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Judge allows Catholic foster care to continue

by Nancy Frazier O'Brien by Catholic News Service

WASHINGTON -- Two Catholic bishops praised an Illinois judge's ruling late July 12 that the state's termination of its contracts with Catholic agencies providing foster care and adoption services risks causing "irreparable injury" to the nearly 2,000 children involved.

Bishop Daniel R. Jenky of Peoria, Ill., said he was encouraged by Sangamon County Circuit Judge John Schmidt's "recognition today of the grave harm that would result if Catholic Charities was forced out of its long-standing mission of serving children in foster care and adoption."

Bishop Thomas J. Paprocki of Springfield said he was grateful "for the sake of the children in our Catholic Charities foster care program" that the services will be allowed to continue.

Schmidt issued a temporary injunction allowing Catholic Charities agencies in the dioceses of Peoria, Springfield, Joliet and Belleville to continue providing state-funded foster care and adoption services, despite July 8 letters to each agency from Erwin McEwen, director of the Illinois Department of Children and Family Services, effectively canceling those contracts as of June 30.

McEwen said the contracts would not be renewed because each agency "has made it clear that it does not intend to comply with the Illinois Religious Freedom Protection and Civil Union Act."

The law, which took effect July 1, permits civil unions for same-sex couples and stipulates that they would have the same rights and benefits as married couples in the state, including the right to adopt and provide foster care. July 1 also marked the beginning of fiscal year 2012, when the new contracts would have begun.

The Catholic agencies only place children with married heterosexual couples or single people who are not cohabiting. State officials have said the law would not allow the agencies to refer same-sex couples to

other agencies, as they have done for decades.

The decision will affect 1,997 children in foster care -- including some in the process of being adopted -- under the supervision of the four Catholic Charities agencies, said Kendall Marlowe, spokesman for the Illinois Department of Children and Family Services. But the change will only be in the agency supervising their care, not the home in which they are placed, he added.

He said approximately 15,000 children are presently in foster care in Illinois.

"We cannot enter into a contract with anyone who has publicly, affirmatively stated that they will not follow the law in performing services under the contract," Marlowe told Catholic News Service before the judge's decision July 12. "These agencies have made their choice, and we must now plan to transition these cases with the least disruption possible for the kids."

But Bishop Paprocki said in his statement that "it is the state of Illinois that is violating ... the law by seeking to force us to act against our religious beliefs."

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The law specifically says that "nothing in this act shall interfere with or regulate the religious practice of any religious body," he noted.

"If these services of religious organizations like Catholic Charities are terminated, it would be the children who would suffer because some politicians have put their political agenda ahead of the best interest of the children, who have been served by the top-quality, nurturing care of Catholic Charities since 1921," Bishop Paprocki said.

In issuing the injunction, Schmidt said in his Springfield court, "We're not going to be removing children from homes. I can't be any clearer. ... We're going back to June 30."

The judge set the next hearing in the matter for Aug. 17.

Marlowe said two other faith-based agencies had been following the practice of referring same-sex couples to other agencies for foster care and adoption services.

Lutheran Child and Family Services has stated that it will abide by the civil unions law and will continue its contract with the state, he said. Evangelical Child and Family Agency has said it will not comply with the civil unions law and its contract is "under review," Marlowe said.

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