

113TH CONGRESS
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H. R. 2028

To prohibit discrimination in adoption or foster care placements based on the sexual orientation, gender identity, or marital status of any prospective adoptive or foster parent, or the sexual orientation or gender identity of the child involved.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2013

Mr. LEWIS (for himself, Ms. ROS-LEHTINEN, Mr. DOGGETT, Mr. RANGEL, Mr. McDERMOTT, Mr. DANNY K. DAVIS of Illinois, Ms. BASS, Mrs. CAPPS, Mr. CAPUANO, Mr. CÁRDENAS, Mrs. CHRISTENSEN, Mr. CICILLINE, Ms. CLARKE, Mr. CONNOLLY, Mr. CONYERS, Mrs. DAVIS of California, Ms. DEGETTE, Mr. DEUTCH, Ms. EDWARDS, Mr. ELLISON, Mr. GRIJALVA, Mr. HASTINGS of Florida, Mr. HONDA, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KENNEDY, Ms. KUSTER, Mr. LANGEVIN, Mr. LOWENTHAL, Mrs. CAROLYN B. MALONEY of New York, Mr. SEAN PATRICK MALONEY of New York, Mr. GEORGE MILLER of California, Ms. MOORE, Mr. NADLER, Ms. NORTON, Mr. O'ROURKE, Ms. PELOSI, Ms. PINGREE of Maine, Mr. POCAN, Mr. POLIS, Mr. QUIGLEY, Ms. ROYBAL-ALLARD, Ms. LINDA T. SÁNCHEZ of California, Ms. SCHAKOWSKY, Mr. SCHIFF, Ms. SCHWARTZ, Mr. SERRANO, Ms. SPEIER, Mr. SWALWELL of California, Mr. TAKANO, Ms. TSONGAS, Ms. WASSERMAN SCHULTZ, and Ms. WILSON of Florida) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To prohibit discrimination in adoption or foster care placements based on the sexual orientation, gender identity, or marital status of any prospective adoptive or foster parent, or the sexual orientation or gender identity of the child involved.

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 “Every Child Deserves
5 a Family Act”.

6 **SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSES.**

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

8 (1) There is a shortage of qualified individuals
9 willing to adopt or foster a child in the child welfare
10 system. As a result, thousands of foster children
11 lack a permanent and safe home.

12 (2) In order to open more homes to foster chil-
13 dren, child welfare agencies should work to eliminate
14 sexual orientation, gender identity, and marital sta-
15 tus discrimination and bias in adoption and foster
16 care recruitment, selection, and placement proce-
17 dures.

18 (3) Of the estimated 400,000 children in the
19 United States foster care system, more than
20 104,000 cannot return to their original families and
21 are legally free for adoption.

22 (A) 50,516 children were adopted in 2011,
23 while 26,286 youth “aged out” of the foster
24 care system.

1 (B) Research shows that youth who “age
2 out” of the foster care system are at a high risk
3 for poverty, homelessness, incarceration, and
4 early parenthood.

5 (C) Increasing adoption rates, in addition
6 to establishing permanency and decreasing risk
7 factors for foster youth, can yield annual na-
8 tional cost savings between \$3,300,000,000 and
9 \$6,300,000,000.

10 (4) Experts agree that in many States, lesbian,
11 gay, bisexual, and transgender youth experience dis-
12 crimination, harassment, and violence in the foster
13 care system because of their sexual orientation or
14 gender identity.

15 (5) Approximately 60 percent of homeless les-
16 bian, gay, bisexual, and transgender youth were pre-
17 viously in foster care. According to the Urban Jus-
18 tice Center, many of these young people reported
19 that living on the streets felt “safer” than living in
20 their group or foster home.

21 (6) According to the Williams Institute, an esti-
22 mated 19 percent of same-sex couple households in-
23 clude children under 18 years of age.

24 (7) The Williams Institute estimates that
25 3,000,000 lesbian, gay, bisexual, and transgender

1 people have had a child and as many as 6,000,000
2 American adults and children have a lesbian, gay,
3 bisexual, or transgender parent. Among adults under
4 50 years of age living alone or with a spouse or
5 partner, 48 percent of lesbian, bisexual, or
6 transgender women are raising a child under 18
7 years of age, and 20 percent of gay, bisexual, or
8 transgender men are doing so.

9 (8) As of 2013, same-sex couples are raising
10 1.4 percent of adopted children with 2 parents and
11 are fostering 1.7 percent of foster children living
12 with 2 parents. A 2007 report from the Williams In-
13 stitute found that an additional 2,000,000 gay, les-
14 bian, and bisexual individuals are interested in adop-
15 tion.

16 (9) According to the Williams Institute/Urban
17 Institute, same-sex couples raising adopted children
18 tend to be older than, just as educated as, and have
19 access to the same economic resources as other
20 adoptive parents. Studies confirm that children with
21 same-sex parents have the same advantages and
22 same expectations for health, social, and psycho-
23 logical adjustment, and development as children
24 whose parents are heterosexual.

1 (10) An Evan B. Donaldson Adoption Institute
2 study found that $\frac{1}{3}$ of child welfare agencies in the
3 United States reject gay, lesbian, and bisexual appli-
4 cants.

5 (A) The practice of prohibiting applicants
6 from becoming foster parents or adopting chil-
7 dren solely on the basis of sexual orientation or
8 marital status has resulted in reducing the
9 number of qualified adoptive and foster parents
10 overall and denying gay, lesbian, bisexual, and
11 unmarried relatives the opportunity to become
12 foster parents for their own kin, including
13 grandchildren, or to adopt their own kin, in-
14 cluding grandchildren, from foster care.

15 (B) According to the Williams Institute,
16 more than 3,400 children are currently in foster
17 placements with same-sex couples. Another
18 22,000 children are being raised by same-sex
19 adoptive couples. If other States followed the
20 minority of States and discriminated against
21 qualified individuals because of their sexual ori-
22 entation or marital status, foster care expendi-
23 tures would increase between \$87,000,000 and
24 \$130,000,000 per year in order to pay for addi-
25 tional institutional and group care, as well as to

1 recruit and train new foster and adoptive par-
2 ents.

3 (11) Some States allow 1 member of a same-
4 sex couple to adopt, but do not recognize both mem-
5 bers of the couple as the child's legal parents. Rec-
6 ognition of joint adoption provides children with the
7 same rights and security that children of hetero-
8 sexual parents enjoy. These protections include ac-
9 cess to both parents' health benefits, survivor's, So-
10 cial Security, and child support entitlements, legal
11 grounds for either parent to provide consent for
12 medical care, education, and other important deci-
13 sions, as well as the establishment of permanency
14 for parents and child.

15 (12) Professional organizations in the fields of
16 medicine, psychology, law, and child welfare have
17 taken official positions in support of the ability of
18 qualified gay, lesbian, bisexual, and unmarried cou-
19 ples to foster and adopt a child, as supported by sci-
20 entific research showing sexual orientation as a non-
21 determinative factor in parental success.

22 (13) Discrimination against potential foster or
23 adoptive parents based on sexual orientation, gender
24 identity, or marital status is not in the best interests
25 of children in the foster care system.

1 (b) PURPOSES.—The purposes of this Act are to de-
2 crease the length of time that children wait for perma-
3 nency with a loving family and to promote the best inter-
4 ests of children in the child welfare system by preventing
5 discrimination in adoption and foster care placements
6 based on sexual orientation, gender identity, or marital
7 status.

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

9 (a) ACTIVITIES.—

10 (1) PROHIBITION.—An entity that receives Fed-
11 eral assistance or contracts with an entity that re-
12 ceives Federal assistance, and is involved in adoption
13 or foster care placements may not—

14 (A) deny to any person the opportunity to
15 become an adoptive or a foster parent on the
16 basis of the sexual orientation, gender identity,
17 or marital status of the person, or the sexual
18 orientation or gender identity of the child in-
19 volved;

20 (B) delay or deny the placement of a child
21 for adoption or into foster care on the basis of
22 the sexual orientation, gender identity, or mar-
23 ital status of any prospective adoptive or foster
24 parent, or the sexual orientation or gender iden-
25 tity of the child; or

1 (C) require different or additional
2 screenings, processes, or procedures for adop-
3 tive or foster placement decisions on the basis
4 of the sexual orientation, gender identity, or
5 marital status of the prospective adoptive or
6 foster parent, or the sexual orientation or gen-
7 der identity of the child involved.

8 (2) DEFINITION OF PLACEMENT DECISION.—In
9 this section, the term “placement decision” means
10 the decision to place, or to delay or deny the place-
11 ment of, a child in a foster care or an adoptive
12 home, and includes the decision of the agency or en-
13 tity involved to seek the termination of birth parent
14 rights or otherwise make a child legally available for
15 adoptive placement.

16 (b) EQUITABLE RELIEF.—Any individual who is ag-
17 grieved by an action in violation of subsection (a) may
18 bring an action seeking relief in a United States district
19 court of appropriate jurisdiction.

20 (c) FEDERAL GUIDANCE.—Not later than 6 months
21 after the date of enactment of this Act, the Secretary of
22 Health and Human Services shall publish guidance to con-
23 cerned entities with respect to compliance with this sec-
24 tion.

1 (d) TECHNICAL ASSISTANCE.—In order to ensure
2 compliance with, and ensure understanding of the legal,
3 practice, and culture changes required by, this Act in mak-
4 ing foster care and adoption placement decisions, the Sec-
5 retary shall provide technical assistance to all entities cov-
6 ered by this Act, including—

7 (1) identifying laws and regulations inconsistent
8 with this Act and providing guidance and training to
9 ensure the laws and regulations are brought into
10 compliance within the prescribed period of time;

11 (2) identifying casework practices and proce-
12 dures inconsistent with this Act and providing guid-
13 ance and training to ensure the practices and proce-
14 dures are brought into compliance within the pre-
15 scribed period of time;

16 (3) providing guidance in expansion of recruit-
17 ment efforts to ensure consideration of all interested
18 and qualified prospective adoptive and foster parents
19 regardless of the sexual orientation, gender identity,
20 or marital status of the prospective parent;

21 (4) comprehensive cultural competency training
22 for covered entities and prospective adoptive and fos-
23 ter parents; and

1 (5) training judges and attorneys involved in
2 foster care and adoption cases on the findings and
3 purposes of this Act.

4 (e) DEADLINE FOR COMPLIANCE.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), an entity that receives Federal assistance
7 and is involved with adoption or foster care place-
8 ments shall comply with this section not later than
9 6 months after publication of the guidance referred
10 to in subsection (c), or 1 year after the date of en-
11 actment of this Act, whichever occurs first.

12 (2) AUTHORITY TO EXTEND DEADLINE.—If a
13 State demonstrates to the satisfaction of the Sec-
14 retary of Health and Human Services that it is nec-
15 essary to amend State statutory law in order to
16 change a particular practice that is inconsistent with
17 this section, the Secretary may extend the compli-
18 ance date for the State and any entities in the State
19 that are involved with adoption or foster care place-
20 ments a reasonable number of days after the close
21 of the 1st State legislative session beginning after
22 the date the guidance referred to in subsection (c)
23 is published.

24 (3) AUTHORITY TO WITHHOLD FUNDS.—If a
25 State fails to comply with this section, the Secretary

1 may withhold payment to the State of amounts oth-
2 erwise payable to the State under part B or E of
3 title IV of the Social Security Act (42 U.S.C. 621
4 et seq., 670 et seq.), to the extent the Secretary
5 deems the withholding necessary to induce the State
6 into compliance with this section.

7 (f) GAO STUDY.—

8 (1) IN GENERAL.—Not later than 5 years after
9 the date of enactment of this Act, the Comptroller
10 General of the United States shall conduct a study
11 to determine whether the States have substantially
12 complied with this Act, including specifically whether
13 the States have—

14 (A) eliminated policies, practices, or stat-
15 utes that deny to any otherwise qualified person
16 the opportunity to become an adoptive or foster
17 parent on the basis of the sexual orientation,
18 gender identity, or marital status of the person,
19 or the sexual orientation or gender identity of
20 the child involved;

21 (B) removed all program, policy, or statu-
22 tory barriers that delay or deny the placement
23 of a child for adoption or into foster care on the
24 basis of the sexual orientation, gender identity,
25 or marital status of any qualified, prospective

1 adoptive or foster parent, or the sexual orienta-
2 tion or gender identity of the child; and

3 (C) eliminated all different or additional
4 screenings, processes, or procedures for adop-
5 tive or foster placement decisions based on the
6 sexual orientation, gender identity, or marital
7 status of the prospective adoptive or foster par-
8 ent, or the sexual orientation or gender identity
9 of the child involved.

10 (2) REPORT TO THE CONGRESS.—Not later
11 than 1 year after completing the study required by
12 paragraph (1), the Comptroller General shall submit
13 to Congress a written report that contains the re-
14 sults of the study.

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