

118TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To prohibit discrimination on the basis of religion, sex (including sexual orientation and gender identity), and marital status in the administration and provision of child welfare services, to improve safety, well-being, and permanency for lesbian, gay, bisexual, transgender, and queer or questioning foster youth, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

---

Mrs. GILLIBRAND (for herself, Mr. WYDEN, Ms. BALDWIN, Mr. BENNET, Mr. BLUMENTHAL, Mr. BOOKER, Mr. BROWN, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. COONS, Ms. CORTEZ MASTO, Ms. DUCKWORTH, Mr. DURBIN, Mr. FETTERMAN, Mr. HICKENLOOPER, Ms. HIRONO, Mr. KAINE, Mr. KELLY, Mr. KING, Ms. KLOBUCHAR, Mr. LUJÁN, Mr. MARKEY, Mr. MENENDEZ, Mr. MERKLEY, Mr. MURPHY, Mrs. MURRAY, Mr. OSSOFF, Mr. PADILLA, Mr. PETERS, Mr. REED, Ms. ROSEN, Mr. SANDERS, Mr. SCHATZ, Mrs. SHAHEEN, Ms. SINEMA, Ms. SMITH, Ms. STABENOW, Mr. VAN HOLLEN, Ms. WARREN, Mr. WELCH, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

---

**A BILL**

To prohibit discrimination on the basis of religion, sex (including sexual orientation and gender identity), and marital status in the administration and provision of child welfare services, to improve safety, well-being, and permanency for lesbian, gay, bisexual, transgender, and queer or questioning foster youth, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “John Lewis Every  
5 Child Deserves a Family Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7        (a) FINDINGS.—Congress finds the following:

8            (1) Every child or youth unable to live with  
9            their family of origin is entitled to a supportive and  
10            affirming foster care placement. Federal law re-  
11            quires, and child welfare experts recommend, that  
12            children and youth be placed with a family or in the  
13            most family-like setting available.

14            (2) Thousands of children and youth lack a sta-  
15            ble, safe, and loving temporary or permanent home  
16            and have been placed in a congregate care setting,  
17            which is associated with more placements, poorer  
18            educational outcomes, and greater risk of further  
19            trauma. More homes are needed to accommodate the  
20            growing number of children and youth involved with  
21            child welfare services.

22            (3) On the last day of fiscal year 2022, there  
23            were an estimated 368,000 children and youth in the  
24            United States foster care system, and 108,000 were  
25            waiting to be adopted. Tragically, approximately

1 18,000 “aged out” of the child welfare system with-  
2 out a forever family, placing them at higher risk of  
3 negative outcomes including poverty, homelessness,  
4 incarceration, and early parenthood.

5 (4) Title VI of the Civil Rights Act of 1964 (42  
6 U.S.C. 2000d et seq.) protects people from discrimi-  
7 nation based on race, color, or national origin in  
8 programs, activities, and services administered or  
9 performed by child welfare agencies. Eliminating dis-  
10 crimination in child welfare based on religion, sex  
11 (including sexual orientation and gender identity),  
12 and marital status would increase the number and  
13 diversity of foster and adoptive homes able to meet  
14 the individual needs of children and youth removed  
15 from their homes.

16 (5) Lesbian, gay, bisexual, transgender, and  
17 queer or questioning (referred to in this Act as  
18 “LGBTQ”) youth are overrepresented in the foster  
19 care system by at least a factor of 2, comprising at  
20 least 30 percent of children and youth in foster care.  
21 These numbers are higher for transgender and non-  
22 binary youth compared to their cisgender LGBQ  
23 counterparts.

24 (A) While some LGBTQ youth enter foster  
25 care for similar reasons as non-LGBTQ youth,

1 the 2 most common reasons for LGBTQ youth  
2 are high rates of physical abuse and conflict  
3 with parents.

4 (B) LGBTQ foster youth report twice the  
5 rate of poor treatment while in care experienced  
6 by foster youth who do not identify as LGBTQ  
7 and are more likely to experience discrimina-  
8 tion, harassment, and violence in the child wel-  
9 fare system than their LGBTQ peers not in the  
10 child welfare system.

11 (C) Because of high levels of bias, LGBTQ  
12 foster youth have a higher average number of  
13 placements and higher likelihood of living in a  
14 group home than their non-LGBTQ peers, neg-  
15 atively affecting mental health outcomes and  
16 long-term prospects.

17 (D) Approximately 28 percent of homeless  
18 youth with histories of time in foster care iden-  
19 tified as LGBTQ and were significantly more  
20 likely to experience 7 of 8 adverse events, such  
21 as being physically harmed, or being stig-  
22 matized or discriminated against, compared to  
23 their peers with no foster care history.

24 (E) LGBTQ youth in foster care had near-  
25 ly 3 times greater odds of reporting a past-year

1 suicide attempt compared to LGBTQ youth  
2 who were never in foster care (35 percent for  
3 those youth in foster care as compared to 13  
4 percent for those youth who were never in fos-  
5 ter care). These numbers were even higher for  
6 LGBTQ foster youth of color (38 percent) and  
7 highest for transgender and nonbinary foster  
8 youth (45 percent).

9 (F) LGBTQ youth who had been in foster  
10 care had over 3 times greater odds of being  
11 kicked out, abandoned, or running away due to  
12 treatment based on their LGBTQ identity com-  
13 pared to those who were never in foster care  
14 (27 percent for those youth who had been in  
15 foster care as compared to 8 percent for those  
16 youth who had never been in foster care). These  
17 numbers were higher for LGBTQ foster youth  
18 of color (30 percent) and transgender and non-  
19 binary foster youth (40 percent).

20 (6) “Conversion therapy” is a form of discrimi-  
21 nation that harms LGBTQ people. It undermines an  
22 individual’s sense of self-worth, increases suicide ide-  
23 ation and substance abuse, exacerbates family con-  
24 flict, and contributes to second-class status. No sci-  
25 entifically valid evidence supports this discredited

1 practice, which is prohibited by many States and  
2 foreign nations. Approximately 350,000 LGBTQ  
3 adults were subjected to so-called “conversion ther-  
4 apy” as adolescents, and an estimated 16,000  
5 LGBTQ youth ages 13 to 17 will be subjected to it  
6 by a licensed health care professional before age 18.

7 (7) Many youth, especially LGBTQ youth, in-  
8 volved with child welfare services identify with a  
9 cross-section of marginalized communities. Youth of  
10 color are overrepresented in the foster care system,  
11 and the majority of LGBTQ foster youth are youth  
12 of color. Children and youth with multiple margina-  
13 lized identities often experience more stress and  
14 trauma than other youth, compounding the negative  
15 effects of discrimination and increasing the likeli-  
16 hood of negative outcomes.

17 (8) Prospective parents who experience the  
18 heartbreak and dignitary harm of discrimination  
19 based on religion, sex (including sexual orientation  
20 and gender identity), or marital status may not be  
21 able or willing to apply at another agency, resulting  
22 in fewer available homes, and knowing that discrimi-  
23 nation exists may deter them from even attempting  
24 to foster or adopt.

1           (9) Professional organizations that serve chil-  
2           dren in the fields of medicine, psychology, law, and  
3           child welfare oppose discrimination against prospec-  
4           tive parents in adoption and foster care.

5           (10) Religious organizations play a critical role  
6           in providing child welfare services. Most welcome all  
7           children, youth, and families and affirm a diversity  
8           of religions and faiths. State assessments, planning,  
9           and counseling should connect children and youth  
10          for whom spirituality and religion are important  
11          with affirming, faith-based resources consistent with  
12          the faith of the child or youth.

13          (11) Child welfare agencies that refuse to serve  
14          same-sex couples and LGBTQ individuals reduce the  
15          pool of qualified and available homes for children  
16          and youth who need placement on a temporary or  
17          permanent basis.

18                 (A) Same-sex couples are 7 times more  
19                 likely to foster and adopt than their different-  
20                 sex counterparts.

21                 (B) Same-sex couples raising adopted chil-  
22                 dren tend to be older than, just as educated as,  
23                 and have access to the same economic resources  
24                 as other adoptive parents.

1           (C) Research shows that sexual orientation  
2           is a nondeterminative factor in parental success  
3           and that children with same-sex parents have  
4           the same advantages and expectations for  
5           health, social, and psychological development as  
6           children whose parents are different-sex.

7           (D) Discrimination against qualified pro-  
8           spective foster and adoptive parents for non-  
9           merit related reasons denies religious minority,  
10          LGBTQ, and unmarried relatives the oppor-  
11          tunity to become foster and adoptive parents  
12          for their own kin in care, including grand-  
13          children.

14          (12) LGBTQ families of origin are at risk for  
15          discrimination in child welfare referrals, investiga-  
16          tions, removals, reunification, kinship placements,  
17          and other case management services. A study of low-  
18          income African-American mothers showed that those  
19          who identified as lesbian or bisexual were 4 times  
20          more likely than their non-LGBTQ counterparts to  
21          lose custody of their children in child welfare pro-  
22          ceedings. LGBTQ-positive services are necessary to  
23          shield families and protect parents' rights to reunifi-  
24          cation.



1           (13) Single people are more likely than couples  
2           to experience challenges in adopting due to biases  
3           that persist against single-parent adoption. During  
4           fiscal year 2022, 29 percent of adoptions from foster  
5           care were completed by unmarried single people, in-  
6           cluding adoptions by some 2000 single men and  
7           more than 13,000 single women. Studies show that  
8           the outcomes for children adopted and raised by sin-  
9           gle parents are just as good as, if not better than,  
10          outcomes for children adopted by couples.

11          (14) More nationwide data about the experi-  
12          ences of LGBTQ children and youth involved with  
13          child welfare services is needed to understand fully  
14          the extent and impact of discrimination and ensure  
15          accountability. States must report and researchers  
16          must collect this sensitive data in an ethical, affirm-  
17          ing, and non-intrusive manner, with appropriate  
18          safeguards to protect respondents.

19          (b) PURPOSE.—The purposes of this Act are—

20                (1) to prohibit discrimination on the basis of re-  
21                ligion, sex (including sexual orientation and gender  
22                identity), and marital status in the administration  
23                and provision of child welfare services that receive  
24                Federal funds; and

1           (2) to improve safety, well-being, and perma-  
2           nency for LGBTQ children and youth involved with  
3           child welfare services.

4 **SEC. 3. EVERY CHILD DESERVES A FAMILY.**

5           (a) PROHIBITION.—No child or youth involved with  
6           child welfare services, family, or individual shall, on the  
7           grounds of religion, sex (including sexual orientation and  
8           gender identity), or marital status, be excluded from par-  
9           ticipation in, denied the benefits of, or be subjected to dis-  
10          crimination in the administration or provision of child wel-  
11          fare programs and services by a covered entity.

12          (b) PRIVATE RIGHT OF ACTION.—Any individual who  
13          is aggrieved by a violation of this Act may bring a civil  
14          action seeking relief in an appropriate United States dis-  
15          trict court. The court shall award a plaintiff prevailing in  
16          such an action all appropriate relief, including injunctive,  
17          declaratory, and other equitable relief necessary to carry  
18          out this Act, attorneys' fees, and such other relief as the  
19          court determines appropriate.

20          (c) FEDERAL GUIDANCE.—Not later than 6 months  
21          after the date of the enactment of this Act, the Secretary  
22          shall publish and disseminate guidance with respect to  
23          compliance with this Act.

24          (d) TECHNICAL ASSISTANCE.—In order to ensure  
25          compliance with and understanding of the legal, practice,

1 and cultural changes required by this Act, the Secretary  
2 shall provide technical assistance to all covered entities,  
3 including—

4 (1) identifying State laws and regulations in-  
5 consistent with this Act, and providing guidance and  
6 training to ensure the State laws and regulations are  
7 brought into compliance with this Act by the appli-  
8 cable compliance deadline in effect under subsection  
9 (h);

10 (2) identifying casework practices and proce-  
11 dures inconsistent with this Act and providing guid-  
12 ance and training to ensure the practices and proce-  
13 dures are brought into compliance with this Act by  
14 the applicable compliance deadline;

15 (3) providing guidance in expansion of recruit-  
16 ment efforts to ensure consideration of all prospec-  
17 tive adoptive and foster parents regardless of the re-  
18 ligion, sex (including sexual orientation and gender  
19 identity), or marital status of the prospective parent;

20 (4) creating comprehensive cultural competency  
21 training for covered entities and prospective adoptive  
22 and foster parents; and

23 (5) training judges and attorneys involved in  
24 foster care, guardianship, and adoption cases on the  
25 findings and purposes of this Act.

1 (e) SERVICE DELIVERY AND TRAINING.—

2 (1) IN GENERAL.—A covered entity shall pro-  
3 vide service delivery to children and youth involved  
4 with child welfare services, families, and adults, and  
5 staff training, that—

6 (A) comprehensively addresses the indi-  
7 vidual strengths and needs of children and  
8 youth involved with child welfare services; and

9 (B) is language appropriate, gender appro-  
10 priate, and culturally sensitive and respectful of  
11 the complex social identities of the children and  
12 youth, families, and adults currently or prospec-  
13 tively participating in or receiving child welfare  
14 services.

15 (2) SOCIAL IDENTITY.—In this subsection, the  
16 term “social identity” includes an individual’s race,  
17 ethnicity, nationality, age, religion (including spiritu-  
18 ality), sex (including gender identity and sexual ori-  
19 entation), socioeconomic status, physical or cognitive  
20 ability, language, beliefs, values, behavior patterns,  
21 and customs.

22 (f) DATA COLLECTION.—Using developmentally ap-  
23 propriate best practices, the Secretary shall collect data  
24 through the Adoption and Foster Care Analysis and Re-  
25 porting System on—

1           (1) the sexual orientation and gender identity of  
2 children and youth involved with child welfare serv-  
3 ices and foster and adoptive parents; and

4           (2) whether family conflict related to the sexual  
5 orientation or gender identity of a child or youth  
6 was a factor in the removal of the child or youth  
7 from the family.

8           (g) NATIONAL RESOURCE CENTER ON SAFETY,  
9 WELL-BEING, PLACEMENT STABILITY, AND PERMA-  
10 NENCY FOR LGBTQ CHILDREN AND YOUTH INVOLVED  
11 WITH CHILD WELFARE SERVICES.—

12           (1) IN GENERAL.—The Secretary shall establish  
13 and maintain the National Resource Center on Safe-  
14 ty, Well-Being, Placement Stability, and Perma-  
15 nency for LGBTQ Children and Youth Involved with  
16 Child Welfare Services (referred to in this Act as the  
17 “National Resource Center”) that will promote well-  
18 being, safety, permanency, stability, and family  
19 placement for LGBTQ children and youth involved  
20 with child welfare services, through training, tech-  
21 nical assistance, actions, and guidance that—

22           (A) increase LGBTQ cultural competency  
23 among the staff of covered entities, and foster,  
24 adoptive, and relative parents, guardians, and  
25 caregivers;

1 (B) promote the provision of child welfare  
2 services that address the specific needs of  
3 LGBTQ children and youth involved with child  
4 welfare services and their families;

5 (C) promote effective and responsible col-  
6 lection and management of data on the sexual  
7 orientation and gender identity of children and  
8 youth in the child welfare system, with appro-  
9 priate safeguards to protect the data;

10 (D) identify and promote promising prac-  
11 tices and evidence-based models of engagement  
12 and appropriate collective and individual serv-  
13 ices and interventions that can be linked to im-  
14 proved outcomes for LGBTQ children and  
15 youth in the child welfare system;

16 (E) endorse best practices for human re-  
17 source activities of covered entities, including in  
18 hiring, staff development, and implementing a  
19 system of accountability to carry out those best  
20 practices; and

21 (F) initiate other actions that improve  
22 safety, well-being, placement stability, and per-  
23 manency outcomes for LGBTQ children and  
24 youth involved with child welfare services at the  
25 State and local level.

1           (2) ACTIVITIES.—The Secretary shall carry out  
2           the collection and analysis of data and the dissemi-  
3           nation of research to carry out this subsection.

4           (3) AUTHORIZATION OF APPROPRIATIONS.—  
5           There are authorized to be appropriated to the Sec-  
6           retary such sums as may be necessary to establish  
7           and maintain the National Resource Center and  
8           carry out the activities described in this subsection.

9           (h) DEADLINE FOR COMPLIANCE.—

10           (1) IN GENERAL.—Except as provided in para-  
11           graph (2), a covered entity shall comply with this  
12           section not later than 6 months after publication of  
13           the guidance referred to in subsection (c), or 1 year  
14           after the date of the enactment of this Act, which-  
15           ever occurs first.

16           (2) AUTHORITY TO EXTEND DEADLINE.—If a  
17           State demonstrates to the satisfaction of the Sec-  
18           retary that it is necessary to amend State law in  
19           order to change a particular practice that is incon-  
20           sistent with this Act, the Secretary may extend the  
21           compliance date for the State and any covered enti-  
22           ties in the State a reasonable number of days after  
23           the close of the first State legislative session begin-  
24           ning after the date the guidance referred to in sub-  
25           section (c) is published.

1           (3) AUTHORITY TO WITHHOLD FUNDS.—If the  
2 Secretary finds that a covered entity has failed to  
3 comply with this Act, the Secretary may withhold  
4 payment to the State of amounts otherwise payable  
5 to the State under part B or E of title IV of the  
6 Social Security Act (42 U.S.C. 621 et seq.; 42  
7 U.S.C. 670 et seq.), to the extent determined by the  
8 Secretary.

9           (i) GAO STUDY.—

10           (1) IN GENERAL.—Not later than 3 years after  
11 the date of enactment of this Act, the Comptroller  
12 General of the United States shall conduct a study  
13 to determine whether the States have substantially  
14 complied with this Act, including specifically whether  
15 the States have—

16                   (A) eliminated all policies, practices, or  
17 laws that permit a covered entity to violate sub-  
18 section (a);

19                   (B) provided necessary training and tech-  
20 nical support to covered entities to ensure all  
21 services to children and youth involved with  
22 child welfare services are carried out in a non-  
23 discriminatory, affirming, safe, and culturally  
24 competent manner;



1 (C) collected data necessary to accom-  
2 plishing the purposes of this Act, and ensured  
3 that the data is appropriately safeguarded, in-  
4 cluding data related to—

5 (i) the sexual orientation and gender  
6 identity of children and youth involved  
7 with child welfare services;

8 (ii) the permanency and placement  
9 outcomes and rates for those children and  
10 youth, as compared to their non-LGBTQ  
11 peers;

12 (iii) the rates at which those children  
13 and youth are placed in family homes as  
14 compared to congregate or group homes;

15 (iv) the sexual orientation, gender  
16 identity, and marital status of foster and  
17 adoptive parents, as well as the placement  
18 rates and wait periods for those foster and  
19 adoptive parents; and

20 (D) ensured that covered entities—

21 (i) are in compliance with this Act;  
22 and

23 (ii) have implemented procedures for  
24 children and youth involved with child wel-  
25 fare services, or individuals or families par-

1            participating in, or seeking to participate in,  
2            child welfare services, to report violations  
3            of this Act.

4            (2) REPORT TO THE CONGRESS.—Not later  
5            than 6 months after completing the study required  
6            by paragraph (1), the Comptroller General shall sub-  
7            mit to the Committee on Ways and Means of the  
8            House of Representatives and the Committee on Fi-  
9            nance of the Senate a written report that contains  
10           the results of the study.

11          (j) RELATION TO OTHER LAWS.—

12            (1) RULE OF CONSTRUCTION.—Nothing in this  
13            Act shall be construed to invalidate or limit rights,  
14            remedies, or legal standards under title VI of the  
15            Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

16            (2) CERTAIN CLAIMS.—The Religious Freedom  
17            Restoration Act of 1993 (42 U.S.C. 2000bb et seq.)  
18            shall not provide a claim concerning, or a defense to  
19            a claim under, this Act, or provide a basis for chal-  
20            lenging the application or enforcement of this Act.

21          (k) DEFINITIONS.—In this section:

22            (1) CHILD OR YOUTH INVOLVED WITH CHILD  
23            WELFARE SERVICES.—The term “child or youth in-  
24            volved with child welfare services” means an indi-  
25            vidual, aged 23 or younger, who participates in child

1 welfare programs or services that receive Federal fi-  
2 nancial assistance under part A, B, or E of title IV  
3 of the Social Security Act (42 U.S.C. 601 et seq.;  
4 42 U.S.C. 621 et seq.; 42 U.S.C. 670 et seq.), title  
5 XIX of the Social Security Act (42 U.S.C. 1396 et  
6 seq.), or title XX of the Social Security Act (42  
7 U.S.C. 1397 et seq.).

8 (2) CONVERSION THERAPY.—

9 (A) IN GENERAL.—The term “conversion  
10 therapy” means a form of discrimination that  
11 includes any practice or treatment which seeks  
12 to change the sexual orientation or gender iden-  
13 tity of an individual, including efforts to change  
14 behaviors or gender expressions or to eliminate  
15 or reduce sexual or romantic attractions or feel-  
16 ings toward individuals of the same gender.

17 (B) EXCLUSIONS.—The term “conversion  
18 therapy” does not include counseling that pro-  
19 vides assistance to an individual undergoing  
20 gender transition, or counseling that provides  
21 acceptance, support, and understanding of an  
22 individual or facilitates an individual with cop-  
23 ing, social support, and identity exploration and  
24 development, including sexual orientation-neu-

1           tral interventions to prevent or address unlaw-  
2           ful conduct or unsafe sexual practices.

3           (3) COVERED ENTITY.—The term “covered en-  
4           tity” means an entity that—

5                   (A) receives Federal financial assistance  
6                   under part A, B, or E of title IV of the Social  
7                   Security Act (42 U.S.C. 601 et seq.; 42 U.S.C.  
8                   621 et seq.; 42 U.S.C. 670 et seq.), title XIX  
9                   of the Social Security Act (42 U.S.C. 1396 et  
10                  seq.), or title XX of the Social Security Act (42  
11                  U.S.C. 1397 et seq.); and

12                   (B) is involved in the administration or  
13                   provision of child welfare programs or services.

14           (4) GENDER IDENTITY.—The term “gender  
15           identity” means the gender-related identity, appear-  
16           ance, mannerisms, or other gender-related character-  
17           istics of an individual, regardless of the designated  
18           sex of the individual at birth.

19           (5) RELIGION; SEX (INCLUDING SEXUAL ORI-  
20           ENTATION AND GENDER IDENTITY), OR MARITAL  
21           STATUS.—The term “religion, sex (including sexual  
22           orientation and gender identity), or marital status”,  
23           used with respect to an individual, includes—

24                   (A) the religion, sex (including sexual ori-  
25                   entation and gender identity), or marital status,

1           respectively, of another person with whom the  
2           individual is or has been associated; and

3           (B) a perception or belief, even if inac-  
4           curate, concerning the religion, sex (including  
5           sexual orientation and gender identity), or mar-  
6           ital status, respectively, of the individual.

7           (6) SECRETARY.—The term “Secretary” means  
8           the Secretary of Health and Human Services.

9           (7) SEX.—The term “sex” includes—

10           (A) a sex stereotype;

11           (B) pregnancy, childbirth, or a related  
12           medical condition;

13           (C) sexual orientation or gender identity;  
14           and

15           (D) sex characteristics, including intersex  
16           traits.

17           (8) SEXUAL ORIENTATION.—The term “sexual  
18           orientation” means homosexuality, heterosexuality,  
19           or bisexuality.

20           (9) STATE.—The term “State” means each of  
21           the 50 States of the United States, the District of  
22           Columbia, the Commonwealth of Puerto Rico, the  
23           United States Virgin Islands, Guam, the Common-  
24           wealth of the Northern Mariana Islands, and Amer-  
25           ican Samoa.