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State probes religious foster care agencies over discrimination

Catholic, Lutheran, Evangelical groups get public funds yet reject gay parents

By Manya A. Brachear, Tribune reporter

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State officials are investigating whether religious agencies that receive public funds to license foster care parents are breaking anti-discrimination laws if they turn away openly gay parents.

If they are found in violation, Lutheran Child and Family Services, Catholic Charities in five regions and the Evangelical Child and Family Agency will have to license openly gay foster parents or lose millions of state dollars, potentially disrupting more than 3,000 foster children in their care.

Though Illinois legislators championing the civil union bill earlier this year insisted that religious institutions would not be forced to bless same-sex unions, it said nothing about same-sex parents.

Now, Attorney General Lisa Madigan, Gov. Pat Quinn's legal team and the Department of Children and Family Services are carefully researching the Illinois Human Rights Act, the Civil Union Act and the Illinois Constitution to determine whether they prohibit agencies from considering sexual orientation as a factor in foster care and adoption. In Illinois, all adults who adopt or become foster care providers must obtain foster care licenses.

"Social intervention such as adoption laws and practices inevitably reflect their communities," said Kendall Marlowe, a spokesman for DCFS. "Illinois as a state has grown on this (gay rights) issue as evidenced by (civil union legislation). Adoption law and practice should reflect the values of the people of Illinois."

But Bob Gilligan, executive director of the Catholic Conference of Illinois, said Catholic Charities has no intention of changing its policy against allowing openly gay foster parents after nearly a century of serving children in Illinois. Catholic Charities inspired the state to take on foster care, which

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ultimately led to the creation of DCFS.

Catholic Charities in Rockford, Peoria, Joliet, Springfield and Belleville could be affected. Catholic Charities in Chicago ended its foster care services in 2007 when the agency's insurer dropped its coverage.

"We think we're a good partner with the state," Gilligan said. "If they see we are not, we will sit down and talk with them and we will continue to try providing these services as long as we can. We're not going to violate our religious teachings."

Though the civil union legislation factors into the inquiry, the issue came to light months earlier when Lutheran Child and Family Services turned away a gay male couple when they tried to become mentors for a gay runaway in the Lutheran agency's care. The policies of Lutheran Child and Family Services, which is affiliated with the conservative Lutheran Church Missouri Synod, preclude "developing or licensing foster care families who identify themselves as gay, lesbian, bisexual, transgender or questioning."

The policy reflects the conservative doctrine and teaching of the Missouri Synod Lutheran denomination, which in 2006 issued a proclamation that said placing adoptive or foster children in a household with gay parents would violate church teachings.

Officials at several of the religious agencies at the center of the state's investigation argue that they are shielded by an executive order signed by President Barack Obama in November ensuring that faith-based organizations can provide social services with federal funds without sacrificing their "religious character."

Ken Withrow, executive director of the Evangelical Child and Family Agency, said that when federal and state funds are brought together to pay for social services, federal guidelines trump state laws.

"It is our policy and practice to place children in need of adoption or foster care in evangelical Christian homes," Withrow said. "A faith-based agency doesn't have to become a secular agency to receive government funds. ... There are federal laws on the books affirmed by three administrations."

Gilligan points to language added to the Illinois Human Rights Act five years ago that exempts sectarian places of accommodation from anti-discrimination laws.

"A sectarian adoption agency is probably exempt from some of the potential discriminatory provisions in the Illinois Human Rights Act," he said. "We're not subject to some of the issues, in this case ... same-sex orientation."

Gilligan said openly gay foster parents have the option of applying for licenses from 57 other private child welfare agencies or directly from DCFS. In fact, Marlowe said the issue probably hasn't emerged until now because many openly gay candidates intentionally have chosen agencies that don't have restrictive policies instead of filing complaints.

Benjamin Wolf of the American Civil Liberties Union of Illinois, an attorney who represents juvenile state wards as part of a court-monitored consent decree with DCFS, said limiting the pool of prospective foster care parents because certain religious traditions believe same-sex relationships are sinful is irresponsible when children are in need.

"We don't know for sure if a loving lesbian or gay family turned away from a discriminatory agency is necessarily going to go to another agency because of the disruption and harm caused to them," he said.

The religious institutions' policies might send a hurtful message to the large number of children in the foster care system who landed there after suffering neglect, abuse or rejection because they were gay, some experts say. Marlowe said 240 children out of more than 15,000 in the foster care system currently identify as gay, lesbian, bisexual, transgender or questioning.

Foster children should be placed with a relative whenever possible, experts say. If that relative is gay, a religious agency may insist on referring them to a new agency, severing the child's relationship with a caseworker.

"To communicate to that kid that ... you have to change caseworkers in order to get the services you need is a very bad message," Wolf said. "The other thing we're saying to the subpopulation of kids that are gay and lesbian is, 'Once you grow up you can never be a foster parent in our agency' — another troubling message."

A study by the University of Illinois' Children and Family Research Center found some children bounce between foster homes because they face difficulties when they reveal their sexual orientation.

"I don't think you can (overemphasize) the damage done by a disruption," said John Knight, another ACLU attorney.

Religious agencies in Illinois are the not the first to grapple with how to balance discrimination laws and doctrine. In Washington and Boston, Catholic Charities ended a combined two centuries of foster care and adoption services when it could not comply with state anti-discrimination laws after the approval of same-sex marriage.

Gilligan said he does not foresee Catholic Charities in Illinois ending its foster care and adoption services. "On the other hand, we have no plans on violating our conscience," he said.

Lutheran Child and Family Services, which serves more than 700 children in Illinois' foster care system, likely will change its policy to abide by state law, church officials said.

"We're trying to develop our strategies for how we respond to this situation," said Gene Svebakken, the organization's president and chief executive officer. "There's no way we're going to jeopardize those programs."

Barbara Below, assistant to the president of the Missouri Synod Lutheran denomination, said she does

not foresee the Missouri Synod cutting ties with Lutheran Child and Family Services if it relaxes the policy and places children in gay households.

"These gray areas are one of the most difficult places for anyone in the church to work because it's hard to see your way through it," she said. "We do have an obligation as a church body to help them through this and help them sort it out and find a solution that is mutually acceptable."

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