Introduced by Kolterman, 24.

1. Strike the original sections and insert the following new sections:

Section 1. Sections 1 to 7 of this act shall be known and may be cited as the Child Placement Services Preservation Act.

Sec. 2. The Legislature finds and declares that:

(1) The State of Nebraska has a critical need to find and retain safe, loving, and supportive homes for children, especially because the number of children needing foster care and adoption placement outnumber the homes available for placement;

(2) In order to serve the best interests of the children of this state, the State of Nebraska has a longstanding public-private partnership with a diverse group of faith-based and non-faith-based organizations that work side by side to find and retain safe, loving, and supportive homes for children. Significantly, faith-based organizations have a lengthy history of providing child placement services which predates government involvement;

(3) Having as many qualified child-placing agencies in Nebraska as possible is a substantial benefit to the children of Nebraska who are in need of these placement services and to all of the citizens of Nebraska because the more qualified agencies taking part in this process there are, the greater the likelihood that permanent placement can be achieved for each child; and

(4) In order to preserve the support that child-placing agencies offer children and families, the government should not take adverse action against child-placing agencies based on their sincerely held religious beliefs.

Sec. 3. For purposes of the Child Placement Services Preservation
Act:

(1) Adverse action includes, but is not limited to, denying a child-placing agency's application for funding, refusing to renew an agency's funding, canceling an agency's funding, declining to enter into a contract with an agency, refusing to renew a contract with an agency, canceling a contract with an agency, denying issuance of a license to an agency, refusing to renew an agency's license, canceling an agency's license, taking an enforcement action against an agency, treating an agency less favorably than similarly situated agencies in regard to participation in a government program, or taking any other action that materially alters the terms or conditions of an agency's funding, contract, or license;

(2) Child placement service means arranging the placement of children with foster care and adoptive parents, including placement, promoting foster care and adoption, and recruiting, screening, and training the foster care and adoptive parents;

(3) Child-placing agency or agency has the same meaning as in section 71-1926;

(4) Department means the Department of Health and Human Services; and

(5) State includes the state, its agencies, and its political subdivisions.

Sec. 4. (1) To the fullest extent permitted by state and federal law, a child-placing agency shall not be required to provide or facilitate any child placement service if the service conflicts with, or provide or facilitate any child placement service under circumstances that conflict with, the child-placing agency’s sincerely held religious beliefs.

(2) If a child-placing agency declines to provide or facilitate any child placement service under subsection (1) of this section, the child-placing agency shall promptly provide the person seeking such service
with at least one of the following:

(a) Contact information for another child-placing agency that is capable of providing the declined service;

(b) A list of other child-placing agencies capable of providing the declined service which includes contact information for such agencies; or

(c) A link to a web page on the department’s web site that includes a list of other child-placing agencies capable of providing the declined service and contact information for the agencies.

Sec. 5. To the fullest extent permitted by state and federal law, the state shall not take an adverse action against a child-placing agency because the agency declines to provide or facilitate a child placement service that conflicts with the child-placing agency’s sincerely held religious beliefs.

Sec. 6. A child-placing agency aggrieved by a violation of section 5 of this act may assert that violation as a defense in any administrative or judicial proceeding.

Sec. 7. The Child Placement Services Preservation Act shall be construed liberally so as to effectuate its purposes.

Sec. 8. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.