S. 1382

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 SENATE OF THE UNITED STATES

MAY 19, 2015

Mrs. GILLIBRAND (for herself, Mrs. MURRAY, Ms. BALDWIN, Mr. BLUMENTHAL, Mr. FRANKEN, Ms. HIRONO, Mrs. SHAHEEN, Mr. SANDERS, Mr. MARKEY, Mr. SCHUMER, Ms. CANTWELL, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Finance

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 a Family Act”.

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

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

(2) In order to open more homes to foster children, child welfare agencies should work to eliminate sexual orientation, gender identity, and marital status discrimination and bias in adoption and foster care recruitment, selection, and placement procedures.

(3) Of the estimated 400,000 children in the United States foster care system, more than 101,000 cannot return to their original families and are legally free for adoption.

(A) 50,608 children were adopted in 2013, while 23,090 youth “aged out” of the foster care system.

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

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

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

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

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

(7) The Williams Institute estimates that
3,000,000 lesbian, gay, bisexual, and transgender
people have had a child and as many as 6,000,000
adults and children in the United States have a les-
bian, gay, bisexual, or transgender parent. Among
adults under 50 years of age living alone or with a
spouse or partner, 48 percent of lesbian, bisexual, or
transgender women are raising a child under 18
years of age, and 20 percent of gay, bisexual, or transgender men are doing so.

(8) As of 2013, same-sex couples are raising 1.4 percent of adopted children with 2 parents and are fostering 1.7 percent of foster children living with 2 parents. A 2007 report from the Williams Institute found that an additional 2,000,000 gay, lesbian, and bisexual individuals are interested in adoption.

(9) According to the Williams Institute and the Urban Institute, same-sex couples raising adopted children tend to be older than, just as educated as, and have access to the same economic resources as other adoptive parents. Studies confirm that children with same-sex parents have the same advantages and same expectations for health, social and psychological adjustment, and development as children whose parents are heterosexual.

(10) An Evan B. Donaldson Adoption Institute study found that one-third of child welfare agencies in the United States reject gay, lesbian, and bisexual applicants.

(A) The practice of prohibiting applicants from becoming foster parents or adopting children solely on the basis of sexual orientation or
marital status has resulted in reducing the number of qualified adoptive and foster parents overall and denying gay, lesbian, bisexual, and unmarried relatives the opportunity to become foster parents for their own kin, including grandchildren, or to adopt their own kin, including grandchildren, from foster care.

(B) According to the Williams Institute, more than 3,400 children are currently in foster placements with same-sex couples. Another 22,000 children are being raised by same-sex adoptive couples. If other States followed the minority of States and discriminated against qualified individuals because of their sexual orientation or marital status, foster care expenditures would increase between $87,000,000 and $130,000,000 per year in order to pay for additional institutional and group care, as well as to recruit and train new foster and adoptive parents.

(11) Some States allow one member of a same-sex couple to adopt, but do not recognize both members of the couple as the child’s legal parents. Recognition of joint adoption provides children with the same rights and security that children of hetero-
sexual parents enjoy. These protections include access to both parents’ health benefits, survivor’s, Social Security, and child support entitlements, legal grounds for either parent to provide consent for medical care, education, and other important decisions, as well as the establishment of permanency for parents and child.

(12) Professional organizations in the fields of medicine, psychology, law, and child welfare have taken official positions in support of the ability of qualified gay, lesbian, bisexual, and unmarried couples to foster and adopt a child, as supported by scientific research showing sexual orientation as a non-determinative factor in parental success.

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

(b) PURPOSES.—The purposes of this Act are to decrease the length of time that children wait for permanency with a loving family and to promote the best interests of children in the child welfare system by preventing discrimination in adoption and foster care placements based on sexual orientation, gender identity, or marital status.
SEC. 3. EVERY CHILD DESERVES A FAMILY.

(a) ACTIVITIES.—

(1) PROHIBITION.—An entity that receives Federal assistance or contracts with an entity that receives Federal assistance, and is involved in adoption or foster care placements may not—

(A) deny to any person the opportunity to become an adoptive or a foster parent on the basis of the sexual orientation, gender identity, or marital status of the person, or the sexual orientation or gender identity of the child involved;

(B) delay or deny the placement of a child for adoption or into foster care on the basis of 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; or

(C) require different or additional screenings, processes, or procedures for adoptive or foster placement decisions on the basis of the sexual orientation, gender identity, or marital status of the prospective adoptive or foster parent, or the sexual orientation or gender identity of the child involved.
(2) Definition of Placement Decision.—In this section, the term “placement decision” means the decision to place, or to delay or deny the placement of, a child in a foster care or an adoptive home, and includes the decision of the agency or entity involved to seek the termination of birth parent rights or otherwise make a child legally available for adoptive placement.

(b) Equitable Relief.—Any individual who is aggrieved by an action in violation of subsection (a) may bring an action seeking relief in a United States district court of appropriate jurisdiction.

(c) Federal Guidance.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall publish guidance to concerned entities with respect to compliance with this section.

(d) Technical Assistance.—In order to ensure compliance with, and ensure understanding of, the legal, practical, and cultural changes required by this Act in making foster care and adoption placement decisions, the Secretary shall provide technical assistance to all entities covered by this Act, including—

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

(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 within the prescribed period of time;

(3) providing guidance in expansion of recruitment efforts to ensure consideration of all interested and qualified prospective adoptive and foster parents regardless of the sexual orientation, gender identity, or marital status of the prospective parent;

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

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

(e) Deadline for Compliance.—

(1) In general.—Except as provided in paragraph (2), an entity that receives Federal assistance and is involved with adoption or foster care placements shall comply with this section not later than 6 months after publication of the guidance referred
to in subsection (c), or 1 year after the date of enactment of this Act, whichever occurs first.

(2) Authority to extend deadline.—If a State demonstrates to the satisfaction of the Secretary of Health and Human Services that it is necessary to amend State statutory law in order to change a particular practice that is inconsistent with this section, the Secretary may extend the compliance date for the State and any entities in the State that are involved with adoption or foster care placements a reasonable number of days after the close of the 1st State legislative session beginning after the date the guidance referred to in subsection (c) is published.

(3) Authority to withhold funds.—If a State fails to comply with this section, the Secretary of Health and Human Services may withhold payment to the State of amounts otherwise payable to the State under part B or E of title IV of the Social Security Act (42 U.S.C. 621 et seq., 670 et seq.), to the extent the Secretary of Health and Human Services deems the withholding necessary to induce the State into compliance with this section.

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

(A) eliminated policies, practices, or statutes that deny to any otherwise qualified person the opportunity to become an adoptive or foster parent on the basis of the sexual orientation, gender identity, or marital status of the person, or the sexual orientation or gender identity of the child involved;

(B) removed all program, policy, or statutory barriers that delay or deny the placement of a child for adoption or into foster care on the basis of the sexual orientation, gender identity, or marital status of any qualified, prospective adoptive or foster parent, or the sexual orientation or gender identity of the child; and

(C) eliminated all different or additional screenings, processes, or procedures for adoptive or foster placement decisions based on the sexual orientation, gender identity, or marital status of the prospective adoptive or foster par-
ent, or the sexual orientation or gender identity
of the child involved.

(2) **Report to the Congress.**—Not later
than 1 year after completing the study required by
paragraph (1), the Comptroller General shall submit
to Congress a written report that contains the re-
sults of the study.