, a child placing agency accepts a referral by doing either of the following:*
  - (a) *Submitting to the department a written agreement to perform the services related to the particular child or particular individuals that the department referred to the child placing agency.*
  - (b) *Engaging in any other activity that results in the department being obligated to pay the child placing agency for the services related to the particular child or particular individuals that the department referred to the child placing agency.*

*History: Add. 2015, Act 53, Eff. Sept. 9, 2015*

Action Steps for Continued Compliance		
How Compliance will be achieved	Persons responsible	Target Date
CCWM will implement revised program statement clarifying that CCWM provides adoption services will serve children and families through the placement and adoption of children with individuals, including single parents, meeting our sincerely held Catholic social teachings and beliefs and married couples made up of two parents of the opposite sex.	Pam Cohn, Interim CEO Kelli Arrendondo, Senior Child Welfare Director Moir Monaghan, Muskegon Child Welfare Director Child Welfare Adoption Managers and Workers	January 28, 2016
<p><b>Action Steps:</b></p> <ol style="list-style-type: none"> <li>1. CCWM program statement is revised as attached to include eligibility requirement of individuals, including single parents, meeting our sincerely held Catholic social teachings and beliefs and married couples made up of two parents of the opposite sex.</li> <li>2. CCWM will update the program statement information on all informational materials and documents.</li> <li>3. CCWM will create a "Statement of Faith" and distribute to all new adoptive parent inquiries and current adoptive parents.</li> <li>4. CCWM will conduct internal training for adoption managers and workers related to the revised program statement and "Statement of Faith" by February 1, 2017.</li> <li>5. CCWM will have weekly documented collaboration with foster care and adoption staff regarding any cases pending permanent ward status (e.g. foster cases with potential goal of termination) to assess the potential adoption referral and acceptance based on identified adoptive placements.</li> <li>6. At the time of the adoption referral (internal and external), if there are no identified adoptive placements, CCWM will not accept the adoption case and rather, will refer it back to the local DHHS office of ward ship. CCCWM would maintain the foster care case until the child(ren) is adoptively placed.</li> <li>7. CCWM Adoption managers will review all new adoption referrals and ask clarifying questions, using the attached revised checklist, within the contractual time frames to determine if the referral meets the sincerely held religious beliefs for acceptance/rejection.</li> <li>8. Consultation with our DCWL consultant and/or DHHS monitor/supervisor will occur when a case is assessed as presenting potential conflicts with our sincerely held religious beliefs.</li> <li>9. CCWM has reviewed current adoption cases and none conflict with its sincerely held religious beliefs.</li> <li>10. CCWM Senior CW Director will meet with all DHHS Directors, within 45 days of the accepted CAP, in the 11 county dioceses, to inform them of our revised program statement and adoption referral acceptance process moving forward.</li> </ol>		
<p><b>Action Steps:</b></p> <ol style="list-style-type: none"> <li>2. Effective immediately, CCWM will not accept new adoption referrals, pursuant to contractual terms and procedures in conflict with its sincerely held religious beliefs and program statement consistent with PA 116 thus preventing a repeat violation of the above citations.</li> </ol>		

Respectfully Submitted,



Pamela Cohn  
Interim President/CEO

# Attachment B

Jessica VandenHeuvel, Licensing Consultant  
 MDHHS/Division of Child Welfare Licensing  
 121 Franklin Street, S.E., 3rd Floor  
 Grand Rapids, MI 49507

May 29, 2018

RE: Catholic Charities West Michigan-GR  
 Corrective Action Plan  
 License Number CB410245705

Dear Colleague:

Please find our revised corrective action plan subsequent to your most recent letter dated May 22, 2018. If you have any questions or concerns regarding our intended actions, please do not hesitate to contact us. Catholic Charities West Michigan trusts that the corrective actions detailed below will help ensure compliance with the DHHS contract and WMPC Contract moving forward.

<b>APPLICABLE RULE</b>	
<b>ISEP 6.10</b>	<b>Separation of Siblings</b>

- a. *Siblings who enter placement at or near the same time shall be placed together unless:*
  - (1) *Doing so is harmful to one or more of the siblings;*
  - (2) *One of the siblings has exceptional needs that can only be met in a specialized program or facility; or*
  - (3) *The size of the sibling group makes such placement impractical notwithstanding efforts to place the group together.*
- b. *If a sibling group is separated at any time, except for the above reasons, the case manager shall make immediate efforts to locate or recruit a family in whose home the siblings can be reunited. These efforts shall be documented and maintained in the case file and shall be reassessed on a quarterly basis.*

How Compliance will be achieved	Persons responsible	Target Date
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<ol style="list-style-type: none"> <li>1. CCWM will ensure all siblings are placed together, unless the criteria above is identified, upon acceptance of the case.</li> <li>2. CCWM will ensure that if siblings are separated at time of acceptance that all efforts will be made to reunify unless the criteria above is identified.</li> <li>3. CCWM will ensure all required PER's are completed within the required time frames and routed appropriately in MiSACWIS.</li> </ol>	<p>Pam Cohn, COO                  Kelli Arrendondo, Senior Child Welfare Director                  Tracy Piasecki, GR Child Welfare Program Manager                  Child Welfare Foster Care Managers and Workers                  Child Welfare Licensing Manager and Workers.</p>	<p>05/15/18 and ongoing for continued compliance.</p>
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**Action Steps for Continued Compliance:**

1. A training will occur no later than 05/31/18, for all child welfare staff, on the policy and procedures regarding sibling splits and PER criteria.
2. Upon case acceptance, all efforts will be made to place siblings together in relative or a licensed foster home, unless criteria above is identified.
3. If siblings are not placed together at case acceptance, the case worker will make immediate and ongoing efforts to identify or recruit a home to reunify siblings according to FOM 722-03. All efforts will be re-assessed at least quarterly and documented in MiSACWIS.
4. At monthly supervision, cases where siblings are split will be discussed to identify barriers in reuniting the siblings. The supervisor will document these barriers in MiSACWIS.
5. Cases where siblings are not placed together will be discussed at CCWM placement planning meetings with staff and the WMPC Care Coordinator. The meeting and outcomes will be documented in MiSACWIS by the supervisor.
6. Sibling Split PER's will be completed timely and routed in MiSACWIS.
7. The Supervisor and Program Manager will address any barriers/patterns when they arise.
8. The Sr. Child Welfare Director and WMPC Care Coordinator will be notified and consulted regarding all sibling splits and barriers.
9. CCWM will create a spreadsheet to identify and track all sibling splits and share with the Sr. Director of Child Welfare and WMPC Care Coordinator at least monthly.

<b>APPLICABLE RULE</b>	
<b>PA 116</b>	<b>Child Care Organizations</b>

***722.124e Legislative findings and declaration; requirement to provide services that conflict with child placing agency's religious beliefs prohibited; adverse action against child placing agency prohibited; information to be provided to applicant; defense in administrative or judicial proceeding; ability of another child placing agency to provide services not limited; definitions.***

- (2) *To the fullest extent permitted by state and federal law, a child placing agency shall not be required to*

*provide any services if those services conflict with, or provide any services under circumstances that conflict with, the child placing agency's sincerely held religious beliefs contained in a written policy, state of faith, or other document adhered to by the child placing agency.*

(7) For the purpose of this section:

(b) "Services" includes any service that a child placing agency provides, except foster care case management and adoption services provided under a contract with the department.

History: Add. 2015, Act 53, Eff. Sept. 9, 2015

How Compliance will be achieved	Persons Responsible	Target Date
<ol style="list-style-type: none"> <li>1. CCWM will follow Catholic Charities USA code of ethics, DHHS contract, and WMPC contract to ensure contractual compliance obligations.</li> <li>2. CCWM will implement training that will address escalation of potential case conflicts to Senior Management (CEO, COO &amp; Senior Director of Child Welfare) and ensure decisions are made in the best interest of the child.</li> <li>3. CCWM will consult with other Catholic Charities USA affiliated members to explore their policies and procedures.</li> </ol>	<p>Chris Slater, Interim CEO                      Pam Cohn, COO                      Kelli Arrendondo, Senior Child Welfare Director                      Tracy Piasecki, GR Child Welfare Program Manager                      Child Welfare Managers and Workers</p>	<p>No later than 06/30/2018 and on-going.</p>

**Action Steps for Continued Compliance:**

1. CCWM will begin conducting internal trainings, no later than 06/30/18, on the Agency, WMPC, and State contractual obligations.
2. All new CCWM Child Welfare Staff will receive the training within their first 16 hours' of new hire orientation.
3. All CCWM staff will be required to complete internal training, at least yearly, outlining new policies/procedures and CCWM teachings.
4. CCWM will consult with WMPC when there are case conflicts between CCWM Code of Ethics and case management to ensure decisions are made in the best interest of the child and family.
5. CCWM will consult with WMPC when there are case conflicts between licensing rules, policy, ISEP, and CCWM Code of Ethics to ensure decisions are made in the best interest of the child and family.

<b>APPLICABLE RULE</b>	
<b>FOM 722-03</b>	<b>Placement Selection and Standards</b>

**Placement of Sibling Groups**

*Siblings are defined as children who have one or more parents in common. The relationship can be biological, through adoption, or through marriage, and includes siblings as defined by the AI/AN child's tribal code or custom. A sibling relationship continues regardless of legal status or when a marriage ends by death or divorce.*

*All siblings in out-of-home placement must be placed together, unless:*

- *One of the siblings has exceptional needs that can be met only in a specialized program or facility.*
- *Such placement is harmful to one or more of the siblings.*
- *The size of the sibling group makes one placement impractical, notwithstanding diligent efforts to place the siblings within the same home.*

**NOTE:** *For a sibling group, an exception to the limitation on the number of children in a foster home may be obtained; see Placement Exception Requests in this item. Rule variances to foster home capacity may be requested, the process can be found in FOM 922-1, Foster Home Development, Licensing Variances.*

*A placement exception request is required for each placement which separates or maintains separation of siblings; see Placement Exception Requests in this item.*

**MCL 722.954a (6)** *Reasonable efforts shall be made to do the following:*

- (a) *Place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the supervising agency documents that a joint placement would be contrary to the safety or well-being of any of the siblings.*

How Compliance will be achieved	Persons responsible	Target Date
<ol style="list-style-type: none"> <li>1. CCWM will ensure all siblings are placed together, unless the criteria above is identified, upon acceptance of the case.</li> <li>2. CCWM will ensure that if siblings are separated at time of acceptance, all efforts will be made to reunify unless the criteria above is identified.</li> <li>3. CCWM will ensure all required PER's are completed within the required time frames and routed appropriately in MiSACWIS.</li> </ol>	Pam Cohn, COO Kelli Arrendondo, Senior Child Welfare Director Tracy Piasecki, GR Child Welfare Program Manager Child Welfare Foster Care Managers and Workers Child Welfare Licensing supervisor and workers	05/15/18 and ongoing for continued compliance.

**Action Steps for Continued Compliance:**

1. A training will occur no later than 05/31/18, for all child welfare staff, on the policy and procedures regarding sibling splits and PER criteria.
2. Upon case acceptance, all efforts will be made to place siblings together in relative or a licensed foster home, unless criteria above is identified. All efforts will be documented in MiSACWIS.
3. If siblings are not placed together at case acceptance, the case worker will make immediate and ongoing efforts to identify or recruit a home to reunify siblings according to FOM 722-03. These efforts will be re-assessed at least quarterly and documented in MiSACWIS.
4. At monthly supervision, cases where siblings are split will be discussed to identify barriers in reuniting the siblings. The supervisor will document these barriers in MiSACWIS.
5. Cases where siblings are not placed together will be discussed at CCWM placement planning meetings with staff and the WMPC Care Coordinator. The meeting and outcomes will be documented in MiSACWIS by the supervisor.
6. Sibling Split PER's will be completed timely and routed in MiSACWIS.
7. The supervisor and Program Manager will address any barriers/patterns when they arise.
8. The Sr. Child Welfare Director and WMPC Care Coordinator will be notified and consulted regarding all sibling splits and barriers.
9. CCWM will create a spreadsheet to identify all sibling splits and share with the Sr. Director of Child Welfare and WMPC Care Coordinator at least monthly.

Respectfully Submitted,

Chris Slater  
Interim Chief Executive Officer  
Catholic Charities West Michigan

Respectfully Submitted,

Pam Cohn-Hammer, COO  
Chief Administrator  
Catholic Charities West Michigan

Amber Erikson, MSW  
Director of Performance and Quality Improvement  
West Michigan Partnership for Children

PC: Kelli Arrendondo, CCWM  
Tracy Piasecki, CCWM

# **EXHIBIT 2**

  TRENDING

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BC NEWS

# 'Gay Marriage Fight Is Not In Any Way Similar to Civil Rights Movement,' Say 100 African-American Pastors: 'Insulting to 100s Years of Struggle'

William Rameau | May 19, 2014 01:28 PM EDT

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Approximately 100 Black Pastors in Detroit recently slammed how gay activists were trying to link redefining marriage to the civil rights movement. The criticism came at a rally after the 6th Circuit Court of Appeals' led by Judge Bernard Friedman ruled the previous 2004 decision defining marriage between one man and one woman was unconstitutional.

Revive Alive Missional Ministry creator Reverend Stacy Swimp expressed his displeasure at Judge Friedman's decision, and claimed that the arguments linking amending the definition of marriage to civil rights was "intellectually empty."

"To state that marriage redefinition is in any way similar to the civil rights movement is intellectually empty, dishonest and manufactured. When has anyone from the LGBT demographic ever been publicly lynched, specifically excluded from moving into neighborhoods, prohibited from sitting on a jury and denied the right to sue others because of their sexual preferences?," said Reverend Swimp to the Detroit Free Press. "We think it's insulting and disrespectful to hundreds of years of struggle," she continued, "of sacrifice... of loss of life both black and white on behalf of equality for Black Americans."

Westside Minister's Alliance President and Greater Bethlehem Church Senior Pastor Dr. Randolph Thomas echoed Swimp's sentiments.

"We will not follow men who would rather believe a lie than the truth. We cannot and will not endorse anyone who blatantly blasphemes the Word of God and leads people in the wrong direction," said Dr. Thomas, according to Charisma News.

However, Dana Nessel, a lawyer who defended a lesbian couple in Michigan, supported Judge Friedman's decision.

"The viewpoints expressed by these organizations now represent a radical fringe among the religious community as a whole. Our clients and our case have enjoyed wide support by a panoply of religious groups who find the demagoguery of hatred against LGBT citizens and their children to be reprehensible," said Nessel to Detroit Free Press. "Ultimately, though, this case does not rest upon any single religious doctrine but upon the rule of law, in which the Constitution of the United States dictates that all persons must be treated equally, irrespective of the gender of our parents or of those we love."

Burnette Inspiration Baptist Church of Detroit's Rev. Roland Caldwell vowed not to take the decision lying down.

"The fight is on," said Caldwell. "We've come together to say, 'Hell no. We're not going to sit back'."

Free Will Baptist Church Rev. Rex Evans issued the following message to people who attended the rally last week.

"We love everybody, but we don't love the [gay] lifestyle," said Rev. Evans. "[There is a] small group of people trying to destroy the [nation's] foundation. It's time to take our nation back."

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## DON'T MISS

Jeremy Camp gets 'vulnerable' in new record ahead of

Lecrae making album 'fans have waited for;' talks dying to

16,000 Christians rally together to fund record-breaking TV

## TODAY'S PLAYLIST



Beautiful Lauren Daigle "You Say" Covers



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Elevation Worship



NEEDTOBREATHE



Tauren Wells



Jeremy Camp

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# **EXHIBIT 3**

# PRIDESOURCE

Publishers of Michigan's **Between!Lines**



## Q&A with Mich. Democratic Attorney General Candidate Dana Nessel



By Kate Opalewski | January 10th, 2018 | Election, Election 2018, LGBTQA Races, Michigan, News, Statewide Races



**[See the BTL introduction to this candidate's interview](#)**

**You're not the only LGBTQ candidate running for a statewide office, but you are the most visible. Yet people are far more**

## **concerned with you being a woman than being a lesbian. Thoughts?**

I was very taken aback by that, and all I can think about is one giant step forward for the gays and one backwards for women. Of course that's very concerning and upsetting to me, but I honestly believe that if the most qualified and the most progressive and the most exciting ticket that the Democrats could come up with is an all-female ticket then I think that that is going to be a winner in the November elections because I think people are tired of seeing women so vastly underrepresented in office. In the state of Michigan only 20 percent of the legislature is represented by women so we have an enormous amount of underrepresentation and we know that when we have underrepresentation of women in office it's not just bad for women, it's bad for families ... The fact of the matter is I think I'm the best candidate to this office and I think that I'm the most exciting candidate to this office and I'm going to be the most aggressive in terms of protecting the rights of all minorities including the LGBTQ community.



Dana Nessel

## **Why should the LGBTQ community vote for you?**

As an openly gay person, I represent over half a million Michiganders. I think that number is higher, but we know it's at least half a million people who have never had that representation at the statewide level before. I'm bringing diversity to the ticket in a way that has never existed before ... I think some people are excited about that. Some people aren't. What bothers me is that for people who don't support my candidacy, they consider me a one-trick pony as though I have no ideas about anything else, as though I've never practiced in any other field. I have more experience in practicing criminal law both as a prosecutor and a defense attorney than anyone who's ever held the office of attorney general. I'm the only person who has this amount of experience not just as a prosecutor, but also representing indigent people who were too poor to ever afford an attorney. I've represented people who were addicted to crack and opioids and alcohol. I've represented veterans who

have post-traumatic stress disorder. In terms of criminal reforms or alternative programs I know more about this than just about anybody who has been in this position because I've practiced on both sides so I know the flaws in the system that exist on both sides in both people in the court room. So, for people to say, oh, she's just an LGBTQ rights advocate, that's all she is, not only is it unfair but it's untrue and I have far more experience than my democratic opponent who's never tried a criminal case in his career. So, to say all I know is about LGBTQ rights despite the fact that I've tried dozens and dozens of first-degree murder cases both as a prosecutor and a defense attorney, I think it diminishes me as a candidate.

**What would you say to LGBTQ people who you haven't always seen eye-to-eye with you on how to best pursue equal rights for the community?**

I guess the statement that I want to make to everyone in the community is that I understand there are people in the LGBTQ community here in Michigan that have not always appreciated my methodology when it came to achieving LGBTQ rights. And people who are allies, people who are in the community – like any community of people, like any group of activists – we have our differences of opinion of how best to support the community and how to best achieve rights that don't exist.

So people have questioned my process of doing that. But no one can question my commitment to helping the community in any way I possibly can. Just know this – I am going to do everything I possibly can to be supportive of the LGBTQ community and to ensure that voices are heard.

At a time where the community is under assault, if the worst thing you can say about me is that I'm too aggressive in my efforts to support the LGBTQ community, same-sex couples, their families, etc., then maybe that's what we need right now ... There's about a hundred other issues that I think are incredibly important, but if people see me as being incredibly eager and interested and anxious to assist the community in terms of protecting the community then so be it. That is who I'm gonna be and I'm not gonna shy away from it. No matter who you are in the community, even if you're a person who has not seen eye-to-eye with me on how to best proceed in terms of gaining protection, I will always do everything I can to protect the lives of LGBTQ residents in this state.

**What have you learned while prosecuting people for hate crimes against the LGBTQ community and representing LGBTQ people who have been**

**discriminated against that will help you in your role as AG? Is there something about the way in which our system currently works that you would like to change?**

How many hours do you have? There are so many things that I think the AG needs to take an active role in. I certainly think that the way we treat people who are addicts and the way we treat people who have mental health issues – putting people in jail or prison – is not a viable solution to many issues which plague the criminal justice system and it's not cost-effective either. There's a human cost and then there's a financial cost and we're not being smart about it in either accord.

So, I would like to advocate as much as possible the expansion of sobriety courts, drug courts, mental health courts, veterans courts ... There are a lot of people that are not inherently bad people, but they're people who have some sort of, again, a mental illness or an addiction and we can treat those things. That's something that's very important to me – programs for individuals once they've served their time, once they've been paroled from a prison sentence and we're going to do everything that we possibly can to support and expand those programs. We know that for a lot of convicted felons it's very hard for them to find gainful employment and that leads to recidivism. We need to have as many programs as possible that permit people, once they've served their time to become part of our communities again.

And I know you've heard me talk about this before, but I really want to do a full-on attack on hate groups and against hate crimes. Not just for the LGBTQ community. Of course, for them as well, but I mean African Americans, Muslims, ethnic minorities and people of different national origins. People are under attack in this state and across the country. I know that the office of the attorney general can be utilized as a tremendous force, an arsenal, to combat the rise in hate crimes that we're seeing.

**What can an attorney general do to help with the amendment of the Elliott-Larsen Civil Rights Act?**

Take the current challenge by the ACLU in regards to challenging the adoption bills of 2015 – as attorney general, I take an oath to uphold the Michigan Constitution, but also to uphold the United States Constitution. My job is to protect the residents of the state of Michigan. Not to persecute them, but to protect them. This is a perfect example of a case where there is no doubt in my mind that this cluster of laws that allows state-funded

adoption agencies to discriminate, not just against same-sex couples, but you can also discriminate against people of different faiths – even a Christian agency who discriminates against somebody who is Christian that just practices Christianity differently. Well, I absolutely agree with the ACLU's contention that this practice violates the establishment on equal protection clause in the Constitution. As such, if I was the AG, I would concede their argument. I would concede that these laws are unconstitutional, and I would not defend them because I think it's my obligation as the attorney general to defend the United States Constitution, and not to arbitrarily defend any law that state legislature passes and the governor signs irrespective of its unconstitutional nature.

So, if the governor, or if the House or the Senate, if they wanted to, themselves, hire and pay for an attorney in order to defend this law, they are still welcome to do so, but I would not defend it on behalf of the people of the state of Michigan. I absolutely would not. So, there's an example right there of something that the AG can do.

### **Will you support legislation to repeal and replace Michigan's HIV-specific felony law?**

I support repealing and replacing it. I support [State Rep.] John Hoadley's [D-Kalamazoo] legislation.

### **Michigan was named the state with the biggest bullying problem in the nation in September 2016. What can you do as AG to address GLSEN's findings, which show that many LGBTQ students are still reporting discriminatory policies and practices in their schools?**

The AG's office can always be used as a bully pulpit in order to educate on these issues. There's no question about that. In the same way that you have the AG's office work on education in human trafficking issues or opioid issues I think they have to do the same thing on issues of bullying.

Bullying in schools, obviously it's an incredibly important area, but I happen to know that when you look at a lot of the kids in the LGBTQ community that end up being homeless, sometimes all of that starts from being bullied – or kids who have drug or alcohol problems, and so forth – it starts at the school, often times. At home, too – I mean, I'm not diminishing the importance of having a safe home, but it's hard. I think, nowadays even when you're at home you can't get away from school bullying because of the internet,

because of Facebook and Instagram, text messaging and all the rest of it.

We need to make sure that anti-bullying laws are being enforced. There's a lot of laws that are stalking-related laws, for instance, or harassment over use of telecommunication devices, that can be prosecuted and are not being prosecuted right now. I think we need to use every tool we have in our tool belt to aggressively ensure protection of students who are being bullied. No students are bullied worse, frankly, than LGBTQ kids. We know that.

**With the Masterpiece Cakeshop case in mind, do you think it's possible to close the chasm between the LGBTQ community and some religious communities?**

Boy, that's a tough one. We just added to the board of Fair Michigan a woman by the name of Kelle Shepherd and she is also a pastor. I know something that we're seeking to do is to educate religious communities as much as possible on the importance of accepting LGBTQ people and there are a lot of religious organizations that have changed their views on this over the course of time, right? More times than not, they've changed their policies and I think there is room for growth ... I've seen it, and I've seen it happen pretty rapidly.

I do think that we need to continue to work on education as it pertains to religious organizations and religious people of various religious faiths. One of the things that I saw publicly about Patrick Miles was as the chairman of the board for Aquinas College, I know there was that issue where they refused to allow a speaker [Dr. John Corvino] in who wanted to basically say that the belief that homosexuality or being LGBTQ is not inconsistent with Christian faith. They refused to allow him to come in to speak and Patrick Miles supported that decision and to me, that is not furthering the education process. You ought to be able to have a debate and be able to have both sides present on that issue and I think when you stymie education on LGBTQ issues you're doing a disservice to everyone in the community – whether you're LGBTQ or an ally, or you're not – to at least be educated on the issues. In terms of this position, anyone can say I support the LGBTQ community ... But the question is what have you ever done to support the community? If the answer is nothing, especially if you have a history of taking stances that are harmful to the community, that is worrisome and troubling to me.

**While there are some benefits to endorsements, it's up for debate whether or not they help gain votes. Are you at all concerned about being winnowed out of the race because of your opponents big endorsements?**

It depends. Endorsements can be important, however the way those endorsements were secured is also important. I think it's more important that we listen to the candidates and see what their points are more importantly than to see who specifically has endorsed them. You never know what political favors people are paying off behind the scenes and that's a lot of times what happens with these political endorsements by the way.

But the fact of the matter is, what utility does an endorsement from someone have if you don't even know what the positions are of the candidate who's being endorsed? And I think that's the most important thing. What I've tried to do with my candidacy is I've tried to be as transparent as possible. A lot of that stems from the fact that I'm not a politician. I don't know that the office of the attorney general really should be a political one anyway because you're there to enforce the law and I don't know that that should be a political position. I don't know if it should be a partisan position, which is what it's become unfortunately ... If you look at many of my contributors, you see a lot of everyday, working-class folks who are supporting me or public defenders or assistant prosecutors that support my candidacy. Yeah, you don't see many CEOs or you don't see people at the silk-stocking law firm, that are the same law firms, by the way, that [Gov. Rick] Snyder and [Attorney General Bill] Schuette employ. Maybe that's important to take a look at. Who are those lawyers that are supporting other candidates?

So, do you want the candidate that's willing to work hardest to protect everyday working people in this state? I think that that should be of greater importance, and at the end of the day, the people of this state, the voters of this state, will have the biggest say who the next attorney general is, and I think they should want somebody that is devoted to working on behalf of everyday people, and not just who was able to raise the most corporate money.

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## BIO

***[See the BTL introduction to this candidate's interview](#)***

**Name:** Dana Nessel

**Age:** 48

**Occupation:** Managing partner of Nessel &

Kessel Law in Detroit; president and co-founder of Fair Michigan

**Education:** Graduate of the University of Michigan and Wayne State University Law School

**Experience:** Nearly 25 years of legal experience covering a vast array of disciplines as both a defense and prosecuting attorney.



Dana Nessel

**Personal note:** Nessel lives in southeast Michigan with her wife, Alanna Maguire, their twin sons, Alex and Zach, along with various cats.

**Noteworthy:** In less than a year the Fair Michigan Justice Project has secured seven convictions for hate-based crimes against members of the LGBTQ community.

**Priorities:** To protect the environment, senior citizens and consumers while addressing marijuana laws and fighting for civil rights.

**Some endorsements:** LPAC; Wayne County Prosecutor Kym L. Worthy; Ellis Stafford, retired Deputy Chief of the Michigan State Police and president of the Metro Detroit Chapter of the National Organization of Black Law Executives

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## Learn More About State Conventions

Inside the Michigan Democratic Party, state conventions are a yearly occurrence that offer members an opportunity to collectively make decisions on the future of the MDP. The nomination convention will take place Aug. 25-26 in Lansing. To allow candidates more time to campaign, the MDP has added an endorsement convention on April 15 at 9 a.m. at Cobo Center in Detroit. The nominee will be predetermined at this

[Case 2:19-cv-11661-DPH-DRG ECF No. 25-4 filed 08/07/19 PageID.1417 Page 10 of 10](#)  
endorsement convention. While state conventions are open to all Democrats, only those who have been members for at least 30 days prior to the convention may vote or run for party office. Members of the community who wish to vote must fill out an MDP membership application via mail or online before March 15. Still have questions? Contact the MDP by phone at 517-371-5410 or by email at [midemparty@michigandems.com](mailto:midemparty@michigandems.com). The state convention is explained online at [michigandems.com/wp-content/uploads/2017/01/guide-to-convention.pdf](http://michigandems.com/wp-content/uploads/2017/01/guide-to-convention.pdf).

*Follow Dana Nessel's campaign online at [dana2018.com/](http://dana2018.com/).*

#### About the Author: Kate Opalewski

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Kate Opalewski is BTL's features editor and has been since 2015. She has covered a variety of topics ranging from art, politics and community outreach. Recently, she was honored by the Detroit Police Department LGBT Advisory Board for her work for the local LGBTQIA community.

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# **EXHIBIT 4**

WUOMFM

# Faith-based adoption bills headed to House floor

By RICK PLUTA • MAR 4, 2015

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Legislation that would allow faith-based adoption agencies to refuse to work with LGBT couples or anyone else based on moral or religious grounds is headed to the floor of the state House.

A state House committee approved the bills as the U.S. Supreme Court prepares to hear arguments on same-sex marriage.

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*Hear the feature here.*

The Supreme Court arguments will most likely take place in late April, but state House Republicans aren't waiting to see what the justices decide in the case challenging Michigan's ban on same-sex marriage and the rights that go with marriage -- rights like jointly adopting children.

The House Committee on Families, Seniors and Children approved the bills on party line votes, and rejected amendments proposed by Democrats on party-line votes. Some of the rejected amendments would have required adoption agencies to put "the best interests of the child" ahead of religious considerations.

Committee Chairman Thomas Hooker, R-Byron Center, says he's wants to make sure that faith-

**"It would not be in our best interest to eliminate some of those providers and approximately 45 percent of the kids that are adopted or fostered in the state of Michigan are faith-based organizations that are providing those homes."**

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based adoption services that take state money aren't forced to choose between their values and their mission to find homes for kids.

"It would not be in our best interest to eliminate some of those providers and approximately 45 percent of the kids that are adopted or fostered in the state of Michigan are faith-based organizations that are providing those homes, so finding families and encouraging families is something we want to continue," he said. "...I think it's protection for the faith-based organizations with the state of Michigan is a

situation that we're in need of finding homes for many kids."

"There have been activists that have tried to get, because they don't agree with Catholic teaching, they want to get Catholics out of the public square and want to make it one size fits all," said Tom Hickson of the Michigan Catholic Conference, which has been trying for years to get this legislation adopted. Hickson says faith-based protections would ensure a "diversity" of agencies working to place children.

He says in Massachusetts, Illinois, San Francisco, and Washington DC, for example, there have been efforts to either push faith-based agencies out of the adoption business or force them to ignore their own beliefs.

**"If you are a proponent of this type of bill, you honestly have to concede that you just dislike gay people more than you care about the needs of foster care kids."**

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But adoption researcher Jean Howard, recently retired from the University of Illinois Center for Adoption Studies, says if placing the most children is the top concern, Michigan should go in a different direction.

She says in states that require agencies to work with same-sex couples, faith-based services have generally adapted, and opened their doors to LGBT families-- and the result has been more

“We have empirical evidence to support this widely held view that states that have anti-gay policies end up with fewer children adopted from foster care,” she said.

Howard says LGBT couples are also more likely to take in the hardest-to-adopt special needs kids.

Howard’s work was cited in the federal district court decision that struck down Michigan’s same-sex marriage ban – one of the cases that’s now before the US Supreme Court. The decision said allowing same-sex couples to marry would be good for kids in those families and good for kids who still need a permanent home.

Dana Nessel is an attorney for April DeBoer and Jayne Rowse, the lesbian couple that challenged Michigan’s same-sex marriage ban, which started out as an adoption rights case. She says the Legislature should heed that research.

“If you are a proponent of this type of bill, you honestly have to concede that you just dislike gay people more than you care about the needs of foster care kids,” says Nessel. “It’s as simple as that.”

Nessel she says hopes for a Supreme Court ruling later this year that’s not only a victory for same-sex marriage, but is also so sweeping it makes the debate taking place now in the Michigan Legislature a moot point.

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By JAKE NEHER • FEB 2, 2015

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**"We have empirical evidence to support this widely held view that states that have anti-gay policies end up with fewer children adopted from foster care."**

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Two unmarried people would be able to jointly adopt children together under a bill in the state House. Under current law, only married couples or single individuals can be granted parental rights to an adopted child.

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# **EXHIBIT 5**

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# Dem AG candidate: Adoption law discriminates against gays

By ED WHITE September 27, 2018

**DETROIT (AP) —** The Democratic candidate for Michigan attorney general said Thursday she probably wouldn't defend a law that allows faith-based groups to refuse serving same-sex couples who want to adopt children.

Dana Nessel, who is gay, told The Associated Press there's "no viable defense" to the 2015 law, which is being challenged in federal court by the American Civil Liberties Union on behalf of same-sex couples.

Groups such as Catholic Charities and Bethany Christian Services are paid by the

state to place children from troubled families with new families, either through adoption or foster care. But the law says they aren't required to provide services that conflict with their beliefs. Same-sex couples say they've been told to go elsewhere.

The ACLU contends Michigan is violating the U.S. Constitution by allowing groups to use a religious test to carry out public services. Nessel, who was part of the legal team that overturned the state's ban on gay marriage, agrees.

"The purpose is to discriminate against people," she said. "It means fewer children adopted into nurturing, loving and otherwise qualified homes."

Attorney General Bill Schuette's office is defending the law in court, a routine practice when the state is sued. But if elected, Nessel said she has an obligation to "weigh the pros and cons."

"I would probably be telling the Legislature they would have to defend that with private counsel," she said of the adoption law. "I could not justify using the state's money defending a law whose only purpose is discriminatory animus."

The lawsuit was filed a year ago and recently cleared a major hurdle when U.S. District Judge Paul Borman declined to dismiss it. That means the next attorney general will inherit the case after Jan. 1.

Nessel's Republican opponent, Tom Leonard, said her stance is "absolutely dangerous."

"She's running to be emperor of Lansing. It's not the role of the attorney general to pick and choose the laws to enforce," Leonard said.

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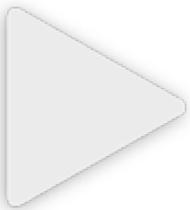
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# **EXHIBIT 6**



# Opponents say adoption bill discriminates against gays and lesbians



**Posted** Mar 04 2015 05:43PM EST  
**Video Posted** Jul 09 2015 07:26AM EDT  
**Updated** Mar 05 2015 10:43AM EST

Michigan lawmakers are considering a bill that would give faith-based agencies the right to deny adoptions to couples that don't fit their religious beliefs. But critics are stepping up saying it opens the door to discrimination while denying children loving homes.

There are more than 3,000 children in need of forever homes in the state of Michigan but some, including attorney Dana Nessel, say proposed legislation that's gaining traction in the statehouse will make it harder for some families to adopt those kids.



...e of legislation is still under consideration," Nessel said. "It should be about the best interest of the child. Period." (http://www.fox2detroit.com)

The legislation passed out of committee Wednesday and allows state-funded, faith-based adoption agencies to refuse to work with prospective parents based on the agency's religious or moral beliefs. It's been common practice for ages, one that many Catholic agencies will do: refuse service to gays or lesbians based on the church's religious beliefs. That practice could soon become law.

UP NEXT.



"This is money from the state this is taxpayers dollars that we're talking about," Nessel said.

Nessel represents April and Jayne Deboer-Rowse whose fight for same sex marriage is going to the Supreme Court. They have adopted four children and are foster parents for a fifth child. Studies show gays and lesbians are more likely to adopt children from foster care but their options for agencies are limited.

"I think that they're trying to use religion as an excuse to discriminate against families and we need to help these thousands of children that need adoption services find forever families," Sommer Foster with Equality Michigan said.

But the bill has strong support from some, like the Michigan Catholic Conference saying "Child



rest of vulnerable children and will help to secure a wide network of faith-based and secular providers in the state." (http://www.fox2news.com)

The conference notes that if an agency is not able to work with a person or couple because of its religious beliefs, they do not receive funds from the state. The state only reimburses after the placement is final.

UP NEXT:

"As has been stated numerous times, this legislation does not prohibit adoption to any classification of persons, but merely places into law what the state has practiced for decades," the statement said.



But opponents say what the state has practiced for decades is a policy of discrimination and lawmakers are now playing politics with the future of Michigan's most vulnerable children.

"These types of laws are a victory for the hate mongers but again a disaster for the children and the state," Nessel said.

The package of bills now heads to the State House for consideration where it's likely to pass, as it's done before. What happens next? That's still anybody's guess.

**UPDATE:** FOX 2 received this statement from Sara Wurfel at Gov. Snyder's Office:

'What I'd say on this legislation is this ... that the governor has raised concerns in earlier and current versions - some have been addressed. We'll be closely reviewing latest changes and working with legislative partners. The governor and administration have a strong commitment to ensuring the most responsive, effective adoption system possible and we've made key progress in strengthening children's services and matching kids in foster care with permanent families. That is always the outcome we need to help meet.'