ACLU sues Michigan for allowing foster-care agencies to reject same-sex couples

Updated on September 20, 2017 at 3:35 PM
Posted on September 20, 2017 at 1:18 PM

By Julie Mack

When Kristy and Dana Dumont tried to become foster parents in the Lansing area, they say they were rejected by Bethany Christian Services and Catholic Charities because the Dumonts are a same-sex couple.

Now the Dumonts are plaintiffs in a lawsuit filed Wednesday by the American Civil Liberties Union challenging the 2015 state law that allows faith-based child-placement agencies to turn away couples like the Dumonts.

Michigan Gov. Rick Snyder on Thursday signed controversial legislation allowing adoption agencies to decline service to prospective parents on religious grounds.

Other plaintiffs in the lawsuit are a Detroit couple, Erin and Rebecca Busk-Sutton, and Jennifer Ludolph, a former foster child.

The lawsuit, which was filed in U.S. District Court in Detroit, says the law violates the Constitution by applying a religious-based litmus test in a process that involves taxpayer money. Bethany and Catholic Charities are among the organizations contracted by the Michigan Department of Health and Human Services to find foster homes for children who become wards of the state.

"They are a child-welfare agency paid by the state and they need to put children's welfare first," said Jay Kaplan, an attorney with the ACLU of Michigan.

He pointed out there are 13,000 children in Michigan's child welfare system.

"When you allow agencies to automatically turn away families who are otherwise qualified, it means you have fewer families" to take children, Kaplan said. "That's just a matter of common sense."

Michigan is one of seven states with a law that allows faith-based child-placement agencies to screen out same-sex couples. The other states are Alabama, Texas, Virginia, Mississippi and North and South Dakota.

The ACLU said it's using the Michigan lawsuit as part of a national campaign against such laws.

David Maluchnik, a spokesman for the Michigan Catholic Conference, said the 2015 law was necessary after Illinois and Massachusetts ruled that child-placement agencies contracting with the state couldn't discriminate against same-sex couples.

That forced Catholic agencies to shut down its foster-care and adoption services, which Maluchnik said caused major disruptions in the foster-care systems in those states.

"We can't operate outside our religious mission," he said.

Maluchnik also said there are agencies that work with same-sex couples, and he questioned by the Dumonts did not pursue that option.

"We have a very wide range of agencies in Michigan," he said.

Kaplan and others at the ACLU counter that agencies that take public dollars need to adhere to Constitutional protections against religious discrimination.

The lawsuit says the law violates a DHHS adoption program policy that says the department "will not discriminate against any individual or group because of race, religion, age, national origin, color, height, weight, marital status, sex, sexual orientation, gender identity or expression, political beliefs or disability."

On the point that agencies are available to work with same-sex couples, Kaplan said the law still has an adverse impact on children.

"Children don't to get to choose the agency" that places them for foster care or adoption, Kaplan said. So allowing agencies to discriminate against same-sex couples "could be the difference between the child being placed in a loving home or remaining in the system."

Maluchnik disputed Kaplan's contention. "That's not the way the system works," he said. "It's more complicated than that."

Asked to comment, Bethany Christian Services issued a written statement: ""The safety and well-being of children is Bethany Christian Services primary concern. We are not at liberty to address any questions on this matter at this time."

http://www.mlive.com/news/index.ssf/2017/09/michigan_sued_for_allowing_fos.html