

United States Senate

151th Session

# S.8

## IN THE UNITED STATES SENATE

MARCH 22, 2022

MS. KASPARIAN OF OLYMPIA, (FOR HERSELF, MR. SULLIVAN OF OLYMPIA, MR. LIGHTWOOD  
OF LINCOLN) INTRODUCED THE FOLLOWING LEGISLATION:

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED  
STATES OF AMERICA ASSEMBLED.

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# A BILL

## SECTION 101. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the “MARSHA Act”;

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## **SECTION 102. FINDINGS.**

1. This bill would prohibit discrimination on the basis of sexual orientation, gender identity, marital status, or religion in the provision of child welfare programs and services by entities receiving federal funding. The Department of Health and Human Services (HHS) must provide technical assistance to help states follow this requirement.
2. Many public child welfare agencies choose to discriminate against qualified, licensed LGBTQ foster and adoptive families.
3. Thousands of children and youth lack a stable, safe, and loving temporary or permanent home and have been placed in a congregate care setting, which is associated with more placements, poorer educational outcomes, and greater risk of further trauma.
4. According to the Adoption and Foster Care Analysis and Reporting System FY 2018 data, more than 125,000 youth living in the foster system in 2018 were eligible for adoption.
  - 4.1. However, many taxpayer-funded child welfare agencies still discriminate against qualified lesbian, gay, bisexual, transgender, and queer (LGBTQ+) foster and adoptive families:
    - 4.1.1. This forces them to go through a more extensive, time-consuming, and costly process before allowing placement.
  - 4.2. By denying LGBTQ+ families the ability to foster, they're essentially denying children the right to a healthy, environmentally friendly permanent home.
5. There are currently no such safeguards against discrimination based on sexual orientation, gender identity, or marital status, but only against racial prejudice, and racial discrimination.

## **SECTION 103. DEFINITIONS**

1. RELIGION; SEX.—The term “religion, sex (including sexual orientation and gender identity), or marital status”, used with respect to an individual, includes—a perception or belief, even if inaccurate, concerning the religion, sex (including sexual orientation and gender identity), or marital status, respectively, of the individual
2. SECRETARY—The term “Secretary” means the Secretary of Health and Human Services.
3. SEX—The term “Sex” includes,
  - 3.1.1. sexual orientation or gender identity; and
  - 3.1.2. sex characteristics, including intersex traits;
4. SEXUAL ORIENTATION.—The term “sexual orientation” means homosexuality, heterosexuality, or bisexuality.
5. STATE.—The term “State” means each of the five Districts in the United States of America; including the United States Virgin Islands, Guame, American Samoa, and the Commonwealth of the Northern Mariana Islands.

## **SECTION 104. SEVERABILITY**

- I. Should any provision of this Act be deemed invalid or unconstitutional for any reason in a court with relevant jurisdiction, the rest of the Act, and the application of the remaining provisions, shall not be affected.

## **SECTION 105. PROVISIONS**

- I. PROHIBITIONS— Any child-welfare agency that knowingly chooses to discriminate against any potential foster or adoptive families, or an adoptee, on the basis of religion, sex, sexual orientation, race, gender identity, or marital status, shall be.—
  - A. denied the benefits of Federal financial assistance regarding child welfare programs and services.
- II. RIGHTS OF ACTIONS—Any individual who is aggrieved by a violation of this Act may bring a civil action seeking relief in an appropriate United States district court.
- III. TECHNICAL ASSISTANCE.—(a) In order to ensure compliance with and understanding of the legal, practice, and cultural changes required by this Act, the Secretary shall provide technical assistance to all covered entities, including—
  1. identifying State laws and regulations inconsistent with this Act, and providing guidance and training to ensure the State laws and regulations are brought into compliance with this Act
  2. identifying casework practices and procedures inconsistent with this Act and providing guidance and training to ensure the practices and procedures are brought into compliance.
  3. providing guidance in expansion of recruitment efforts to ensure consideration of all prospective adoptive and foster parents regardless of the religion, sex (including sexual orientation and gender identity), or marital status of the prospective parent;
  4. creating comprehensive cultural competency training for covered entities and prospective adoptive and foster parents; and
  5. training judges and attorneys involved in foster care, guardianship, and adoption cases on the findings and purposes of this Act.

## **SECTION 106. ENACTMENT**

- I. The Provisions of this shall go into effect immediately after passage of Both Chambers of Congress and signage from The President of the United States.

