



Written by [Michael Tennant](#) on March 19, 2024

Senator Introduces Bill to Stop Biden From Forcing LGBT Agenda on Foster-care Agencies and Families

Senator Roger Marshall (R-Kan.) introduced legislation Thursday that would block the Biden administration from implementing a proposed rule forcing foster-care providers and families to submit to the radical LGBT agenda.

Cosponsored by Senators Marsha Blackburn (R-Tenn.) and Cindy Hyde-Smith (R-Miss.), the [Protecting Religious Freedom for Foster Families Act](#) commands the Secretary of Health and Human Services (HHS) not to “finalize, implement, or enforce” the proposed rule “or any substantially similar rule.”

The [rule](#) in question, proposed by HHS in September, requires foster-care agencies receiving federal funds to meet several requirements “for each child in foster care who identifies as lesbian, gay, bisexual, transgender, queer or questioning, or intersex, as well as each child who is non-binary or has non-conforming gender identity or expression (LGBTQI+).”

Specifically, the agency must ensure that foster families “will establish an environment free of hostility, mistreatment, or abuse based on the child’s LGBTQI+ status.” In addition, the agency must see to it that “no LGBTQI+ child in foster care experiences retaliation for the child disclosing their LGBTQI+ identity,” including “restriction of access to LGBTQI+ peers, or attempts to undermine, suppress, or change the sexual orientation or gender identity of a child, or other activities that stigmatize a child’s LGBTQI+ identity.” The agency must ensure that LGBTQI+ kids “have access to age-appropriate services that are supportive of their sexual orientation and gender identity.” And it “must place the child consistent with their gender identity”; in other words, if a boy who claims to be a girl is being placed in a sex-segregated group home, he must be placed in one for girls.

HHS claims the authority to implement this rule under Titles IV-E and IV-B of the Social Security Act. Had Congress never passed this unconstitutional legislation or had states the will to resist the lure of “free” money from Washington, the Biden administration would have a much more difficult time imposing its own will on foster-care agencies.

Nevertheless, as Marshall, Hyde-Smith, and four other Republican senators argued in a January [letter](#) to HHS Secretary Xavier Becerra, the law simply requires state agencies to ensure that each child in foster care receives “safe and proper care,” leaving the question of what constitutes such care to states’



AP Images
Roger Marshall



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discretion. “This proposal,” they declared, “goes beyond statutory requirements to force states to adopt extreme gender ideology in their placement decisions.”

Nineteen Republican-led states are, in fact, displeased with the prospect of ceding even more authority to Uncle Sam. In November, their attorneys general sent a [nine-page letter](#) to HHS detailing their objections to the proposed rule. Besides its unconstitutionality and illegality, they noted that it could force foster families, including those with religious objections, to facilitate transgender medical procedures on foster children, perhaps even to the extent of having to travel from a state that prohibits such procedures to one that does not.

“All children in foster care, regardless of their sexual orientation or gender identity, deserve safe and proper placement,” Marshall said in a [press release](#). “This extreme proposal by the HHS instead discriminates against faith-based homes and loving foster parents in pursuit of pushing their radical gender ideology and pronoun politics on religious families.”

The rule’s effects on faith-based providers and religious foster families are a matter of grave concern, the senators told Becerra:

This proposed rule ... would alienate, if not exclude, a significant number of families motivated by their faith to welcome and serve foster children and their families. More than one-fifth of foster parents say they are motivated to do this work because of their faith. And more than 80% attribute their success in fostering to the support of their faith. The Department’s proposal would put religious families and religious providers in the position of declaring themselves unfit placements for a subset of the foster care pool, in spite of their long track records of excellence in serving and loving all children who need help.

Indeed, excluding faith-based providers — as attempted in, e.g., Massachusetts and Illinois — greatly reduces the number of available foster homes, the senators pointed out. In rural areas, where there are already more kids in the foster-care system than homes for them, matters could become even worse if the proposed rule goes into effect.

HHS made a few feints toward safeguarding religious freedom in its rule, saying it “would not require any faith-based provider to seek designation as a safe and appropriate provider for LGBTQI+ children” and recommending “that states ... do not adopt selection criteria that adversely disadvantages [sic] any faith-based organizations.” However, the rule “provides no such protection for families or individual family members,” the senators observed. Moreover, penned the attorneys general, “while HHS gestures at the possibility of case-by-case protection [for providers] under the Religious Freedom Restoration Act, it expressly leaves open the possibility that its asserted aim of furthering the foster-care rights of LGBTQI+ youth would outweigh foster providers’ asserted claims of religious freedom.”

Marshall is the second lawmaker to introduce a bill to put a stop to the rule. Representative Josh Brecheen (R-Okla.) introduced an [identical bill](#) in the House in November.

“The federal government should not force foster families to violate their sincerely held religious or moral beliefs in order to house children,” said Brecheen. “I commend Senator Marshall for introducing this companion legislation in the Senate so we can fight back against President Biden and his bureaucrats, who continue to pursue an anti-Christian, far-Left agenda.”



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