

119TH CONGRESS
1ST 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 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”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

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

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

9 (2) Thousands of children and youth lack a sta-
10 ble, safe, and loving temporary or permanent home
11 and have been placed in a congregate care setting,
12 which is associated with more placements, poorer
13 educational outcomes, and greater risk of further
14 trauma. More homes are needed to accommodate the
15 close to 400,000 children and youth who are in fos-
16 ter care nationwide, as of the date of enactment of
17 this Act.

18 (3) Title VI of the Civil Rights Act of 1964 (42
19 U.S.C. 2000d et seq.) protects people from discrimi-
20 nation based on race, color, or national origin in
21 programs, activities, and services administered or
22 performed by child welfare agencies. Eliminating dis-
23 crimination in child welfare based on religion, sex
24 (including sexual orientation and gender identity),
25 and marital status would increase the number and
26 diversity of foster and adoptive homes able to meet

1 the individual needs of children and youth removed
2 from their homes.

3 (4) Lesbian, gay, bisexual, transgender, and
4 queer or questioning (referred to in this Act as
5 “LGBTQ”) youth are overrepresented in the foster
6 care system by at least a factor of 2, comprising at
7 least 30 percent of children and youth in foster care.
8 These numbers are higher for transgender and non-
9 binary youth compared to their cisgender LGBQ
10 counterparts.

11 (A) While some LGBTQ youth enter foster
12 care for similar reasons as non-LGBTQ youth,
13 the 2 most common reasons for LGBTQ youth
14 are high rates of physical abuse and conflict
15 with parents.

16 (B) LGBTQ foster youth report twice the
17 rate of poor treatment while in care experienced
18 by foster youth who do not identify as LGBTQ
19 and are more likely to experience discrimina-
20 tion, harassment, and violence in the child wel-
21 fare system than their LGBTQ peers not in the
22 child welfare system.

23 (C) Because of high levels of bias, LGBTQ
24 foster youth have a higher average number of
25 placements and higher likelihood of living in a

1 group home than their non-LGBTQ peers, neg-
2 atively affecting mental health outcomes and
3 long-term prospects.

4 (D) Approximately 28 percent of homeless
5 youth with histories of time in foster care iden-
6 tified as LGBTQ and were significantly more
7 likely to experience 7 of 8 adverse events, such
8 as being physically harmed, or being stig-
9 matized or discriminated against, compared to
10 their peers with no foster care history.

11 (E) LGBTQ youth in foster care had near-
12 ly 3 times greater odds of reporting a past-year
13 suicide attempt compared to LGBTQ youth
14 who were never in foster care (35 percent for
15 those youth in foster care as compared to 13
16 percent for those youth who were never in fos-
17 ter care). These numbers were even higher for
18 LGBTQ foster youth of color (38 percent) and
19 highest for transgender and nonbinary foster
20 youth (45 percent).

21 (F) LGBTQ youth who had been in foster
22 care had over 3 times greater odds of being
23 kicked out, abandoned, or running away due to
24 treatment based on their LGBTQ identity com-
25 pared to those who were never in foster care

1 (27 percent for those youth who had been in
2 foster care as compared to 8 percent for those
3 youth who had never been in foster care). These
4 numbers were higher for LGBTQ foster youth
5 of color (30 percent) and transgender and non-
6 binary foster youth (40 percent).

7 (5) “Conversion therapy” is a form of discrimi-
8 nation that harms LGBTQ people. It undermines an
9 individual’s sense of self-worth, increases suicide ide-
10 ation and substance abuse, exacerbates family con-
11 flict, and contributes to second-class status. No sci-
12 entifically valid evidence supports this discredited
13 practice, which is prohibited by many States and
14 foreign nations. Approximately 350,000 LGBTQ
15 adults were subjected to so-called “conversion ther-
16 apy” as adolescents, and an estimated 16,000
17 LGBTQ youth ages 13 to 17 will be subjected to it
18 by a licensed health care professional before age 18.

19 (6) Many youth, especially LGBTQ youth, in-
20 volved with child welfare services identify with a
21 cross-section of marginalized communities. Youth of
22 color are overrepresented in the foster care system,
23 and the majority of LGBTQ foster youth are youth
24 of color. Children and youth with multiple margina-
25 lized identities often experience more stress and

1 trauma than other youth, compounding the negative
2 effects of discrimination and increasing the likeli-
3 hood of negative outcomes.

4 (7) Prospective parents who experience the
5 heartbreak and dignitary harm of discrimination
6 based on religion, sex (including sexual orientation
7 and gender identity), or marital status may not be
8 able or willing to apply at another agency, resulting
9 in fewer available homes, and knowing that discrimi-
10 nation exists may deter them from even attempting
11 to foster or adopt.

12 (8) Professional organizations that serve chil-
13 dren in the fields of medicine, psychology, law, and
14 child welfare oppose discrimination against prospec-
15 tive parents in adoption and foster care.

16 (9) Religious organizations play a critical role
17 in providing child welfare services. Most welcome all
18 children, youth, and families and affirm a diversity
19 of religions and faiths. State assessments, planning,
20 and counseling should connect children and youth
21 for whom spirituality and religion are important
22 with affirming, faith-based resources consistent with
23 the faith of the child or youth.

24 (10) Child welfare agencies that refuse to serve
25 same-sex couples and LGBTQ individuals reduce the

1 pool of qualified and available homes for children
2 and youth who need placement on a temporary or
3 permanent basis.

4 (A) Same-sex couples are 7 times more
5 likely to foster and adopt than their different-
6 sex counterparts.

7 (B) Same-sex couples raising adopted chil-
8 dren tend to be older than, just as educated as,
9 and have access to the same economic resources
10 as other adoptive parents.

11 (C) Research shows that sexual orientation
12 is a nondeterminative factor in parental success
13 and that children with same-sex parents have
14 the same advantages and expectations for
15 health, social, and psychological development as
16 children whose parents are different-sex.

17 (D) Discrimination against qualified pro-
18 spective foster and adoptive parents for non-
19 merit related reasons denies religious minority,
20 LGBTQ, and unmarried relatives the oppor-
21 tunity to become foster and adoptive parents
22 for their own kin in care, including grand-
23 children.

24 (11) LGBTQ families of origin are at risk for
25 discrimination in child welfare referrals, investiga-

1 tions, removals, reunification, kinship placements,
2 and other case management services. A study of low-
3 income African-American mothers showed that those
4 who identified as lesbian or bisexual were 4 times
5 more likely than their non-LGBTQ counterparts to
6 lose custody of their children in child welfare pro-
7 ceedings. LGBTQ-positive services are necessary to
8 shield families and protect parents' rights to reunifi-
9 cation.

10 (12) Single people are more likely than couples
11 to experience challenges in adopting due to biases
12 that persist against single-parent adoption. During
13 fiscal year 2022, 29 percent of adoptions from foster
14 care were completed by unmarried single people, in-
15 cluding adoptions by some 2000 single men and
16 more than 13,000 single women. Studies show that
17 the outcomes for children adopted and raised by sin-
18 gle parents are just as good as, if not better than,
19 outcomes for children adopted by couples.

20 (13) More nationwide data about the experi-
21 ences of LGBTQ children and youth involved with
22 child welfare services is needed to understand fully
23 the extent and impact of discrimination and ensure
24 accountability. States must report and researchers
25 must collect this sensitive data in an ethical, affirm-

1 ing, and non-intrusive manner, with appropriate
2 safeguards to protect respondents.

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

4 (1) to prohibit discrimination on the basis of re-
5 ligion, sex (including sexual orientation and gender
6 identity), and marital status in the administration
7 and provision of child welfare services that receive
8 Federal funds; and

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

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

13 (a) PROHIBITION.—No child or youth involved with
14 child welfare services, family, or individual shall, on the
15 grounds of religion, sex (including sexual orientation and
16 gender identity), or marital status, be excluded from par-
17 ticipation in, denied the benefits of, or be subjected to dis-
18 crimination in the administration or provision of child wel-
19 fare programs and services by a covered entity.

20 (b) PRIVATE RIGHT OF ACTION.—Any individual who
21 is aggrieved by a violation of this Act may bring a civil
22 action seeking relief in an appropriate United States dis-
23 trict court. The court shall award a plaintiff prevailing in
24 such an action all appropriate relief, including injunctive,
25 declaratory, and other equitable relief necessary to carry

1 out this Act, attorneys' fees, and such other relief as the
2 court determines appropriate.

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

7 (d) TECHNICAL ASSISTANCE.—In order to ensure
8 compliance with and understanding of the legal, practice,
9 and cultural changes required by this Act, the Secretary
10 shall provide technical assistance to all covered entities,
11 including—

12 (1) identifying State laws and regulations in-
13 consistent with this Act, and providing guidance and
14 training to ensure the State laws and regulations are
15 brought into compliance with this Act by the appli-
16 cable compliance deadline in effect under subsection
17 (h);

18 (2) identifying casework practices and proce-
19 dures inconsistent with this Act and providing guid-
20 ance and training to ensure the practices and proce-
21 dures are brought into compliance with this Act by
22 the applicable compliance deadline;

23 (3) providing guidance in expansion of recruit-
24 ment efforts to ensure consideration of all prospec-
25 tive adoptive and foster parents regardless of the re-

1 ligion, sex (including sexual orientation and gender
2 identity), or marital status of the prospective parent;

3 (4) creating comprehensive cultural competency
4 training for covered entities and prospective adoptive
5 and foster parents; and

6 (5) training judges and attorneys involved in
7 foster care, guardianship, and adoption cases on the
8 findings and purposes of this Act.

9 (e) SERVICE DELIVERY AND TRAINING.—

10 (1) IN GENERAL.—A covered entity shall pro-
11 vide service delivery to children and youth involved
12 with child welfare services, families, and adults, and
13 staff training, that—

14 (A) comprehensively addresses the indi-
15 vidual strengths and needs of children and
16 youth involved with child welfare services; and

17 (B) is language appropriate, gender appro-
18 priate, and culturally sensitive and respectful of
19 the complex social identities of the children and
20 youth, families, and adults currently or prospec-
21 tively participating in or receiving child welfare
22 services.

23 (2) SOCIAL IDENTITY.—In this subsection, the
24 term “social identity” includes an individual’s race,
25 ethnicity, nationality, age, religion (including spiritu-

1 ality), sex (including gender identity and sexual ori-
2 entation), socioeconomic status, physical or cognitive
3 ability, language, beliefs, values, behavior patterns,
4 and customs.

5 (f) DATA COLLECTION.—Using developmentally ap-
6 propriate best practices, the Secretary shall collect data
7 through the Adoption and Foster Care Analysis and Re-
8 porting System on—

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

12 (2) whether family conflict related to the sexual
13 orientation or gender identity of a child or youth
14 was a factor in the removal of the child or youth
15 from the family.

16 (g) NATIONAL RESOURCE CENTER ON SAFETY,
17 WELL-BEING, PLACEMENT STABILITY, AND PERMA-
18 NENCY FOR LGBTQ CHILDREN AND YOUTH INVOLVED
19 WITH CHILD WELFARE SERVICES.—

20 (1) IN GENERAL.—The Secretary shall establish
21 and maintain the National Resource Center on Safe-
22 ty, Well-Being, Placement Stability, and Perma-
23 nency for LGBTQ Children and Youth Involved with
24 Child Welfare Services (referred to in this Act as the
25 “National Resource Center”) that will promote well-

1 being, safety, permanency, stability, and family
2 placement for LGBTQ children and youth involved
3 with child welfare services, through training, tech-
4 nical assistance, actions, and guidance that—

5 (A) increase LGBTQ cultural competency
6 among the staff of covered entities, and foster,
7 adoptive, and relative parents, guardians, and
8 caregivers;

9 (B) promote the provision of child welfare
10 services that address the specific needs of
11 LGBTQ children and youth involved with child
12 welfare services and their families;

13 (C) promote effective and responsible col-
14 lection and management of data on the sexual
15 orientation and gender identity of children and
16 youth in the child welfare system, with appro-
17 priate safeguards to protect the data;

18 (D) identify and promote promising prac-
19 tices and evidence-based models of engagement
20 and appropriate collective and individual serv-
21 ices and interventions that can be linked to im-
22 proved outcomes for LGBTQ children and
23 youth in the child welfare system;

24 (E) endorse best practices for human re-
25 source activities of covered entities, including in

1 hiring, staff development, and implementing a
2 system of accountability to carry out those best
3 practices; and

4 (F) initiate other actions that improve
5 safety, well-being, placement stability, and per-
6 manency outcomes for LGBTQ children and
7 youth involved with child welfare services at the
8 State and local level.

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

12 (3) AUTHORIZATION OF APPROPRIATIONS.—
13 There are authorized to be appropriated to the Sec-
14 retary such sums as may be necessary to establish
15 and maintain the National Resource Center and
16 carry out the activities described in this subsection.

17 (h) DEADLINE FOR COMPLIANCE.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), a covered entity shall comply with this
20 section not later than 6 months after publication of
21 the guidance referred to in subsection (c), or 1 year
22 after the date of the enactment of this Act, which-
23 ever occurs first.

24 (2) AUTHORITY TO EXTEND DEADLINE.—If a
25 State demonstrates to the satisfaction of the Sec-

1 retary that it is necessary to amend State law in
2 order to change a particular practice that is incon-
3 sistent with this Act, the Secretary may extend the
4 compliance date for the State and any covered enti-
5 ties in the State a reasonable number of days after
6 the close of the first State legislative session begin-
7 ning after the date the guidance referred to in sub-
8 section (c) is published.

9 (3) AUTHORITY TO WITHHOLD FUNDS.—If the
10 Secretary finds that a covered entity has failed to
11 comply with this Act, the Secretary may withhold
12 payment to the State of amounts otherwise payable
13 to the State under part B or E of title IV of the
14 Social Security Act (42 U.S.C. 621 et seq.; 42
15 U.S.C. 670 et seq.), to the extent determined by the
16 Secretary.

17 (i) GAO STUDY.—

18 (1) IN GENERAL.—Not later than 3 years after
19 the date of enactment of this Act, the Comptroller
20 General of the United States shall conduct a study
21 to determine whether the States have substantially
22 complied with this Act, including specifically whether
23 the States have—

1 (A) eliminated all policies, practices, or
2 laws that permit a covered entity to violate sub-
3 section (a);

4 (B) provided necessary training and tech-
5 nical support to covered entities to ensure all
6 services to children and youth involved with
7 child welfare services are carried out in a non-
8 discriminatory, affirming, safe, and culturally
9 competent manner;

10 (C) collected data necessary to accom-
11 plishing the purposes of this Act, and ensured
12 that the data is appropriately safeguarded, in-
13 cluding data related to—

14 (i) the sexual orientation and gender
15 identity of children and youth involved
16 with child welfare services;

17 (ii) the permanency and placement
18 outcomes and rates for those children and
19 youth, as compared to their non-LGBTQ
20 peers;

21 (iii) the rates at which those children
22 and youth are placed in family homes as
23 compared to congregate or group homes;

24 (iv) the sexual orientation, gender
25 identity, and marital status of foster and

1 adoptive parents, as well as the placement
2 rates and wait periods for those foster and
3 adoptive parents; and

4 (D) ensured that covered entities—

5 (i) are in compliance with this Act;

6 and

7 (ii) have implemented procedures for
8 children and youth involved with child wel-
9 fare services, or individuals or families par-
10 ticipating in, or seeking to participate in,
11 child welfare services, to report violations
12 of this Act.

13 (2) REPORT TO THE CONGRESS.—Not later
14 than 6 months after completing the study required
15 by paragraph (1), the Comptroller General shall sub-
16 mit to the Committee on Ways and Means of the
17 House of Representatives and the Committee on Fi-
18 nance of the Senate a written report that contains
19 the results of the study.

20 (j) RELATION TO OTHER LAWS.—

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

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

6 (k) DEFINITIONS.—In this section:

7 (1) CHILD OR YOUTH INVOLVED WITH CHILD
8 WELFARE SERVICES.—The term “child or youth in-
9 volved with child welfare services” means an indi-
10 vidual, aged 23 or younger, who participates in child
11 welfare programs or services that receive Federal fi-
12 nancial assistance under part A, B, or E of title IV
13 of the Social Security Act (42 U.S.C. 601 et seq.;
14 42 U.S.C. 621 et seq.; 42 U.S.C. 670 et seq.), title
15 XIX of the Social Security Act (42 U.S.C. 1396 et
16 seq.), or title XX of the Social Security Act (42
17 U.S.C. 1397 et seq.).

18 (2) CONVERSION THERAPY.—

19 (A) IN GENERAL.—The term “conversion
20 therapy” means a form of discrimination that
21 includes any practice or treatment which seeks
22 to change the sexual orientation or gender iden-
23 tity of an individual, including efforts to change
24 behaviors or gender expressions or to eliminate

1 or reduce sexual or romantic attractions or feel-
2 ings toward individuals of the same gender.

3 (B) EXCLUSIONS.—The term “conversion
4 therapy” does not include counseling that pro-
5 vides assistance to an individual undergoing
6 gender transition, or counseling that provides
7 acceptance, support, and understanding of an
8 individual or facilitates an individual with cop-
9 ing, social support, and identity exploration and
10 development, including sexual orientation-neu-
11 tral interventions to prevent or address unlaw-
12 ful conduct or unsafe sexual practices.

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

15 (A) receives Federal financial assistance
16 under part A, B, or E of title IV of the Social
17 Security Act (42 U.S.C. 601 et seq.; 42 U.S.C.
18 621 et seq.; 42 U.S.C. 670 et seq.), title XIX
19 of the Social Security Act (42 U.S.C. 1396 et
20 seq.), or title XX of the Social Security Act (42
21 U.S.C. 1397 et seq.); and

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

24 (4) GENDER IDENTITY.—The term “gender
25 identity” means the gender-related identity, appear-

1 ance, mannerisms, or other gender-related character-
2 istics of an individual, regardless of the designated
3 sex of the individual at birth.

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

9 (A) the religion, sex (including sexual ori-
10 entation and gender identity), or marital status,
11 respectively, of another person with whom the
12 individual is or has been associated; and

13 (B) a perception or belief, even if inac-
14 curate, concerning the religion, sex (including
15 sexual orientation and gender identity), or mar-
16 ital status, respectively, of the individual.

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

19 (7) SEX.—The term “sex” includes—

20 (A) a sex stereotype;

21 (B) pregnancy, childbirth, or a related
22 medical condition;

23 (C) sexual orientation or gender identity;
24 and

1 (D) sex characteristics, including intersex
2 traits.

3 (8) SEXUAL ORIENTATION.—The term “sexual
4 orientation” means homosexuality, heterosexuality,
5 or bisexuality.

6 (9) STATE.—The term “State” means each of
7 the 50 States of the United States, the District of
8 Columbia, the Commonwealth of Puerto Rico, the
9 United States Virgin Islands, Guam, the Common-
10 wealth of the Northern Mariana Islands, and Amer-
11 ican Samoa.