

119TH CONGRESS
2D SESSION

S. _____

To prevent the removal of children for sex-rejecting interventions.

IN THE SENATE OF THE UNITED STATES

Mr. SCHMITT introduced the following bill; which was read twice and referred
to the Committee on _____

A BILL

To prevent the removal of children for sex-rejecting
interventions.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Yaeli Martinez Child Protection Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Intent; authority.
Sec. 4. Rules of Construction.
Sec. 5. Severability.

TITLE I—AMENDMENTS TO THE CHILD ABUSE PREVENTION
AND TREATMENT ACT

2

- Sec. 101. Grants to States for child abuse or neglect prevention and treatment programs.
- Sec. 102. Restrictions on uses of funds; protection of parental rights.
- Sec. 103. Reports.
- Sec. 104. Definitions.
- Sec. 105. Rule of construction.
- Sec. 106. Private right of action.

TITLE II—AMENDMENTS TO THE SOCIAL SECURITY ACT

- Sec. 201. Amendments to part B of title IV of the Social Security Act.
- Sec. 202. Amendments to part E of title IV of the Social Security Act.
- Sec. 203. Amendments to the John H. Chafee Foster Care Program for Successful Transition to Adulthood.
- Sec. 204. Rules of construction; application to funding restrictions under parts B and E of title IV of the Social Security Act.
- Sec. 205. Amendment to section 478 of the Social Security Act.

TITLE III—AMENDMENTS TO THE FULL FAITH AND CREDIT FOR CHILD CUSTODY DETERMINATIONS

- Sec. 301. Full faith and credit for child custody determinations.

1 **SEC. 2. FINDINGS.**

2 Congress finds as follows:

3 (1) Parents have the fundamental right under
4 the Constitution of the United States to direct the
5 care, upbringing, education, and welfare of their
6 children, including raising, treating, caring for, and
7 referring to a child in a manner consistent with the
8 child's sex.

9 (2) Parents have the fundamental right to
10 make health care decisions for the purpose of pro-
11 tecting their child's bodily integrity, development,
12 and emotional and mental health.

13 (3) Parents have a right under the First
14 Amendment to the Constitution of the United States
15 to direct the religious upbringing of their children,

1 including to inculcate the belief that all humans are
2 created male or female and to raise their child as
3 the child's sex in accordance with their religious be-
4 liefs.

5 (4) No child should be removed from his or her
6 family by the State, or denied foster or adoptive
7 placement, for the purpose of subjecting the child to
8 social, medical, or surgical sex-rejecting interven-
9 tions by the State.

10 (5) Raising a child according to his or her sex
11 is not abuse.

12 (6) Congress and the Supreme Court have long
13 recognized that parents possess the fundamental
14 right to raise their children in accordance with their
15 beliefs, including through *Meyer v. Nebraska*, 262
16 U.S. 390 (1923), *Pierce v. Society of Sisters*, 268
17 U.S. 510 (1925), *Quilloin v. Walcott*, 434 U.S. 246
18 (1978), *Parham v. J.R.*, 442 U.S. 584 (1979),
19 *Troxel v. Granville*, 530 U.S. 57 (2000), and
20 *Mahmoud v. Taylor*, 606 U.S. 522 (2025). The Su-
21 preme Court, in *Troxel v. Granville*, 530 U.S. 57
22 (2000), held that “the interest of parents in the
23 care, custody, and control of their children—is per-
24 haps the oldest of the fundamental liberty interests
25 recognized by this Court”.

1 (7) The right of parents to direct the upbringing
2 and care of their children, including the right to
3 make medical decisions on behalf of their children,
4 is a fundamental liberty interest protected by the
5 Due Process Clause of the Fourteenth Amendment
6 to the Constitution of the United States, including
7 through *Meyer v. Nebraska*, 262 U.S. 390 (1923),
8 *Pierce v. Society of Sisters*, 268 U.S. 510 (1925),
9 *Parham v. J.R.*, 442 U.S. 584 (1979), and *Troxel*
10 *v. Granville*, 530 U.S. 57 (2000).

11 (8) The Supreme Court has recognized that
12 these constitutional protections rest on the presump-
13 tion that parents love their children and possess
14 what a child lacks in maturity, experience, and ca-
15 pacity for judgment. The Supreme Court, in *Parham*
16 *v. J.R.*, 442 U.S. 584 (1979), affirmed that parents
17 “have always been presumed to act in the best inter-
18 ests of their children in making medical decisions”.

19 (9) The Supreme Court has stated, in *Quilloin*
20 *v. Walcott*, 434 U.S. 246 (1978), that, absent a
21 clear and convincing finding of unfitness of parental
22 abuse, neglect, or abandonment, the State may not
23 lawfully intervene in the parent-child relationship.
24 The Supreme Court has held that—

1 (A) “the Due Process Clause does not per-
2 mit a State to infringe on the fundamental
3 right of parents to make child rearing decisions
4 simply because a state judge believes a ‘better’
5 decision could be made” (Troxel v. Granville,
6 530 U.S. 57 (2000)); and

7 (B) “[s]imply because the decision of a
8 parent is not agreeable to a child or because it
9 involves risks does not automatically transfer
10 the power to make that decision from the par-
11 ents to some agency or officer of the state”
12 (Parham v. J.R., 442 U.S. 584 (1979)).

13 (10) A parent’s decision to affirm a child’s sex
14 and protect him or her from the harms of sex-reject-
15 ing interventions is an exercise of fundamental pa-
16 rental rights. Raising a child according to his or her
17 sex is not abuse, neglect, or maltreatment.

18 (11) The Supreme Court has recognized in
19 United States v. Skrmetti, 605 U.S. 495 (2025)
20 that sex-rejecting interventions are not settled
21 science, that the gender distress of a child is not im-
22 mutable, and that the state may reasonably protect
23 a child from the harms of sex-rejecting interven-
24 tions. Likewise, parents have the right to make a
25 reasonable choice in the best interest of their child,

1 to preserve for that child a future free from these
2 harms.

3 (12) The Supreme Court has recognized in
4 Mahmoud v. Taylor, 606 U.S. 522 (2025), the
5 rights of parents to direct the religious upbringing
6 of their children and that those rights are violated
7 by government policies that substantially interfere
8 with the religious development of children, including
9 where promotion of gender ideology would impose a
10 substantial burden on their religious beliefs.

11 (13) And yet, parents across the United States
12 have suffered grievous interference with their con-
13 stitutional rights. State child protection agencies and
14 courts have intervened forcefully to remove children
15 from fit parents and deny placement of children with
16 foster and adoptive parents simply because parents
17 refuse to affirm a child's rejection of his or her sex,
18 or consent to social, medical or surgical sex-rejecting
19 interventions.

20 (14) State and Federal policies that require pa-
21 rental "affirmation" of a child's rejection of his or
22 her sex are at odds with the best available science,
23 which recognizes the evidence for sex-rejecting inter-
24 ventions is weak while the risks of physical and psy-
25 chological harm are high. This unfavorable risk-ben-

1 efit ratio has been clearly established in the 2025 re-
2 port of the Department of Health and Human Serv-
3 ices, titled “Treatment for Pediatric Gender Dys-
4 phoria: Review of Evidence and Best Practices”, and
5 through multiple systematic reviews conducted in the
6 United Kingdom, Sweden, Finland, and other coun-
7 tries. Risks include cancer, loss of bone density, im-
8 paired cognitive development, adverse psychiatric
9 events, loss of sexual function, and infertility and
10 sterility.

11 (15) The scientific literature shows that, in
12 most children, gender dysphoria resolves by adult-
13 hood if the child is not medicalized or treated as the
14 opposite sex. Affirmation of a child’s sex is con-
15 sistent with both long-term health outcomes and the
16 child’s natural developmental trajectory.

17 (16) Federal funds should not be used to man-
18 date, promote, or implement protocols treating sex-
19 rejecting interventions as evidence-based, safe, or in
20 the best interests of children.

21 (17) Despite the lack of evidence for sex-reject-
22 ing interventions, for many years, State child wel-
23 fare systems have trained personnel, from social
24 workers to judges, to treat as unsafe or abusive par-

1 ents who decline to consent to these interventions for
2 their child.

3 (18) This training has resulted in States remov-
4 ing children from loving families and denying the
5 placement of children with prospective foster and
6 adoptive parents, on the sole or primary basis that
7 they affirm the child's sex.

8 (19) Removal from fit parents is contrary to
9 the best interests of children, creates trauma for the
10 child, damages familial bonds, and exposes the child
11 to well-documented risks in state custody. Children
12 have suffered great harm and even have died after
13 being removed from loving families by the state for
14 sex-rejecting interventions.

15 (20) Where States have banned placement with
16 foster and adoptive parents on the grounds of their
17 scientific or religious convictions about sexuality,
18 thousands of safe and welcoming homes have been
19 lost to the foster system, further endangering chil-
20 dren in desperate need.

21 (21) Children in foster care and State residen-
22 tial settings are among the most vulnerable popu-
23 lations in the Nation; many have experienced prior
24 abuse or trauma. Sex-separated facilities provide an
25 essential safeguard for these children's safety and

1 well-being, and yet many State foster facilities now
2 house minor females with males.

3 (22) Many States have passed laws or enacted
4 policies arrogating custody to themselves if a child
5 runs to or is taken by an adult to the State for sex-
6 rejecting interventions in gross disregard of lawful
7 custody orders and parental rights in another State.

8 (23) These measures amount to State-sanc-
9 tioned kidnapping and directly conflict with the Full
10 Faith and Credit Clause and the Supremacy Clause
11 of the Constitution of the United States and the
12 amendments made by the Parental Kidnapping Pre-
13 vention Act of 1980 (Public Law 96–611; 94 Stat.
14 3568).

15 (24) State policies offering free sex-rejecting
16 interventions to children have enticed many children
17 to run away from fit and loving parents who seek to
18 protect them. Nonprofit entities, including State and
19 Federal-funded entities, have encouraged and aided
20 children in running away to avoid the lawful author-
21 ity and care of their parents.

22 (25) Federal funds provided under the Child
23 Abuse Prevention and Treatment Act (42 U.S.C.
24 5101 et seq.) and subtitles B and E of title IV of
25 the Social Security Act (42 U.S.C. 601 et seq.) have

1 been used, directly or indirectly, to fund investiga-
2 tions, removals, trainings, and programs that treat
3 parental affirmation of a child's sex as evidence of
4 child abuse, neglect, emotional abuse, or parental
5 unfitness or incapacity.

6 (26) Such uses of Federal funds are incon-
7 sistent with Federal law, interstate compacts on ju-
8 venile runaways, multi-State laws governing court
9 jurisdiction over child custody matters, the constitu-
10 tional rights of parents, and the best interests of
11 children.

12 (27) The Federal child welfare system is pre-
13 mised on the principle that child removal from par-
14 ents is an extreme measure of last resort, to be em-
15 ployed only when the child faces a genuine risk of
16 abuse or neglect that cannot be remediated through
17 less drastic means. Employing that system to re-
18 move children from parents who are exercising their
19 fundamental constitutional right to raise their chil-
20 dren in a manner consistent with their sex distorts
21 the purpose of the system, causes serious harm to
22 families, and undermines public confidence in child
23 welfare institutions.

24 (28) Parents and children have suffered unwar-
25 ranted but irreparable harm when their own or an-

1 other State has wrongfully asserted authority over
2 the child in order to provide sex-rejecting interven-
3 tions against the parent's will.

4 (29) Existing State remedies and administrative
5 processes have failed to provide timely or effective
6 relief for violations of fundamental parental rights
7 by public officials or private entities exercising
8 State-derived authority. Child welfare systems and
9 courts have compounded these violations by drawing
10 out proceedings past the age of majority, rendering
11 cases moot and injustice permanent.

12 (30) Congress must act to prevent the ongoing
13 misuse of public funds, harm to children in State
14 care, and destruction of families by the ideological
15 weaponization child welfare systems. Clear national
16 standards for the use of Federal child welfare funds,
17 public accountability, and the establishment of a
18 clear cause of action against State child welfare
19 services and their employees and contractors are
20 necessary to deter harm to children and violations of
21 parental rights and to ensure meaningful remedies.

22 **SEC. 3. INTENT; AUTHORITY.**

23 (a) INTENT.—It is the intent of Congress—

24 (1) to reaffirm and protect the fundamental
25 right of parents to direct the care, upbringing, edu-

1 cation, and welfare of their children, including the
2 right to raise, care for, treat, and refer to them in
3 a manner consistent with the child's sex;

4 (2) to stop the weaponization of the child wel-
5 fare system against parents who affirm their child's
6 sex or decline to consent to sex-rejecting interven-
7 tions;

8 (3) to deter violations of parental rights by
9 State actors, nonprofit entities or other entities and
10 persons exercising State-delegated authority over
11 child custody, placement, or care;

12 (4) to protect children in foster care, residential
13 placements, and other out-of-home settings from
14 being subjected to sex-rejecting interventions or en-
15 dangered by failure to provide sex-separated sleep-
16 ing, toileting, bathing, and other facilities in which
17 a child may be in a state of undress;

18 (5) to provide clear notice and training of con-
19 stitutional obligations within child welfare systems;

20 (6) to ensure that Federal funds are not used
21 by States or by private State-designated or State-
22 funded entities to violate the fundamental rights of
23 parents or to enforce or further the provision of sex-
24 rejecting interventions to minors;

1 (7) to ensure that professional training, clinical
2 protocols, and administrative guidance funded with
3 Federal monies do not characterize parental affirma-
4 tion of a child's sex as child abuse, neglect, emo-
5 tional abuse, or evidence of parental unfitness or in-
6 capacity;

7 (8) to ensure that Federal funds are spent in
8 accordance with evidence-based practices that sup-
9 port child safety, family preservation, and child well-
10 being, and not on programs, trainings, or protocols
11 that promote sex-rejecting interventions for children
12 or that treat parental affirmation of a child's sex as
13 harmful to the child;

14 (9) to ensure that children in State care are
15 housed on the basis of their immutable sex;

16 (10) to provide parents, legal guardians, care-
17 givers, and children with access to meaningful and
18 timely judicial relief when rights recognized and es-
19 tablished by this Act, including the amendments
20 made by this Act, are infringed through the express
21 provision of a right of action;

22 (11) to affirm that referring to the child by
23 pronouns or titles consistent with the child's sex, de-
24 clining to consent to puberty-blocking drugs or
25 cross-sex hormones, and declining to facilitate social,

1 medical, or surgical sex-rejecting interventions do
2 not constitute child abuse, neglect, emotional abuse,
3 or maltreatment under Federal law; and

4 (12) to preserve the integrity of interstate cus-
5 tody proceedings and prohibit courts of another
6 State from assuming jurisdiction over child custody
7 or visitation on the basis of a parent's or child's de-
8 sire to obtain sex-rejecting interventions.

9 (b) **AUTHORITY.**—This Act is enacted pursuant to
10 the following authorities of Congress:

11 (1) Section 5 of the Fourteenth Amendment to
12 the Constitution of the United States, to enforce the
13 guarantees of due process and equal protection for
14 fundamental rights, specifically the fundamental pa-
15 rental right to custody and care of their child and
16 to direct the upbringing, care, and control of their
17 child.

18 (2) The Spending Clause under section 8 of ar-
19 ticle I of the Constitution of the United States, by
20 which Congress may condition the receipt of Federal
21 funds on States' agreement to comply with specific
22 requirements related to the purposes of the funded
23 programs (*South Dakota v. Dole*, 483 U.S. 203
24 (1987)). The conditions established by this Act, in-
25 cluding the amendments made by this Act relate to

1 the Federal interest in child welfare, child safety,
2 family preservation, and the protection of parental
3 rights.

4 (3) The Full Faith and Credit Clause of section
5 1 of article IV of the Constitution of the United
6 States, which grants Congress the power to pre-
7 scribe the manner in which full faith and credit shall
8 be given to the public acts, records, and judicial pro-
9 ceedings of each State.

10 (4) The Commerce Clause of section 8 of article
11 I of the Constitution of the United States, to the ex-
12 tent that the activities regulated substantially affect
13 interstate commerce, including the interstate move-
14 ment of children across State lines in the context of
15 custody proceedings, foster care placements, and the
16 administration of federally funded child welfare pro-
17 grams.

18 **SEC. 4. RULES OF CONSTRUCTION.**

19 (a) IN GENERAL.—This Act shall be construed—

20 (1) broadly, with respect to the protection of
21 constitutional parental rights; and

22 (2) narrowly, with respect to any asserted jus-
23 tification for government interference with constitu-
24 tional parental rights.

1 (b) EFFECT ON OTHER LAWS.—Nothing in this Act
2 shall—

3 (1) limit the authority of child protective serv-
4 ices agencies to investigate or respond to genuine re-
5 ports of physical abuse, sexual abuse, or neglect of
6 children; or

7 (2) preempt any State law that provides greater
8 protection to parents, legal guardians, or children
9 than the rights established by this Act, including the
10 amendments made by this Act.

11 (c) CONSTRUCTION OF TERMS RELATING TO CHILD
12 WELFARE AND AFFIRMATION OF A CHILD’S SEX.—For
13 purposes of this Act, including the amendments made by
14 this Act, the terms “child abuse”, “emotional abuse”, “ne-
15 glect”, “maltreatment”, “mistreatment”, “parental
16 unfitness or incapacity”, and “abandonment” shall not be
17 construed to include affirming a child’s sex, nor shall af-
18 firming a child’s sex be construed as contrary to the best
19 interest of the child, or as contrary to a child’s safety,
20 health, well-being, or welfare.

21 **SEC. 5. SEVERABILITY.**

22 If any provision of this Act, an amendment made by
23 this Act, or the application of such provision or amend-
24 ment to any person or circumstance is held to be invalid
25 or unenforceable by any court of competent jurisdiction,

1 the remainder of this Act, the amendments made by this
2 Act, and the application of such provision or amendment
3 to any other person or circumstance shall not be affected
4 thereby.

5 **TITLE I—AMENDMENTS TO THE**
6 **CHILD ABUSE PREVENTION**
7 **AND TREATMENT ACT**

8 **SEC. 101. GRANTS TO STATES FOR CHILD ABUSE OR NE-**
9 **GLECT PREVENTION AND TREATMENT PRO-**
10 **GRAMS.**

11 Section 106 of the Child Abuse Prevention and
12 Treatment Act (42 U.S.C. 5106a) is amended—

13 (1) in subsection (b)—

14 (A) in paragraph (2)—

15 (i) in subparagraph (B)—

16 (I) in clause (vii), by inserting “,
17 except to the extent that such report
18 relates to a claim or suspicion of child
19 abuse based on a parent or guardian
20 affirming a child’s sex” before the
21 semicolon at the end;

22 (II) in clause (xxiv), by striking
23 “; and” and inserting a semicolon;
24 and

1 (III) by adding at the end the
2 following:

3 “(xxvi) provisions and procedures
4 for—

5 “(I) protecting and promoting
6 children’s right to be free from sex-re-
7 jecting interventions; and

8 “(II) protecting children from the
9 use, without express parental consent,
10 of pronouns or titles that do not cor-
11 respond to the child’s sex;

12 “(xxvii) provisions and procedures for
13 training child protective service workers,
14 guardians ad litem, minor’s counsel, court
15 appointed special advocates, judges, and
16 other individuals providing services to chil-
17 dren and families on—

18 “(I) the medical, psychological,
19 and developmental harms of sex-re-
20 jecting interventions to children and
21 the harms of using pronouns or titles
22 that do not correspond to a child’s
23 sex;

24 “(II) the right of a parent or
25 legal guardian to affirm a child’s sex

1 and of a parent, legal guardian, care-
2 giver, foster parent, or prospective
3 foster or adoptive parent to be free
4 from discrimination or adverse State
5 actions for affirming a child's sex;

6 “(III) the principle that affirma-
7 tion of a child's sex by a parent, legal
8 guardian, caregiver, foster parent, or
9 prospective foster or adoptive parent
10 is not child abuse, emotional abuse,
11 neglect, maltreatment, abandonment,
12 contrary to the child's best interest,
13 contrary to the child's health, safety,
14 or welfare, or an indication of paren-
15 tal unfitness or incapacity; and

16 “(IV) the principle that affirma-
17 tion of a child's sex is consistent with
18 the child's best interests, health, safe-
19 ty, and welfare; and

20 “(xxviii) provisions and procedures re-
21 quiring any covered entity described in sec-
22 tion 111(a)(5)(A) to have in effect policies
23 and procedures that protect and promote
24 the right of a parent, legal guardian, or

1 caregiver to be free from any adverse State
2 action.”;

3 (ii) in subparagraph (F), by striking
4 “; and” and inserting a semicolon;

5 (iii) in subparagraph (G), by striking
6 the period and inserting a semicolon; and

7 (iv) by adding at the end the fol-
8 lowing:

9 “(H) an assurance in the form of a certifi-
10 cation by the governor of the State that the
11 programs, projects, or trainings conducted or
12 funded under this title do not violate the limita-
13 tions set forth in section 115; and

14 “(I) an assurance in the form of a certifi-
15 cation by the governor of the State that the
16 programs, projects, or trainings conducted
17 under this subchapter comply with clauses
18 (xxvi) through (xxviii) of subparagraph (B).”;

19 (B) in paragraph (3)—

20 (i) by striking “such a disclosure
21 where a court orders” and inserting “such
22 a disclosure where—

23 “(A) a court orders”;

24 (ii) by striking the period and insert-
25 ing a semicolon; and

21

1 (iii) by adding at the end the fol-
2 lowing:

3 “(B) a report includes an allegation that
4 the child is being affirmed as his or her sex; or

5 “(C) the child has expressed a desire to be
6 treated in a manner that does not correspond to
7 his or her sex or has requested sex-rejecting
8 interventions.”;

9 (2) in subsection (c)(4)(B)(i)(I), by inserting “,
10 except as requested by the Secretary” before the
11 semicolon;

12 (3) in subsection (d), by adding at the end the
13 following:

14 “(19) Of the number of children described in
15 paragraph (1), the number who identify in a manner
16 that does not correspond to their sex and—

17 “(A) who were reported to the State to
18 have run away from home or eloped from a
19 placement;

20 “(B) who have been given a placement out-
21 side of the home;

22 “(C) who were removed from parent, legal
23 guardian, or caregiver; or

24 “(D) whose parents had their parental
25 rights terminated.”; and

1 (4) by adding at the end the following:

2 “(g) SCOPE OF APPLICATION.—For purposes of
3 clauses (xxvi) through (xxviii) of subsection (b)(2)(B), if
4 any covered entity described in section 111(a)(5)(A) re-
5 ceives funds under this title, directly or as a recipient of
6 a subgrant, the provisions and procedures described in
7 such clauses shall apply to all of the operations, divisions,
8 facilities, or programs of that covered entity, regardless
9 of whether the specific operation, division, facility, or pro-
10 gram received such funds.”.

11 **SEC. 102. RESTRICTIONS ON USES OF FUNDS; PROTECTION**
12 **OF PARENTAL RIGHTS.**

13 Title I of the Child Abuse Prevention and Treatment
14 Act (42 U.S.C. 5101 et seq.) is amended by adding at
15 the end the following:

16 **“SEC. 115. RESTRICTIONS ON USES OF FUNDS; PROTECTION**
17 **OF PARENTAL RIGHTS.**

18 “(a) IN GENERAL.—In administering, enforcing, or
19 awarding funds under this title, the Secretary shall not
20 treat affirmation of a child’s sex by a parent, legal guard-
21 ian, caregiver, foster parent, or prospective foster or adop-
22 tive parent as child abuse, emotional abuse, neglect, mal-
23 treatment, abandonment, contrary to the child’s best in-
24 terests, contrary to a child’s health, safety, or welfare, or
25 an indication of parental unfitness or incapacity.

1 “(b) CONDITION ON RECEIPT OF FUNDS; RIGHTS
2 PROTECTED.—As a condition of receiving funds under
3 this title, including any grants, subgrants, or other alloca-
4 tions, a covered entity shall protect the following rights
5 and shall not discriminate or take an adverse State action
6 against an individual because such individual exercises,
7 has exercised, or intends to exercise any such right:

8 “(1) A parent or legal guardian has the right
9 to affirm a child’s sex, including the right for the
10 child not to be subjected by any covered entity, even
11 if the child is in the legal or physical custody of the
12 covered entity, to—

13 “(A) the provision, facilitation, funding,
14 authorization, or permission of any sex-rejecting
15 intervention for the child;

16 “(B) the use of pronouns or titles that do
17 not correspond to the child’s sex, without the
18 express written consent of the child’s parent or
19 legal guardian; or

20 “(C) if the child is 4 years of age or older,
21 being permitted or assigned the use of sleeping
22 quarters (other than sleeping quarters shared
23 only with a sibling), bathrooms, showers, locker
24 rooms, changing rooms, or any other area in

1 which the child would be in a state of undress,
2 with individuals of the opposite sex.

3 “(2) A parent or legal guardian has the right
4 not to be required to consent to the child being sub-
5 jected to any of the actions described in subpara-
6 graph (A), (B), or (C) of paragraph (1) as a condi-
7 tion of custody or return of the child, or visitation,
8 communication, or reunification with the child.

9 “(3) A parent, legal guardian, caregiver, foster
10 parent, prospective foster parent, or prospective
11 adoptive parent has a right to be free from discrimi-
12 nation or adverse State action for affirming or in-
13 tending to affirm a child’s sex.

14 “(4) A child has the right not to be subjected
15 by any covered entity, even if the child is in the legal
16 or physical custody of the covered entity, to any sex-
17 rejecting intervention.

18 “(c) PROHIBITED USES OF FUNDS.—The Secretary
19 shall ensure that no funds provided under this title, in-
20 cluding any grants, subgrants, and other allocations to
21 States, Indian Tribes or Tribal organizations, and public
22 and private agencies and organizations, are used for any
23 of the following:

24 “(1) Conducting, supporting or promoting any
25 program, project, curriculum, guidance, protocol, or

1 training that supports or promotes a principle
2 that—

3 “(A) sex-rejecting interventions are in the
4 best interest of the child or consistent with the
5 health, safety, and welfare of the child;

6 “(B) affirmation of a child’s sex by a par-
7 ent, legal guardian, caregiver, foster parent, or
8 prospective foster or adoptive parent is child
9 abuse, emotional abuse, neglect, maltreatment,
10 abandonment, contrary to a child’s best inter-
11 ests, contrary to a child’s health, safety, or wel-
12 fare, or an indication of parental unfitness or
13 incapacity; or

14 “(C) a child’s expression of psychological
15 distress, including a statement or report of sui-
16 cidal ideation, related to the affirmation of a
17 child’s sex is grounds for removal of the child
18 from the home, intervention by a child welfare
19 agency, or any other adverse State action.

20 “(2) Conducting, supporting, or promoting any
21 adverse State action.

22 “(3) Providing, facilitating, funding, author-
23 izing, or permitting any sex-rejecting intervention
24 for a child, or referring a child for a sex-rejecting
25 intervention.

1 “(4) Removing children from parents, legal
2 guardians, or caregivers and placing children into
3 any home, institution, or other placement setting
4 that facilitates or provides sex-rejecting interven-
5 tions, or without parental consent, uses pronouns or
6 titles that do not correspond to the child’s sex.

7 “(d) OBLIGATIONS ON RECIPIENTS AND SUBRECIPI-
8 ENTS.—A State, Indian Tribe or Tribal organization, or
9 public or private agency or organization receiving an
10 award under this title, or a recipient of a subgrant of such
11 an award, may not use such award for programs,
12 trainings, or other activities that violate any of the restric-
13 tions on uses of funds set forth in subsection (b) or (c).

14 “(e) WITHHOLDING AND RECOUPMENT FOR NON-
15 COMPLIANCE.—

16 “(1) AUTHORITY TO WITHHOLD AND RECOVER
17 FUNDS.—

18 “(A) IN GENERAL.—If the Secretary deter-
19 mines that any State, Indian Tribe or Tribal
20 organization, or public or private agency or or-
21 ganization, including any recipient of a
22 subgrant, has violated the conditions under sub-
23 section (b) or used funds in violation of sub-
24 section (c), the Secretary shall disallow the
25 costs associated with such violation, withhold

1 funds as described in subparagraph (B) or re-
2 cover funds as described in subparagraph (C),
3 as applicable, and impose the applicable penalty
4 amount determined under paragraph (3).

5 “(B) WITHHOLDING OF FUNDS.—In the
6 case of a violation described in subparagraph
7 (A), the Secretary shall withhold from the re-
8 cipient any future payments or funding
9 tranches not yet disbursed until the Secretary
10 certifies that the violation has been remediated
11 and that the recipient has adopted policies and
12 procedures sufficient to prevent recurrence.

13 “(C) RECOVERY OF FUNDS.—In the case
14 of a violation described in subparagraph (A),
15 the Secretary shall recover grant funds already
16 disbursed to the recipient, and such disbursed
17 funds shall constitute a debt to the Federal
18 Government as of the date of the Secretary’s
19 written determination of noncompliance, collect-
20 ible in accordance with parts 200 and 300 of
21 title 2, Code of Federal Regulations (or any
22 successor regulations), including through ad-
23 ministrative offset against any other Federal
24 payments owed to the entity under this title or

1 any other Federal program administered by the
2 Department of Health and Human Services.

3 “(D) BASIS FOR DETERMINATION.—In
4 making a determination under subparagraph
5 (A), a violation described in any of clauses
6 (xxvi) through (xxviii) of section 106(b)(2)(B)
7 includes a State’s failure to—

8 “(i) include in its State plan under
9 section 106(b), the certification and assur-
10 ance required under such clauses; or

11 “(ii) adequately enforce, or maintain
12 in effect, programs certified under any
13 such clause.

14 “(2) SUBGRANTS.—The direct recipient of an
15 award under this title shall be responsible for ensur-
16 ing that recipients of subgrants awarded by such di-
17 rect recipient complies with this section, and any
18 violation by a recipient of such a subgrant shall be
19 attributed to the direct recipient of the award from
20 the Secretary.

21 “(3) PENALTIES.—

22 “(A) IN GENERAL.—The penalty amount
23 applicable to a recipient of a grant under this
24 title awarded by the Secretary and who has vio-
25 lated subsection (b) or (c) shall be as follows:

1 “(i) For the first finding of such a
2 violation by the recipient within a grant
3 period, 5 percent of the total funds pro-
4 vided to the recipient under this title for
5 the applicable grant period.

6 “(ii) For the second finding of such a
7 violation by the recipient within a grant
8 period, 10 percent of the total funds pro-
9 vided to the recipient under this title for
10 the applicable grant period.

11 “(iii) For the third or any subsequent
12 finding of violation by the recipient within
13 a grant period, 15 percent of the total
14 funds provided to the direct recipient
15 under this title for the applicable grant pe-
16 riod.

17 “(B) LIMITATION.—In no case shall the
18 total penalty imposed against a single direct re-
19 cipient for all findings within a single grant pe-
20 riod exceed 15 percent of the total funds pro-
21 vided to the recipient for the applicable grant
22 period.

23 “(C) REQUIRED PENALTY.—The penalties
24 described in this paragraph are mandatory and
25 the Secretary has no discretion to waive or re-

1 duce such a penalty except through the appeals
2 process under subparagraph (D).

3 “(D) APPEALS.—A direct recipient of a
4 grant who is assessed a penalty under this
5 paragraph may file an appeal of such penalty
6 with the Secretary. Appeals from any deter-
7 mination of noncompliance or penalty amount
8 under this subsection shall be governed by part
9 16 of title 45 Code of Federal Regulations (or
10 any successor regulations). The filing of an ap-
11 peal shall not stay the withholding of future
12 payments or funding tranches pending resolu-
13 tion of the appeal, but any amounts recovered
14 by the Secretary from already-disbursed funds
15 shall not be collected pending final resolution of
16 the appeal.

17 “(4) REGULATIONS.—The Secretary shall issue
18 such regulations as are necessary and appropriate to
19 carry out this subsection, including regulations es-
20 tablishing procedures for written notice of non-
21 compliance, opportunity to respond, and administra-
22 tive review prior to any final determination under
23 paragraph (1).

24 “(5) CLARIFICATIONS.—Nothing in this sub-
25 section shall be construed to limit the authority of

1 the Secretary to pursue any other remedy available
2 under part 200 or 300 of title 2, Code of Federal
3 Regulations (or any successor regulations) or any
4 other applicable Federal law with respect to viola-
5 tions of any other provision of this title, or to limit
6 the Secretary's authority to impose remedies in addi-
7 tion to the penalties prescribed in paragraph (3) for
8 violations of subsection (b) or (c) where the Sec-
9 retary determines that additional remedies are nec-
10 essary to protect Federal funds.”.

11 **SEC. 103. REPORTS.**

12 Section 107 of the Child Abuse Prevention and
13 Treatment Act (42 U.S.C. 5106c) is amended—

14 (1) in subsection (e)(2)(A), by inserting “, pro-
15 vided the alternative does not violate the limitations
16 set forth in subsection (f)” before the semicolon;

17 (2) by redesignating subsection (f) as sub-
18 section (g); and

19 (3) by inserting after subsection (e) the fol-
20 lowing:

21 “(f) LIMITATIONS.—

22 “(1) IN GENERAL.—No State task force review
23 or recommendation made pursuant to this section
24 shall —

1 “(A) recommend any reform of State law,
2 ordinance, regulation, protocol, or procedure
3 that would expand the definition of child abuse,
4 child neglect, parental unfitness or incapacity to
5 encompass a parent’s, legal guardian’s, or care-
6 giver’s affirmation of the child’s sex; or

7 “(B) recommend, promote, facilitate or en-
8 dorse the use of any training program, clinical
9 protocol, or professional standard that is incon-
10 sistent with section 115.

11 “(2) WITHHOLDING AND RECOUPMENT FOR
12 NONCOMPLIANCE.—A State task force that issues
13 any recommendation prohibited as described in para-
14 graph (1) shall be deemed to be in noncompliance
15 with this section, and the Secretary shall—

16 “(A) withhold any further assistance until
17 such prohibited recommendation is formally re-
18 scinded by the State task force and the Sec-
19 retary certifies that the task force is in compli-
20 ance with paragraph (1); and

21 “(B) if the funds have already been dis-
22 bursed during the period of noncompliance, re-
23 cover such funds in accordance with the grad-
24 uated penalty formula set forth in section

1 115(e)(3) for the total funds provided for that
2 grant period.”.

3 **SEC. 104. DEFINITIONS.**

4 Subsection (a) of section 111 of the Child Abuse Pre-
5 vention and Treatment Act (42 U.S.C. 5106g) is amended
6 to read as follows:

7 “(a) **DEFINITIONS.**—For purposes of this title:

8 “(1)(A) The term ‘adverse State action’ means
9 any covered action taken by a covered entity, if any
10 of the following was a motivating factor, without re-
11 gard to how the covered entity characterizes the rea-
12 son for the covered action:

13 “(i) Affirmation of, or intent to affirm, the
14 child’s sex by the parent, legal guardian, or
15 caregiver.

16 “(ii) The child’s request to be treated in a
17 manner inconsistent with the child’s sex or the
18 child’s request for, or attempt to obtain, sex-re-
19 jecting interventions.

20 “(iii) The child’s expression of psycho-
21 logical distress, including suicidal ideation or
22 threat of self-harm, related to affirmation of
23 the child’s sex by the parent, legal guardian, or
24 caregiver.

1 “(iv) That the child ran away, threatens to
2 run away, or intends to run away from or re-
3 quests no contact with a parent, legal guardian,
4 or caregiver because of a circumstance de-
5 scribed in clause (i), (ii), or (iii).

6 “(B) For purposes of subparagraph (A), a cov-
7 ered action includes any of the following:

8 “(i) The removal or threat of removal of a
9 child from the home, or the removal or threat
10 of removal of a parent, legal guardian, or care-
11 giver from the home, including removal of the
12 child or such parent, legal guardian, or care-
13 giver pursuant to any safety plan or other pro-
14 tective-services action by a covered entity.

15 “(ii) Any assessment, investigation, or in-
16 quiry conducted for the purpose of determining
17 the existence of child abuse, neglect, or parental
18 unfitness or incapacity.

19 “(iii) Any dependency, child welfare, or ju-
20 venile court proceeding, including any investiga-
21 tion, removal proceeding, proceeding to limit or
22 condition the exercise of parental rights, pro-
23 ceeding relating to visitation, proceeding to ter-
24 minate parental rights, or other related child
25 welfare or court proceeding.

1 “(iv) Denying, impeding, interfering with
2 or unreasonably delaying—

3 “(I) the parent’s, legal guardian’s, or
4 caregiver’s visitation, communication, or
5 meeting with the child;

6 “(II) the parent’s, legal guardian’s, or
7 caregiver’s scheduled meeting, case con-
8 ference, or other planned communication
9 with an employee or agent of a covered en-
10 tity regarding the child; or

11 “(III) the return of the child to the
12 parent, legal guardian, or caregiver.

13 “(v) The making of any finding or sub-
14 stantiation of child abuse, neglect, or parental
15 unfitness or incapacity.

16 “(vi) Any case plan, safety plan, service
17 plan, or reunification plan recommendation or
18 requirement imposed by a covered entity as a
19 condition of visitation, communication, or meet-
20 ing with a child, reunification, return of a child,
21 or continued family preservation.

22 “(vii) The involuntary termination of pa-
23 rental rights to a child or to a sibling of a child.

24 “(viii) Placement on a State child abuse
25 registry or index.

1 “(ix) The delay or denial of foster-care
2 placement or adoption.

“(2) The terms ‘affirm’, ‘affirmed’, and ‘affirmation’, with respect to the sex of a child, mean referring to or raising the child, or intending to refer to or raise the child, as his or her sex, including refusing to consent to sex-rejecting interventions for the child.

9 “(3) The term ‘Alaska Native’ has the meaning
10 given the term ‘Native’ in section 3 of the Alaska
11 Native Claims Settlement Act (43 U.S.C. 1602).

“(4) The term ‘caregiver’ means any person who provides ongoing care, supervision, and decision-making for a child on a regular basis, including a licensed foster parent, kinship caregiver, pre-adoptive foster parent, or person acting in loco parentis, but does not include any person who is a parent or legal guardian.

19 “(5) The term ‘covered entity’ means—

20 “(A) an entity that has received funds
21 under this title, directly or as a recipient of a
22 subgrant, including—

23 “(i) any State, and any agency of a
24 State that administers child protective

1 services, child welfare services, or related
2 functions;

3 “(ii) any Indian Tribe or Tribal orga-
4 nization; or

5 “(iii) any public or private agency or
6 organization that contracts with any entity
7 listed in clause (i) or (ii); or

8 “(B) any individual who is a contractor,
9 employee, or agent of any of the entities de-
10 scribed in subparagraph (A).

11 “(6) The term ‘disorder of sex development’
12 means a congenital condition involving atypical com-
13 plement or structure or development of sex chro-
14 mosomes, gonads, internal genital ducts, or external
15 genitalia, including disorders of sex hormone syn-
16 thesis or action, but does not include psychological
17 or behavioral conditions, nor typical male or female
18 sex development with distress regarding sexed anat-
19 omy.

20 “(7) The term ‘infant or toddler with a dis-
21 ability’ has the meaning given the term in section
22 632 of the Individuals with Disabilities Education
23 Act (20 U.S.C. 1432).

1 “(8) The term ‘Native Hawaiian’ has the mean-
2 ing given the term in section 6207 of the Elemen-
3 tary and Secondary Education Act of 1965.

4 “(9) The term ‘sex’ means an individual’s im-
5 mutable biological sex, either—

6 “(A) male, whereby the individual natu-
7 rally has, had, will have, or would have, but for
8 a disorder of sex development or an intentional
9 or unintentional disruption, the reproductive
10 system that produces, transports, and utilizes
11 the small gamete (sperm) for fertilization; or

12 “(B) female, whereby the individual natu-
13 rally has, had, will have, or would have, but for
14 a disorder of sex development or an intentional
15 or unintentional disruption, the reproductive
16 system that produces, transports, and utilizes
17 the large gamete (ova) for fertilization.

18 “(10) The term ‘sex-rejecting intervention’—

19 “(A) means a psychological, medical, or
20 surgical intervention that is intended to pro-
21 mote, endorse, or enable a child’s rejection of
22 the child’s sex, to promote, endorse, or enable
23 a child to adopt an appearance that does not
24 correspond to the child’s sex, or to intentionally
25 change the body of a child, including the child’s

1 external appearance or biological functions, to
2 no longer correspond to the child's sex, includ-
3 ing—

4 “(i) intentionally delaying, halting, or
5 disrupting the natural development of the
6 child's body, including the onset or pro-
7 gression of puberty, so that the child's
8 body does not develop or halts developing
9 to correspond to the child's sex, which may
10 include the use of puberty blocking drugs,
11 such as gonadotropin releasing hormone
12 agonists or antagonists;

13 “(ii) prescribing, administering, or
14 dispensing to the child androgen blockers
15 or sex hormones such as estrogen, pro-
16 gesterone, or testosterone;

17 “(iii) prescribing or performing any
18 surgical procedure that attempts to trans-
19 form the physical appearance, or that at-
20 tempts to alter or remove the tissues, cav-
21 ities, bone, cartilage, or organs, of a child;

22 “(iv) providing compression materials
23 or garments that are designed to constrict
24 female breasts, or that flatten or tuck a
25 male's genitals, prosthetic breasts, genitals,

1 or hips, or any other materials that enable
2 the child to conceal his or her sex or to
3 simulate the physical characteristics of the
4 opposite sex; or

5 “(v) permitting or assigning a child
6 who is 4 years of age or older to—

7 “(I) use sleeping quarters, bath-
8 rooms, locker rooms, changing rooms,
9 or other areas in which a child may be
10 in a state of undress, with individuals
11 of the opposite sex; or

12 “(II) participate in sex-separated
13 activities designated for individuals of
14 the opposite sex; and

15 “(B) does not include the treatment of a
16 disorder of sex development or the treatment of
17 any infection, injury, disease, or disorder that
18 has been caused or exacerbated by the perform-
19 ance of an intervention described in any of
20 clauses (i) through (iv) of subparagraph (A).

21 “(11) The term ‘sexual abuse’ includes—

22 “(A) the employment, use, persuasion, in-
23 ducement, enticement, or coercion of any child
24 to engage in, or assist any other person to en-
25 gage in, any sexually explicit conduct or simula-

1 tion of such conduct for the purpose of pro-
2 ducing a visual depiction of such conduct; or

3 “(B) the rape, and in cases of caretaker or
4 inter-familial relationships, statutory rape, mo-
5 lestation, prostitution, or other form of sexual
6 exploitation of children, or incest with children.

7 “(12) The term ‘withholding of medically indi-
8 cated treatment’ means the failure to respond to the
9 infant’s life-threatening conditions by providing
10 treatment (including appropriate nutrition, hydra-
11 tion, and medication) which, in the treating physi-
12 cian’s or physicians’ reasonable medical judgment,
13 will be most likely to be effective in ameliorating or
14 correcting all such conditions, except that the term
15 does not include the failure to provide treatment
16 (other than appropriate nutrition, hydration, or
17 medication) to an infant when, in the treating physi-
18 cian’s or physicians’ reasonable medical judgment—

19 “(A) the infant is chronically and irrevers-
20 ibly comatose;

21 “(B) the provision of such treatment
22 would—

23 “(i) merely prolong dying;

1 “(ii) not be effective in ameliorating
2 or correcting all of the infant’s life-threat-
3 ening conditions; or

4 “(iii) otherwise be futile in terms of
5 the survival of the infant; or

6 “(C) the provision of such treatment would
7 be virtually futile in terms of the survival of the
8 infant and the treatment itself under such cir-
9 cumstances would be inhumane.”.

10 **SEC. 105. RULE OF CONSTRUCTION.**

11 Section 113(a) of the Child Abuse Prevention and
12 Treatment Act (42 U.S.C. 5106i(a)) is amended—

13 (1) in paragraph (1), by striking “; and” and
14 inserting a semicolon;

15 (2) in paragraph (2), by striking the period and
16 inserting a semicolon; and

17 (3) by adding at the end the following:

18 “(3) as establishing a Federal requirement that
19 a parent, legal guardian or caregiver provide a child
20 any medical service or treatment against the reli-
21 gious beliefs of the parent or legal guardian; or

22 “(4) as establishing that affirmation of a child’s
23 sex by a parent, legal guardian, caregiver, foster
24 parent, or prospective foster or adoptive parent is
25 child abuse, emotional abuse, neglect, maltreatment,

1 abandonment, contrary to the child’s best interests,
2 contrary to a child’s health, safety or welfare, or in-
3 dication of parental unfitness or incapacity.”.

4 **SEC. 106. PRIVATE RIGHT OF ACTION.**

5 Title I of Child Abuse Prevention and Treatment Act
6 (42 U.S.C. 5101 et seq.), as amended by section 103, is
7 further amended by adding at the end the following:

8 **“SEC. 116. PRIVATE RIGHT OF ACTION.**

9 “(a) CAUSE OF ACTION.—Any parent, legal guard-
10 ian, caregiver, or child who is aggrieved by an adverse
11 State action alleged to have been taken by a covered enti-
12 ty, or any parent, legal guardian, or caregiver who is ag-
13 grieved by a violation of section 115(b) may bring a civil
14 action seeking relief in any United States district court,
15 regardless of whether the specific operation, division, facil-
16 ity, or program of the covered entity that was engaged
17 in such adverse State action was itself funded, in whole
18 or in part, by an award under this title.

19 “(b) LIABILITY OF A COVERED ENTITY FOR THE
20 CONDUCT OF OTHERS.—For purposes of subsection (a),
21 a covered entity described in section 111(a)(5)(A) waives
22 any defense based on the absence of respondeat superior
23 liability, and shall be vicariously liable under this section
24 for any adverse State action, or any violation of the right
25 protected under section 115(b), that is committed by any

1 employee, contractor, or agent of such covered entity,
2 without regard to whether such adverse State action or
3 violation—

4 “(1) resulted from an official policy or custom
5 of the covered entity;

6 “(2) was known to any supervisory official of
7 the covered entity; or

8 “(3) was within the scope of such covered enti-
9 ty’s employment, contract, or agency.

10 “(c) REBUTTABLE PRESUMPTION.—

11 “(1) IN GENERAL.—For purposes of any action
12 brought under this section, there is a rebuttable pre-
13 sumption that an adverse State action or a violation
14 of the right protected under section 115(b) was be-
15 cause of the affirmation of a child’s sex if—

16 “(A) a case record, report, petition, rec-
17 ommendation, or other agency or court docu-
18 ment includes the affirmation of the child’s sex
19 as a basis for, contributing factor in, or concern
20 related to the adverse State action; or

21 “(B) a recommendation, order, or agree-
22 ment has been made that a child be removed
23 from a parent, legal guardian, or caregiver and
24 be placed in a home, institution, or other place-
25 ment setting that—

1 “(i) provides, permits or encourages
2 the child to undergo any sex-rejecting
3 intervention, or

4 “(ii) without parental consent, uses
5 pronouns or titles that do not correspond
6 to the child’s sex.

7 “(2) REBUTTAL.—A covered entity bears the
8 burden of rebutting the presumption described in
9 paragraph (1) by clear and convincing evidence that
10 the affirmation of the child’s sex was not a factor
11 in the adverse State action or violation of the right
12 protected under section 115(b).

13 “(d) NONAPPLICATION OF EXHAUSTION OF REM-
14 EDIES.—The exhaustion of any State or administrative
15 remedies is not required as a condition of filing an action
16 described in this section.

17 “(e) RELIEF.—As a condition of accepting funds
18 under this title, each of the remedies described in this sub-
19 section is available to a prevailing parent, legal guardian,
20 caregiver, or child. In any such action, the court may
21 award—

22 “(1) declaratory relief;

23 “(2) preliminary and permanent injunctive re-
24 lief, including an order enjoining, vacating, or pro-
25 hibiting the enforcement of any adverse State action

1 or any violation of the right protected under section
2 115(b), notwithstanding section 2283 of title 28,
3 United States Code, except where the covered entity
4 demonstrates by clear and convincing evidence that
5 such relief would create an imminent risk of serious
6 physical harm to the child based on conduct inde-
7 pendent of the adverse State action or violation;

8 “(3) compensatory damages; and

9 “(4) damages for emotional distress suffered by
10 a parent, legal guardian, caregiver, or child.

11 “(f) COSTS AND ATTORNEY’S FEES.—In any action
12 brought under this section, the court shall award the pre-
13 vailing parent, legal guardian, caregiver, or child costs of
14 litigation and attorney’s fees.

15 “(g) ABROGATION OF QUALIFIED IMMUNITY.—In
16 any action brought under this section against an employee,
17 contractor, or agent of a covered entity, qualified immu-
18 nity shall not be available as a defense. To satisfy the re-
19 quirement that the law be clearly established at the time
20 of the violation, it is sufficient that the conduct constituted
21 an adverse State action or violated the right protected
22 under section 115(b). The absence of an express policy,
23 procedure, or protocol by the State or a covered entity de-
24 scribed in section 111(a)(5)(A) shall not preclude a find-
25 ing that the law was clearly established or that the em-

1 ployee, contractor, or agent of a covered entity knew or
2 should have known that the conduct was unlawful.

3 “(h) WAIVER OF SOVEREIGN IMMUNITY.—

4 “(1) IN GENERAL.—

5 “(A) STATE IMMUNITY.—By accepting
6 funds under this title, a State and any covered
7 entity described in section 111(a)(5)(A)(i) shall
8 waive immunity under the Eleventh Amendment
9 to the Constitution of the United States from
10 suit in Federal court for any adverse State ac-
11 tion or for any violation of the right protected
12 under section 115(b).

13 “(B) TRIBAL IMMUNITY.—By accepting
14 funds under this title, a covered entity de-
15 scribed in section 111(a)(5)(A)(ii) shall waive
16 immunity from suit in Federal court for any
17 adverse State action or for any violation of the
18 right protected under section 115(b).

19 “(2) REMEDIES AVAILABLE.—

20 “(A) STATE DEFENDANTS.—In an action
21 against a State or covered entity described in
22 section 111(a)(5)(A)(i) for any adverse State
23 action or for any violation of the right protected
24 under section 115(b), remedies (including rem-
25 edies both at law and in equity) are available to

1 the same extent as such remedies are available
2 in an action against any public or private entity
3 other than a State.

4 “(B) TRIBAL DEFENDANTS.—In an action
5 against an Indian Tribe or Tribal organization
6 for any adverse State action or for any violation
7 of the right protected under section 115(b),
8 remedies (including remedies both at law and in
9 equity) are available to the same extent as such
10 remedies are available in an action against any
11 public or private entity other than an Indian
12 Tribe or Tribal organization.

13 “(i) STATUTE OF LIMITATIONS.—

14 “(1) IN GENERAL.—Except as provided in para-
15 graph (3), an action under this section shall com-
16 mence not later than 4 years after the date on which
17 the cause of action accrues.

18 “(2) ACCRUAL.—For purposes of paragraph
19 (1), a cause of action accrues on the date a parent,
20 legal guardian, caregiver, or child knew or reason-
21 ably should have known of the violation giving rise
22 to the claim, or, in the case of an ongoing violation,
23 on the date the violation ceases.

24 “(3) TOLLING.—The limitations period under
25 paragraph (1) shall be tolled—

1 “(A) with respect to a claim brought on
2 behalf of a minor child until the later of —

3 “(i) the date the child attains the age
4 of 18; or

5 “(ii) the date that is 4 years after the
6 date the violation occurred; and

7 “(B) during the pendency of any State or
8 Indian child welfare proceeding arising from the
9 same facts as the Federal claim, and for the 2-
10 year period following the final resolution of
11 such proceeding.

12 “(j) RELATIONSHIP TO OTHER LAWS.—

13 “(1) NON-PREEMPTION.—Nothing in this sec-
14 tion shall be construed to preempt any State law
15 that provides greater protection than the rights es-
16 tablished under this section.

17 “(2) OTHER APPLICABLE LAWS.—The rights
18 established under this section are in addition to, and
19 not in lieu of, any rights available under the Con-
20 stitution of the United States, section 1979 of the
21 Revised Statutes (42 U.S.C. 1983), this Act, or any
22 other Federal or State law.

23 “(3) JURISDICTION.—Federal courts shall have
24 original jurisdiction over any civil action brought

1 under this section. No action shall be dismissed,
2 stayed or otherwise abated on the basis of —

3 “(A) the pendency of a State court pro-
4 ceeding;

5 “(B) any State court judgment or order;

6 “(C) any doctrine of equitable restraint,
7 abstention, or comity, including any doctrine
8 under which a court declines to exercise juris-
9 diction because of the pendency or potential
10 pendency of a State judicial or administrative
11 proceeding; or

12 “(D) the domestic relations exception in
13 Federal jurisdiction, if the action seeks enforce-
14 ment of a right established under this section,
15 and does not seek the issuance of an original
16 divorce, alimony or child custody decree in a do-
17 mestic-relations proceeding between private par-
18 ties.

19 “(4) OTHER RELIEF.—The relief available
20 under this section is in addition to, and not in lieu
21 of, any remedy available to the Secretary under sec-
22 tion 115.”.

1 **TITLE II—AMENDMENTS TO THE**
2 **SOCIAL SECURITY ACT**

3 **SEC. 201. AMENDMENTS TO PART B OF TITLE IV OF THE SO-**
4 **CIAL SECURITY ACT.**

5 (a) STEPHANIE TUBBS JONES CHILD WELFARE
6 SERVICES PROGRAM STATE PLAN REQUIREMENTS.—Sec-
7 tion 422(b) of the Social Security Act (42 U.S.C. 622(b))
8 is amended—

9 (1) in paragraph (15)(A)—

10 (A) in clause (vii), by striking “and” after
11 the semicolon; and

12 (B) by inserting after clause (viii) the fol-
13 lowing new clause:

14 “(ix) the procedures and protocols the
15 State has established to ensure that sex-re-
16 jecting interventions are not initiated or
17 continued when a child is removed from
18 the custody, care, or control of the parent
19 or placed in foster care; and”;

20 (2) in paragraph (18), by striking “and” after
21 the semicolon;

22 (3) in paragraph (19)(B), by striking the period
23 at the end and inserting a semicolon; and

24 (4) by inserting after paragraph (19)(B) the
25 following new paragraphs:

1 “(20) provide that no placement of a child for
2 adoption or into foster care is prevented, denied, or
3 delayed because the foster parent, prospective foster
4 parent, or prospective adoptive parent may affirm a
5 child’s sex;

6 “(21) provide that children who are 4 years of
7 age or older in foster care placement are housed in
8 accordance with their sex, including—

9 “(A) requirements that a foster family
10 home provide either single occupancy or sex-
11 separated multi-occupancy sleeping quarters
12 (other than sleeping quarters shared only with
13 a sibling), bathrooms, showers, locker rooms,
14 changing rooms, or any other areas in which a
15 child would be in a state of undress when in use
16 by the child;

17 “(B) requirements that a child-care insti-
18 tution (including any group home, residential
19 treatment center, shelter, qualified residential
20 treatment program, settings for pregnant or
21 parenting foster youth described in section
22 472(k)(2)(B), setting for sex trafficking victims
23 described in section 472(k)(2)(D) or other con-
24 gregate care setting) assign a child to and pro-
25 vide either single occupancy or sex-separated

1 multi-occupancy sleeping quarters (other than
2 sleeping quarters shared only with a sibling),
3 bathrooms, showers, locker rooms, changing
4 rooms, or any other areas in which a child
5 would be in a state of undress, when in use by
6 the child; and

7 “(C) requirements that licensing standards
8 for foster family homes, child-care institutions,
9 or other placement settings, include compliance
10 with this paragraph as a condition of licensure
11 for any foster family home, child-care institu-
12 tion, or other placement setting receiving funds
13 under this part or part E;

14 “(22) provide and have in effect policies and
15 procedures, and require any covered entity to have
16 in effect policies and procedures that—

17 “(A) protect and promote a child’s right to
18 be free from sex-rejecting interventions; and

19 “(B) protect, without express parental con-
20 sent, a child from the use of pronouns or titles
21 that do not correspond to the child’s sex;

22 “(23) provide for training for child protective
23 services workers, caseworkers, guardians ad litem,
24 minor’s counsel, court appointed special advocates,
25 judges, other individuals providing services to chil-

1 dren and families, foster parents, prospective foster
2 parents, prospective adoptive parents, and parents
3 that includes—

4 “(A) the medical, psychological, and devel-
5 opmental harms of sex-rejecting interventions
6 and the harms of using pronouns or titles that
7 do not correspond to the child’s sex;

8 “(B) the right of a parent or legal guard-
9 ian to affirm a child’s sex and of a parent, legal
10 guardian, caregiver, foster parent, prospective
11 foster parent, or prospective adoptive parent to
12 be free from discrimination or adverse State ac-
13 tion for affirming or intending to affirm a
14 child’s sex;

15 “(C) the principle that affirmation of a
16 child’s sex by a parent, legal guardian, care-
17 giver, foster parent, prospective foster parent,
18 or prospective adoptive parent is not child
19 abuse, emotional abuse, neglect, maltreatment,
20 abandonment, contrary to the child’s best inter-
21 ests, contrary to a child’s health, safety, or wel-
22 fare, or indication of parental unfitness or inca-
23 pacity;

1 “(D) the principle that affirmation of a
2 child’s sex is consistent with the child’s best in-
3 terests, health, safety, and welfare;

4 “(E) the prohibition under this part and
5 part E on—

6 “(i) providing, initiating, or con-
7 tinuing sex-rejecting interventions to chil-
8 dren in foster care placements; and

9 “(ii) without parental consent, the use
10 of pronouns or titles that do not cor-
11 respond to the child’s sex; and

12 “(F) the prohibition under this part and
13 part E on denying and delaying the placement
14 of a child in a foster or adoptive home place-
15 ment because a foster parent, prospective foster
16 parent or prospective adoptive parent may af-
17 firm the child’s sex;

18 “(24) provide that the State shall have in effect
19 policies and procedures, and require any covered en-
20 tity to have in effect policies and procedures that
21 protect and promote the right of a parent, legal
22 guardian, caregiver, foster parent, prospective foster
23 parent, or prospective adoptive parent to be free
24 from discrimination for affirming or intending to af-
25 firm a child’s sex and from any adverse State action;

1 “(25) provide that the State shall have in effect
2 policies and procedures, and shall require any cov-
3 ered entity to have in effect policies and procedures,
4 that no child, foster parent, prospective foster par-
5 ent, or prospective adoptive parent may be denied a
6 foster care or adoptive placement because the foster
7 parent, prospective foster parent, or prospective
8 adoptive parent may affirm a child’s sex; and

9 “(26) provide that the State shall have in effect
10 policies and procedures that protect and promote the
11 right of children in foster care placements to be free
12 from sex-rejecting interventions and require any cov-
13 ered entity to have in effect policies and procedures
14 that include—

15 “(A) requirements ensuring that no child
16 in foster care under the supervision of the State
17 is subjected to sex-rejecting interventions;

18 “(B) requirements that no funds under
19 this part or part E shall be used to provide, fa-
20 cilitate, refer, or permit sex-rejecting interven-
21 tions for any child placed in the covered entity’s
22 care;

23 “(C) requirements that no foster family
24 home, child-care institution, or other placement
25 setting receiving funds under this part or part

1 E shall provide, facilitate, fund, permit, aid or
2 refer for sex-rejecting interventions for any
3 child placed in the foster family home, child-
4 care institution, or other placement setting;

5 “(D) training for child protective service
6 workers, foster care caseworkers, supervisors,
7 foster parents, guardians ad litem, court-ap-
8 pointed special advocates, minor’s counsel,
9 judges, and other individuals providing services
10 to children and families, prospective foster par-
11 ents, prospective adoptive parents, and parents
12 on—

13 “(i) the medical, psychological, and
14 developmental harms of sex-rejecting inter-
15 ventions and the harms of using pronouns
16 or titles that do not correspond to the
17 child’s sex;

18 “(ii) the right of a parent or legal
19 guardian to affirm a child’s sex and of a
20 parent, legal guardian, caregiver, foster
21 parent, prospective foster parent, or pro-
22 spective adoptive parent to be free from
23 discrimination or adverse State action for
24 affirming or intending to affirm a child’s
25 sex;

1 “(iii) the principle that affirmation of
2 a child’s sex by a parent, legal guardian,
3 caregiver, foster parent, prospective foster
4 parent, or prospective adoptive parent is
5 not child abuse, emotional abuse, neglect,
6 maltreatment, abandonment, contrary to
7 the child’s best interests, contrary to the
8 child’s health, safety, or welfare, or indica-
9 tion of parental unfitness or incapacity;

10 “(iv) the principle that affirmation of
11 a child’s sex is consistent with the child’s
12 best interests, and the child’s health, safe-
13 ty, and welfare;

14 “(v) the prohibition on providing sex-
15 rejecting interventions to children in foster
16 care placements;

17 “(vi) the prohibition on the use of
18 pronouns or titles that do not correspond
19 to the child’s sex without the parent’s ex-
20 press consent; and

21 “(vii) the prohibition on denying, de-
22 laying or conditioning the placement of a
23 child in a foster or adoptive home place-
24 ment because a foster parent, prospective

1 foster parent, or prospective adoptive par-
2 ent may affirm the child's sex; and

3 “(E) procedures to prevent sex marker
4 changes (meaning the designation of the child's
5 sex on any official record, including records
6 maintained under this part or part E) to the
7 child's records that differ from the child's sex
8 while the child is in foster care.”.

9 (b) MARYLEE ALLEN PROMOTING SAFE AND STABLE
10 FAMILIES PROGRAM STATE PLAN REQUIREMENTS.—Sec-
11 tion 432(a) of the Social Security Act (42 U.S.C. 629b(a))
12 is amended—

13 (1) in paragraph (10), by striking “and” after
14 the semicolon;

15 (2) in paragraph (11), by striking the period at
16 the end and inserting “; and”; and

17 (3) by inserting after paragraph (11), the fol-
18 lowing new paragraph:

19 “(12) complies with the requirements of para-
20 graphs (20) through (26) of section 422(b), as appli-
21 cable to the services funded under this subpart.”.

22 (c) COMMON PROVISIONS.—Subpart 3 of part B of
23 title IV of the Social Security Act (42 U.S.C. 629k et seq.)
24 is amended by adding at the end the following new sec-
25 tions:

1 **“SEC. 444. LIMITATIONS ON THE SECRETARY; OBLIGATIONS**
2 **ON RECIPIENTS AND SUBRECIPIENTS; NON-**
3 **COMPLIANCE.**

4 “(a) LIMITATIONS ON THE SECRETARY.—The Sec-
5 retary shall ensure that no funds provided under this part,
6 including any grants, subgrants and other allocations of
7 funding made pursuant to this part to States, Indian
8 tribes, or tribal organizations, and public and private
9 agencies and organizations, including subrecipients, are
10 used to fund any of the following:

11 “(1) Conducting, supporting, or promoting any
12 program, project, curriculum, guidance, protocol or
13 training that—

14 “(A) sex-rejecting interventions are in the
15 best interests of the child or consistent with the
16 health, safety, and welfare of the child;

17 “(B) affirmation of a child’s sex by a par-
18 ent, legal guardian, caregiver, foster parent,
19 prospective foster parent, or prospective adop-
20 tive parent is child abuse, emotional abuse, ne-
21 glect, maltreatment, abandonment, contrary to
22 the child’s best interests, contrary to the child’s
23 health, safety or welfare, or indication of paren-
24 tal unfitness or incapacity; or

25 “(C) a child’s expression of psychological
26 distress, including a statement or report of sui-

1 cidal ideation, related to the affirmation of a
2 child's sex is grounds for removal of the child
3 from the home, intervention by a welfare agen-
4 cy, or any other adverse State action.

5 “(2) Discriminating against, or taking an ad-
6 verse State action against, a parent, legal guardian,
7 caregiver, foster parent, prospective foster parent, or
8 prospective adoptive parent because such individual
9 affirms, has affirmed, or intends to affirm a child's
10 sex.

11 “(3) Conducting, supporting, or promoting any
12 adverse State action.

13 “(4) Providing, facilitating, funding, author-
14 izing, permitting for a child, or referring a child for
15 any sex-rejecting intervention.

16 “(5) Removing a child from a parent, legal
17 guardian, or caregiver and placing the child in a fos-
18 ter family home, child-care institution, or other
19 placement setting that—

20 “(A) provides, permits, or encourages the
21 child to undergo any sex-rejecting intervention;
22 or

23 “(B) without parental consent, uses pro-
24 nouns or titles that do not correspond to the
25 child's sex.

1 “(6) Placing a child in a foster care placement
2 that fails to provide either single occupancy or sex-
3 separated multi-occupancy spaces in compliance with
4 section 422(b)(21).

5 “(b) OBLIGATIONS ON RECIPIENTS AND SUBRECIPI-
6 ENTS.—Any State, Indian tribe or tribal organization, or
7 public and private agency or organization, including any
8 subrecipient that receives funds under this part, shall not
9 use such funds for any program, training, or other activity
10 that violates any of the limitations set forth in subsection
11 (a).

12 “(c) WITHHOLDING AND RECOUPMENT FOR NON-
13 COMPLIANCE.—

14 “(1) IN GENERAL.—If the Secretary determines
15 that any State, Indian tribe, tribal organization, or
16 public or private agency or organization, including
17 any subrecipient, has used funds in violation of the
18 limitations or obligations set forth in subsection (a)
19 or (b), paragraphs (20) through (26) of section
20 422(b), or section 432(a)(12), or in violation of any
21 right, restriction, limitation, obligation, or condition
22 established under section 479C as applicable to this
23 part or part E, the Secretary shall disallow the costs
24 associated with such violation and shall impose the
25 applicable penalty amount determined under para-

1 graph (2). Such withholding shall apply to any fu-
2 ture payments or funding tranches not yet disbursed
3 and shall remain in effect until the Secretary cer-
4 tifies that the violation has been remediated and
5 that the direct recipient has adopted policies and
6 procedures sufficient to prevent recurrence. Recovery
7 shall apply to funds already disbursed, which shall
8 constitute a debt to the Federal Government as of
9 the date of the Secretary's written determination of
10 noncompliance, collectible in accordance with parts
11 200 and 300 of title 2, Code of Federal Regulations
12 (or any successor regulation), including through ad-
13 ministrative offset against any other Federal pay-
14 ments owed to the entity under this or any other
15 Federal program administered by the Department of
16 Health and Human Services.

17 “(2) DIRECT RECIPIENTS.—

18 “(A) IN GENERAL.—The direct recipient of
19 funds provided under this part shall be strictly
20 responsible for ensuring compliance with this
21 part by all subrecipients to which it passes such
22 funds, and any violation by a subrecipient shall
23 be attributed to the direct recipient. The pen-
24 alty amount subject to disallowance, with-

1 holding, and recovery under paragraph (1) shall
2 be—

3 “(i) for the first finding of violation
4 by the direct recipient within a grant pe-
5 riod, 5 percent of the total funds provided
6 to the direct recipient for that grant pe-
7 riod;

8 “(ii) for the second finding of viola-
9 tion by the direct recipient within a grant
10 period, 10 percent of the total funds pro-
11 vided to the direct recipient for that grant
12 period; and

13 “(iii) for the third or any subsequent
14 finding of violation by the direct recipient
15 within a grant period, 15 percent of the
16 total funds provided to the direct recipient
17 under this part for that grant period.

18 “(B) MAXIMUM PENALTY.—In no case
19 shall the total penalty imposed against a single
20 direct recipient for all findings within a single
21 grant period exceed 15 percent of the total
22 funds provided to that direct recipient for that
23 grant period.

24 “(C) NO WAIVER.—A penalty required by
25 this subsection is mandatory and the Secretary

1 shall not have any discretion to waive or reduce
2 the penalty applicable except through the ap-
3 peals process provided in paragraph (3).

4 “(3) APPEALS.—Appeals from any determina-
5 tion of noncompliance or penalty amount under this
6 subsection shall be governed by part 16 of title 45,
7 Code of Federal Regulations (or any successor regu-
8 lation). The filing of an appeal shall not stay the
9 withholding of future payments or funding tranches
10 pending resolution of the appeal, but any amounts
11 recovered by the Secretary from already-disbursed
12 funds shall not be collected pending final resolution
13 of the appeal.

14 “(4) REGULATIONS.—The Secretary shall issue
15 such regulations as are necessary and appropriate to
16 carry out this subsection, including regulations es-
17 tablishing procedures for written notice of non-
18 compliance, opportunity to respond, and administra-
19 tive review prior to any final determination under
20 paragraph (1).

21 “(5) OTHER REMEDIES.—Nothing in this sub-
22 section shall be construed to limit the authority of
23 the Secretary to pursue any other remedy available
24 under parts 200 and 300 of title 2, Code of Federal
25 Regulations (or any successor regulation) or any

1 other applicable Federal law with respect to viola-
2 tions of any other provision of this part, or to limit
3 the Secretary's authority to impose remedies in addi-
4 tion to the penalties prescribed in paragraph (2) for
5 violations described in paragraph (1) where the Sec-
6 retary determines that additional remedies are nec-
7 essary to protect Federal funds.

8 **“SEC. 445. PRIVATE RIGHT OF ACTION.**

9 “(a) CAUSES OF ACTION.—

10 “(1) IN GENERAL.—Any parent, legal guardian,
11 caregiver, foster parent, prospective foster parent,
12 prospective adoptive parent, or child who is ag-
13 grieved by an adverse State action or, in the case of
14 a parent, legal guardian, caregiver, foster parent,
15 prospective foster parent, or prospective adoptive
16 parent, a violation of a right protected under section
17 479C(b), that is alleged to have been taken by a cov-
18 ered entity may bring an action seeking relief from
19 a covered entity in any United States district court
20 regardless of whether the specific operation, division,
21 facility, or program of the covered entity that en-
22 gaged in such adverse State action was itself funded,
23 in whole or in part, by an award or payment made
24 under this part or part E.

1 “(2) LIABILITY OF A COVERED ENTITY FOR
2 CONDUCT OF OTHERS.—For purposes of paragraph
3 (1), a covered entity described in subparagraph (A),
4 (B), or (C) of section 475(19) waives any defense
5 based on the absence of respondeat superior liability,
6 and shall be vicariously liable under this section for
7 any adverse State action or any violation of the right
8 protected under section 479C(b) that is committed
9 by any employee, contractor, or agent of such cov-
10 ered entity, without regard to whether such adverse
11 State action or violation —

12 “(A) resulted from an official policy or
13 custom of the covered entity;

14 “(B) was known to any supervisory official
15 of the covered entity; or

16 “(C) was within the scope of such covered
17 entity’s employment, contract, or agency.

18 “(3) REBUTTABLE PRESUMPTION.—For pur-
19 poses of any action brought under this section, there
20 is a rebuttable presumption that an adverse State
21 action or a violation of the right protected under
22 section 479C(b) was because of the affirmation of a
23 child’s sex if—

24 “(A) a case record, report, petition, rec-
25 ommendation, or other agency or court docu-

1 ment includes the affirmation of the child’s sex
2 as a basis for, contributing factor in, or concern
3 related to the adverse State action; or

4 “(B) a recommendation, order, or agree-
5 ment has been made that a child be removed
6 from a parent, legal guardian, or caregiver and
7 be placed in a foster family home, child-care in-
8 stitution, or other placement setting that—

9 “(i) provides, permits, or encourages
10 the child to undergo any sex-rejecting
11 intervention; or

12 “(ii) without parental consent, uses
13 pronouns or titles that do not correspond
14 to the child’s sex.

15 “(4) REBUTTAL.—A covered entity bears the
16 burden of rebutting the presumption described in
17 paragraph (3) by clear and convincing evidence that
18 the affirmation of the child’s sex was not a factor
19 in the adverse State action or violation of the rights
20 protected under section 479C(b).

21 “(b) NONAPPLICATION OF EXHAUSTION OF REM-
22 EDIES.—Exhaustion of any State or administrative rem-
23 edies shall not be required as a condition of bringing an
24 action described in subsection (a).

25 “(c) RELIEF.—

1 “(1) IN GENERAL.—As a condition of accepting
2 funds under this part, each of the remedies de-
3 scribed in paragraph (2) is available to a prevailing
4 parent, legal guardian, caregiver, foster parent, pro-
5 spective foster parent, prospective adoptive parent,
6 or child in an action brought under this section..

7 “(2) REMEDIES.—The remedies described in
8 this paragraph are—

9 “(A) declaratory relief;

10 “(B) preliminary and permanent injunctive
11 relief, including an order enjoining, vacating, or
12 prohibiting the enforcement of any adverse
13 State action or any violation of the right pro-
14 tected under section 479C(b), notwithstanding
15 section 2283 of title 28, United States Code,
16 except where the covered entity demonstrates
17 by clear and convincing evidence that such re-
18 lief would create an imminent risk of serious
19 physical harm to the child based on conduct
20 independent of the adverse State action or vio-
21 lation;

22 “(C) compensatory damages; and

23 “(D) damages for emotional distress suf-
24 fered by a parent, legal guardian, caregiver, fos-

1 ter parent, prospective foster parent, prospec-
2 tive adoptive parent, or child.

3 “(d) COSTS AND ATTORNEY’S FEES.—In any action
4 brought under this section, the court shall award the pre-
5 vailing parent, legal guardian, caregiver, foster parent,
6 prospective foster parent, prospective adoptive parent, or
7 child, costs of litigation and attorney’s fees.

8 “(e) ABROGATION OF QUALIFIED IMMUNITY.—In
9 any action brought under this section against an employee,
10 contractor, or agent of a covered entity described in sub-
11 paragraph (D) of section 475(19), qualified immunity
12 shall not be available as a defense. To satisfy the require-
13 ment that the law be clearly established at the time of
14 the violation, it is sufficient that the conduct constituted
15 an adverse State action or violated the right protected
16 under section 479C(b). The absence of an express policy,
17 procedure, or protocol by a covered entity described in
18 subparagraph (A), (B), or (C) of section 475(19) shall not
19 preclude a finding that the law was clearly established or
20 that the employee, contractor, or agent of a covered entity
21 described in subparagraph (D) of section 475(19) knew
22 or should have known that the conduct was unlawful.

23 “(f) WAIVER OF SOVEREIGN IMMUNITY.—

24 “(1) IN GENERAL.—

1 “(A) STATE IMMUNITY.—A covered entity
2 described in subparagraph (A) of section
3 475(19), as a condition of accepting funds
4 under this part, shall waive immunity under the
5 Eleventh Amendment to the Constitution of the
6 United States from suit in Federal court for
7 any adverse State action or any violation of the
8 right protected under section 479C(b).

9 “(B) TRIBAL IMMUNITY.—A covered entity
10 described in subparagraph (B) of section
11 475(19), as a condition of accepting funds
12 under this part, shall waive immunity from suit
13 in Federal court for any adverse State action or
14 any violation of the right protected under sec-
15 tion 479C(b).

16 “(2) REMEDIES AVAILABLE.—In any action
17 against a State or Indian tribe or tribal organization
18 for any adverse State action or any violation of the
19 right protected under section 479C(b), remedies (in-
20 cluding remedies both at law and in equity) are
21 available in a suit against any public or private enti-
22 ty other than a State or Indian tribe, or tribal orga-
23 nization.

24 “(g) STATUTE OF LIMITATIONS.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (3), an action under this section may not be
3 commenced later than 4 years after the date on
4 which the cause of action accrues.

5 “(2) ACCRUAL.—For purposes of paragraph
6 (1), a cause of action accrues on the date a parent,
7 legal guardian, caregiver, foster parent, prospective
8 foster parent, prospective adoptive parent, or child
9 knew or reasonably should have known of the viola-
10 tion giving rise to the claim, or, in the case of an
11 ongoing violation, on the date the violation ceases.

12 “(3) TOLLING.—The limitations period under
13 paragraph (1) shall be tolled—

14 “(A) with respect to a claim brought on
15 behalf of a minor child, until the later of—

16 “(i) the date the child attains the age
17 of 18; or

18 “(ii) the date that is 4 years after the
19 date the violation occurred; and

20 “(B) during the pendency of any State or
21 Indian child welfare proceeding arising from the
22 same facts as the Federal claim, and for the 2-
23 year period following the final resolution of
24 such proceeding.

25 “(h) RELATIONSHIP TO OTHER LAWS.—

1 “(1) NON-PREEMPTION.—Nothing in this sec-
2 tion shall be construed to preempt any State law
3 that provides greater protection than the rights es-
4 tablished under this section.

5 “(2) OTHER APPLICABLE LAWS.—The rights
6 established under this section are in addition to, and
7 not in lieu of, any rights available under the Con-
8 stitution of the United States, section 1979 of the
9 Revised Statutes (commonly referred to as ‘section
10 1983’) (42 U.S.C. 1983), the Yaeli Martinez Child
11 Protection Act, or any other Federal or State law.

12 “(3) JURISDICTION.—Federal courts shall have
13 original jurisdiction over any civil action brought
14 under this section. No action shall be dismissed,
15 stayed or otherwise abated on the basis of—

16 “(A) the pendency of a State court pro-
17 ceeding;

18 “(B) any State court judgment or order;

19 “(C) any doctrine of equitable restraint,
20 abstention, or comity, including any doctrine
21 under which a court declines to exercise juris-
22 diction because of the pendency or potential
23 pendency of a State judicial or administrative
24 proceeding; or

1 “(D) the domestic relations exception in
2 Federal jurisdiction, if the action seeks enforce-
3 ment of a right established under this section,
4 and does not seek the issuance of an original
5 divorce, alimony, or child custody decree in a
6 domestic-relations proceeding between private
7 parties.”.

8 **SEC. 202. AMENDMENTS TO PART E OF TITLE IV OF THE SO-**
9 **CIAL SECURITY ACT.**

10 (a) STATE PLAN REQUIREMENTS.—Section 471(a)
11 of the Social Security Act (42 U.S.C. 671(a)) is amend-
12 ed—

13 (1) in paragraph (10)—

14 (A) in subparagraph (A), by inserting “,
15 and which do not violate paragraphs (38)
16 through (42)” after “prudent parenting stand-
17 ard”; and

18 (B) in subparagraph (D), by inserting “,
19 except that there can be no waiver of the re-
20 quirements of paragraphs (38) through (42)”
21 after “children in care”;

22 (2) in paragraph (15)—

23 (A) in subparagraph (A), by inserting “,
24 and that, in determining such reasonable efforts
25 to be made with respect to a child, and in mak-

1 ing such reasonable efforts, a parent’s, legal
2 guardian’s, or caregiver’s affirmation of a
3 child’s sex shall be considered in furtherance of
4 the child’s health and safety, and affirmation of
5 a child’s sex, shall not serve as a basis to limit
6 or deny reasonable efforts to preserve and re-
7 unify families” after “paramount concern”; and

8 (B) in paragraph (D)(iii), by inserting “,
9 except if the termination was because the par-
10 ent affirmed the sibling’s sex” after “involun-
11 tarily”;

12 (3) in paragraph (18)—

13 (A) in the matter preceding subparagraph
14 (A), by inserting “(in the case of subparagraphs
15 (A) and (B), and in the case of subparagraph
16 (C), not later than 1 year after the date of en-
17 actment of the Yaeli Martinez Child Protection
18 Act)” after “January 1, 1997,”;

19 (B) in subparagraph (A), by striking “or”
20 after the semicolon;

21 (C) in subparagraph (B), by adding “or”
22 after the semicolon; and

23 (D) by inserting after subparagraph (B),
24 the following new subparagraph:

1 “(C) delay or deny to any person the op-
2 portunity to become an adoptive or foster par-
3 ent because the person may affirm the child’s
4 sex;”;

5 (4) in paragraph (22), by inserting “, and, not
6 later than 1 year after the date of enactment of the
7 Yaeli Martinez Child Protection Act, that comply
8 with paragraphs (38) through (42), and that protect
9 against the use of pronouns or titles, without ex-
10 press parental consent, that do not correspond to
11 the child’s sex” after “safety and health of the chil-
12 dren”;

13 (5) in paragraph (36)(D), by striking “and”
14 after the semicolon;

15 (6) in paragraph (37), by striking the period at
16 the end and inserting a semicolon; and

17 (7) by inserting after paragraph (37), the fol-
18 lowing new paragraphs:

19 “(38) provides that the State shall have in ef-
20 fect policies and procedures, and require that any
21 covered entity have in effect policies and procedures
22 that protect and promote the right of a parent, legal
23 guardian, caregiver, foster parent, prospective foster
24 parent, or prospective adoptive parent to be free

1 from discrimination for affirming or intending to af-
2 firm a child's sex and from any adverse State action;

3 “(39) has in effect policies and procedures, and
4 requires any covered entity to have in effect policies
5 and procedures, ensuring that foster care or adop-
6 tive placement of a child shall not be denied or de-
7 layed because a foster parent, prospective foster par-
8 ent, or prospective adoptive parent may affirm a
9 child's sex;

10 “(40) provides, and has in effect policies and
11 procedures, and requires any covered entity to have
12 in effect policies and procedures that—

13 “(A) protect and promote a child's right to
14 be free from sex-rejecting interventions, and
15 without express parental consent, protect a
16 child from the use of pronouns or titles that do
17 not correspond to the child's sex;

18 “(B) require ensuring that no child in fos-
19 ter care under the supervision of the State is
20 subjected to sex-rejecting interventions;

21 “(C) require that no funds under this part
22 shall be used, for any child placed in the cov-
23 ered entity's care, to provide, facilitate, fund,
24 authorize, permit for the child, or refer the
25 child for, any sex-rejecting intervention;

1 “(D) require that no foster family home,
2 child-care institution, or other placement set-
3 ting receiving funds under this part shall pro-
4 vide, facilitate, fund, permit, aid, or refer sex-
5 rejecting interventions for any child placed in
6 the foster family home, child-care institution, or
7 other placement setting;

8 “(E) require training for child protective
9 services workers, foster care caseworkers, super-
10 visors, foster parents, guardians ad litem,
11 court-appointed special advocates, minor’s coun-
12 sel, judges, and other individuals providing
13 services to children and families, prospective
14 foster parents, prospective adoptive parents,
15 and parents on—

16 “(i) the medical, psychological, and
17 developmental harms of sex-rejecting inter-
18 ventions and the harms of using pronouns
19 or titles that do not correspond to the
20 child’s sex;

21 “(ii) the right of a parent or legal
22 guardian to affirm a child’s sex and the
23 right of a parent, legal guardian, caregiver,
24 foster parent, prospective foster parent, or
25 prospective adoptive parent to be free from

1 discrimination or adverse State action for
2 affirming or intending to affirm a child's
3 sex;

4 “(iii) the principle that affirmation of
5 a child's sex by a parent, legal guardian,
6 caregiver, foster parent, prospective foster
7 parent, or prospective adoptive parent is
8 not child abuse, emotional abuse, neglect,
9 maltreatment, abandonment, contrary to
10 the child's best interests, contrary to a
11 child's health, safety or welfare, or indica-
12 tion of parental unfitness or incapacity;

13 “(iv) the principle that affirmation of
14 a child's sex is consistent with the child's
15 best interests;

16 “(v) the prohibition on providing sex-
17 rejecting interventions to children in foster
18 care placements;

19 “(vi) the prohibition on the use of
20 pronouns or titles that do not correspond
21 to the child's sex without the parent's ex-
22 press consent; and

23 “(vii) the prohibition on denying, de-
24 laying or conditioning the placement of a
25 child in a foster or adoptive home place-

1 ment because a foster parent, prospective
2 foster parent, or prospective adoptive par-
3 ent may affirm the child's sex; and

4 “(F) procedures to prevent sex marker
5 changes (meaning the designation of the child's
6 sex on any official record, including records
7 maintained under this part or part B) to the
8 child's records case that differ from the child's
9 sex, while the child is in foster care;

10 “(41) has in effect procedures and requirements
11 ensuring that children who are 4 years of age or
12 older in foster care placements are housed in accord-
13 ance with their sex, including—

14 “(A) requirements that a foster family
15 home provide either single occupancy or sex-
16 separated multi-occupancy sleeping quarters
17 (other than sleeping quarters shared only with
18 a sibling), bathrooms, showers, locker rooms,
19 changing rooms, or any other areas in which a
20 child would be in a state of undress when in use
21 by the child;

22 “(B) requirements that a child-care insti-
23 tution (including any group home, residential
24 treatment center, shelter, qualified residential
25 treatment program, settings for pregnant or

1 parenting foster youth described in section
2 472(k)(2)(B), setting for sex trafficking victims
3 described in section 472(k)(2)(D) or other con-
4 gregate care setting) assign the child to and
5 provide either single occupancy or sex-separated
6 multi-occupancy sleeping quarters (other than
7 sleeping quarters shared only with a sibling),
8 bathrooms, showers, locker rooms, changing
9 rooms, or any other areas in which a child
10 would be in a state of undress, when in use by
11 the child; and

12 “(C) requirements that licensing standards
13 for foster family homes, child-care institutions,
14 and other placement settings include compliance
15 with subparagraphs (A) and (B) as a condition
16 of licensure for any foster family home, child-
17 care institution, or other placement setting re-
18 ceiving funds under this part; and

19 “(42) has in effect procedures and requirements
20 ensuring that no sex-rejecting interventions are initi-
21 ated or continued when the child is removed from
22 the custody, care, or control of the parent.”.

23 (b) PREVENTION AND FAMILY SERVICES AND PRO-
24 GRAMS.—Section 471(e) of the Social Security Act (42
25 U.S.C. 671(e)) is amended—

1 (1) in paragraph (4), by adding at the end the
2 following new subparagraph:

3 “(F) LIMITATIONS.—State expenditures
4 for services or programs that facilitate, pro-
5 mote, provide, fund, or authorize sex-rejecting
6 interventions shall not be eligible for a Federal
7 matching payment under section 474(a)(6)(A)
8 and shall not be treated as meeting the require-
9 ments of evidence-based or medically-proven
10 practices.”;

11 (2) in paragraph (5)(C)—

12 (A) in clause (i), by inserting “and does
13 not include promoting, facilitating, or providing
14 sex-rejecting interventions, referring to or treat-
15 ing the child in a manner that does not cor-
16 respond to the child’s sex, or without express
17 parental consent, using pronouns or titles that
18 do not correspond to the child’s sex” after
19 “strategy for that practice”; and

20 (B) in clause (ii), by inserting “, except for
21 the requirement that the practice may not in-
22 clude promoting, facilitating, or providing sex-
23 rejecting interventions, referring to or treating
24 the child in a manner that does not correspond
25 to the child’s sex, or without express parental

1 consent, using pronouns or titles that do not
2 correspond to the child’s sex” after “with re-
3 gard to the practice”.

4 (c) FOSTER CARE MAINTENANCE PAYMENTS.—Sec-
5 tion 472 of the Social Security Act (42 U.S.C. 672) is
6 amended—

7 (1) in subsection (a)(2)(A)—

8 (A) in clause (i), by striking “or” after the
9 semicolon;

10 (B) in clause (ii), by adding “or” after the
11 semicolon; and

12 (C) by inserting after clause (ii), the fol-
13 lowing new clause:

14 “(iii) the limitations and requirements
15 provided in paragraphs (38) through (42)
16 of section 471(a);”; and

17 (2) in subsection (c)(1)(A)(ii)(I), by inserting
18 “and capable of housing the child in compliance with
19 the requirements of section 471(a)(41)” after “pru-
20 dent parent standard”.

21 (d) PAYMENTS.—Section 474 of the Social Security
22 Act (42 U.S.C. 674) is amended—

23 (1) in subsection (d)—

24 (A) in paragraph (1), in the matter pre-
25 ceding subparagraph (A)—

1 (i) by inserting “REDUCTION FOR
2 VIOLATION OF PLAN REQUIREMENT; PRI-
3 VATE RIGHT OF ACTION.—” before “If,
4 during”;

5 (ii) by striking “or (23) of section
6 471(a)” and inserting “, (23), (38), (39),
7 (40), (41), or (42) of section 471(a), or
8 any right, restriction, limitation, obligation,
9 or condition established under section
10 479C as applicable to this part or part
11 B,”;

12 (iii) by striking “such violation” and
13 inserting “violations of paragraphs (18)
14 and (23) of section 471(a), and not to ex-
15 ceed 30 days with respect to violations of
16 paragraphs (38) through (42) of section
17 471(a) or of any right, restriction, limita-
18 tion, obligation, or condition established
19 under section 479C as applicable to this
20 part or part B”;

21 (B) in paragraph (2)—

22 (i) by inserting “(A)” after “(2)”;

23 (ii) by striking “or (23) of section
24 471(a)” and inserting “, (23), (38), (39),
25 (40), (41), or (42) of section 471(a), or

1 any right, restriction, limitation, obligation,
2 or condition established under section
3 479C as applicable to this part or part
4 B,”; and

5 (iii) by adding at the end the fol-
6 lowing:

7 “(B) For purposes of this subsection, a failure to
8 comply substantially with paragraph (38), (39), (40),
9 (41), or (42) of section 471(a), or with any right, restric-
10 tion, limitation, obligation, or condition established under
11 section 479C as applicable to this part or part B, shall
12 be treated as a failure subject to the reductions and rem-
13 edies provided under this subsection.”; and

14 (C) by adding at the end the following new
15 paragraph:

16 “(5) PRIVATE RIGHT OF ACTION.—

17 “(A) IN GENERAL.—By accepting funds
18 under this part, the State and any covered enti-
19 ty agree to be bound by the following provisions
20 of this paragraph.

21 “(B) CAUSE OF ACTION.—Any parent,
22 legal guardian, caregiver, foster parent, pro-
23 spective foster parent, prospective adoptive par-
24 ent, or child who is aggrieved by an adverse
25 State action or, in the case of a parent, legal

1 guardian, caregiver, foster parent, prospective
2 foster parent, or prospective adoptive parent, a
3 violation of a right protected under section
4 479C(b), that is alleged to have been taken by
5 a covered entity may bring an action seeking re-
6 lief from a covered entity in any United States
7 district court regardless of whether the specific
8 operation, division, facility, or program of the
9 covered entity that engaged in such adverse
10 State action was itself funded, in whole or in
11 part, by an award or payment made under this
12 part or part B.

13 “(C) LIABILITY OF A COVERED ENTITY
14 FOR CONDUCT OF OTHERS.—For purposes of
15 subparagraph (B), a covered entity described in
16 subparagraph (A), (B), or (C) of section
17 475(19) waives any defense based on the ab-
18 sence of respondeat superior liability, and shall
19 be vicariously liable under this paragraph for
20 any adverse State action or any violation of the
21 right protected under section 479C(b) that is
22 committed by any employee, contractor, or
23 agent of such covered entity, without regard to
24 whether such adverse State action or viola-
25 tion—

1 “(i) resulted from an official policy or
2 custom of the covered entity;

3 “(ii) was known to any supervisory of-
4 ficial of the covered entity; or

5 “(iii) was within the scope of such
6 covered entity’s employment, contract, or
7 agency.

8 “(D) REBUTTABLE PRESUMPTION.—For
9 purposes of any action brought under this para-
10 graph, there is a rebuttable presumption that
11 an adverse State action or a violation of the
12 right protected under section 479C(b) was be-
13 cause of the affirmation of a child’s sex if—

14 “(i) a case record, report, petition,
15 recommendation, or other agency or court
16 document includes the affirmation of the
17 child’s sex as a basis for, contributing fac-
18 tor in, or concern related to the adverse
19 State action; or

20 “(ii) a recommendation, order, or
21 agreement has been made that a child be
22 removed from a parent, legal guardian, or
23 caregiver and be placed in a foster family
24 home, child-care institution, or other place-
25 ment setting that—

1 “(I) provides, permits, or encour-
2 ages the child to undergo any sex-re-
3 jecting intervention; or

4 “(II) without parental consent,
5 uses pronouns or titles that do not
6 correspond to the child’s sex.

7 “(E) REBUTTAL.—A covered entity bears
8 the burden of rebutting the presumption de-
9 scribed in subparagraph (D) by clear and con-
10 vincing evidence that the affirmation of the
11 child’s sex was not a factor in the adverse State
12 action or violation of the rights protected under
13 section 479C(b).

14 “(F) NONAPPLICATION OF EXHAUSTION
15 OF REMEDIES.—Exhaustion of any State or ad-
16 ministrative remedies shall not be required as a
17 condition of bringing an action described in
18 subparagraph (B).

19 “(G) RELIEF.—

20 “(i) IN GENERAL.—As a condition of
21 accepting funds under this part, each of
22 the remedies described in clause (ii) is
23 available to a prevailing parent, legal
24 guardian, caregiver, foster parent, prospec-
25 tive foster parent, prospective adoptive

parent, or child in an action brought under
this paragraph.

“(ii) REMEDIES.—The remedies described in this clause are—

“(I) declaratory relief;

“(II) preliminary and permanent
injunctive relief, including an order
enjoining, vacating, or prohibiting the
enforcement of any adverse State action or any violation of the right protected under section 479C(b), notwithstanding section 2283 of title 28, United States Code, except where the covered entity demonstrates by clear and convincing evidence that such relief would create an imminent risk of serious physical harm to the child based on conduct independent of the adverse State action or violation;

“(III) compensatory damages;

and

“(IV) damages for emotional distress suffered by a parent, legal guardian, caregiver, foster parent,

1 prospective foster parent, prospective
2 adoptive parent, or child.

3 “(H) COSTS AND ATTORNEY’S FEES.—In
4 any action brought under this paragraph, the
5 court shall award the prevailing parent, legal
6 guardian, caregiver, foster parent, prospective
7 foster parent, prospective adoptive parent, or
8 child costs of litigation and attorney’s fees.

9 “(I) ABROGATION OF QUALIFIED IMMUN-
10 NITY.—In any action brought under this para-
11 graph against an employee, contractor, or agent
12 of a covered entity described in subparagraph
13 (D) of section 475(19), qualified immunity shall
14 not be available as a defense. To satisfy the re-
15 quirement that the law be clearly established at
16 the time of the violation, it is sufficient that the
17 conduct constituted an adverse State action or
18 violated the right protected under section
19 479C(b). The absence of an express policy, pro-
20 cedure, or protocol by a covered entity described
21 in subparagraph (A), (B), or (C) of section
22 475(19) shall not preclude a finding that the
23 law was clearly established or that the em-
24 ployee, contractor, or agent of a covered entity
25 described in subparagraph (D) of section

1 475(19) knew or should have known that the
2 conduct was unlawful.

3 “(J) WAIVER OF SOVEREIGN IMMUNITY.—

4 “(i) STATE IMMUNITY.—A covered en-
5 tity described in subparagraph (A) of sec-
6 tion 475(19), as a condition of accepting
7 funds under this part, shall waive immu-
8 nity under the Eleventh Amendment to the
9 Constitution of the United States from suit
10 in Federal court for any adverse State ac-
11 tion or any violation of the right protected
12 under section 479C(b).

13 “(ii) TRIBAL IMMUNITY.—A covered
14 entity described in subparagraph (B) of
15 section 475 (19), as a condition of accept-
16 ing funds under this part, shall waive im-
17 munity from suit in Federal court for any
18 adverse State action or any violation of the
19 right protected under section 479C(b).

20 “(iii) REMEDIES AVAILABLE.—In any
21 action against a State or Indian tribe or
22 tribal organization for any adverse State
23 action or any violation of the right pro-
24 tected under section 479C(b), remedies (in-
25 cluding remedies both at law and in eq-

1 uity) are available in a suit against any
2 public or private entity other than a State
3 or Indian tribe, or tribal organization.

4 “(K) STATUTE OF LIMITATIONS.—

5 “(i) IN GENERAL.—Except as pro-
6 vided in clause (iii), an action under sub-
7 paragraph (B) shall commence no later
8 than 4 years after the date on which the
9 cause of action accrues.

10 “(ii) ACCRUAL.—For purposes of
11 clause (i), a cause of action accrues on the
12 date a parent, legal guardian, caregiver,
13 foster parent, prospective foster parent,
14 prospective adoptive parent, or child knew
15 or reasonably should have known of the
16 violation giving rise to the claim, or, in the
17 case of an ongoing violation, on the date
18 the violation ceases.

19 “(iii) TOLLING.—The limitations pe-
20 riod under clause (i) shall be tolled—

21 “(I) with respect to a claim
22 brought on behalf of a minor child,
23 until the later of—

24 “(aa) the date the child at-
25 tains the age of 18; or

1 “(bb) the date that is 4
2 years after the date the violation
3 occurred; and

4 “(II) during the pendency of any
5 State or Indian child welfare pro-
6 ceeding arising from the same facts as
7 the Federal claim, and for the 2-year
8 period following the final resolution of
9 such proceeding.

10 “(L) RELATIONSHIP TO OTHER LAWS.—

11 “(i) NON-PREEMPTION.—Nothing in
12 this paragraph shall be construed to pre-
13 empt any State law that provides greater
14 protection than the rights established
15 under this paragraph.

16 “(ii) OTHER APPLICABLE LAWS.—The
17 rights established under this paragraph are
18 in addition to, and not in lieu of, any
19 rights available under the Constitution of
20 the United States, section 1979 of the Re-
21 vised Statues (commonly referred to as
22 ‘section 1983’) (42 U.S.C. 1983), the Yaeli
23 Martinez Child Protection Act, or any
24 other Federal or State law.

1 “(iii) JURISDICTION.—Federal courts
2 shall have original jurisdiction over any
3 civil action brought under subparagraph
4 (B). No action shall be dismissed, stayed
5 or otherwise abated on the basis of—

6 “(I) the pendency of a State
7 court proceeding;

8 “(II) any State court judgment
9 or order;

10 “(III) any doctrine of equitable
11 restraint, abstention, or comity, in-
12 cluding any doctrine under which a
13 court declines to exercise jurisdiction
14 because of the pendency or potential
15 pendency of a State judicial or admin-
16 istrative proceeding; or

17 “(IV) the domestic relations ex-
18 ception in Federal jurisdiction, if the
19 action seeks enforcement of a right es-
20 tablished under this section, and does
21 not seek the issuance of an original
22 divorce, alimony or child custody de-
23 cree in a domestic-relations pro-
24 ceeding between private parties.

1 “(iv) OTHER RELIEF.—The relief
2 available under this paragraph shall be in
3 addition to any relief permitted by the Sec-
4 retary under this part.”; and

5 (2) by adding at the end the following new sub-
6 section:

7 “(h) PROHIBITION ON SEX-REJECTING INTERVEN-
8 TIONS.—Notwithstanding any other provision of law, no
9 payments shall be made to a State under this part for
10 any amounts expended for sex-rejecting interventions.”.

11 (e) DEFINITIONS.—Section 475 of the Social Secu-
12 rity Act (42 U.S.C. 675) is amended—

13 (1) in paragraph (1)—

14 (A) by striking subparagraph (A) and in-
15 serting the following:

16 “(A) A description of—

17 “(i) the type of home or institution in
18 which a child is to be placed, including a
19 discussion of the safety and appropriate-
20 ness of the placement, how that placement
21 complies with paragraphs (38) through
22 (42) of section 471(a), and how the place-
23 ment prohibits, without the express con-
24 sent of the parent, the use of pronouns or

1 titles that do not correspond to the child's
2 sex; and

3 “(ii) how the agency which is respon-
4 sible for the child plans to carry out the
5 voluntary placement agreement entered
6 into or judicial determination made with
7 respect to the child in accordance with sec-
8 tion 472(a)(2)(A).”; and
9 (B) in subparagraph (C)—

10 (i) in clause (vi), by striking “and”
11 after the semicolon;

12 (ii) by redesignating clause (vii) as
13 clause (viii); and

14 (iii) by inserting after clause (vi), the
15 following new clause:

16 “(vii) the child’s sex; and”;

17 (2) in paragraph (2), by striking “, as deter-
18 mined by applicable State law”;

19 (3) in paragraph (10)(A), by inserting “and the
20 affirmation of the child as his or her sex” after “de-
21 velopmental growth of the child”; and

22 (4) by adding at the end the following new
23 paragraphs:

24 “(14)(A) The term ‘adverse State action’ means
25 any covered action taken by a covered entity if any

1 of the following was a motivating factor, and without
2 regard to how the covered entity characterizes the
3 reason for the covered action:

4 “(i) Affirmation of, or intent to affirm, the
5 child’s sex by the parent, legal guardian, care-
6 giver, foster parent, prospective foster parent,
7 or prospective adoptive parent.

8 “(ii) The child’s request to be treated in a
9 manner inconsistent with the child’s sex, or the
10 child’s request for or attempt to obtain sex-re-
11 jecting interventions.

12 “(iii) The child’s expression of psycho-
13 logical distress, including suicidal ideation or
14 threat of self-harm, related to affirmation of
15 the child’s sex by the parent, legal guardian, or
16 caregiver.

17 “(iv) That the child ran away, threatens to
18 run away, intends to run away from, or re-
19 quests no contact with, a parent, legal guard-
20 ian, or caregiver because of a circumstance de-
21 scribed in clause (i), (ii), or (iii).

22 “(B) For purposes of subparagraph (A), a cov-
23 ered action includes any of the following:

24 “(i) The removal or threat of removal of a
25 child from the home, or the removal or threat

1 of removal of a parent, legal guardian, or care-
2 giver from the home, including removal of the
3 child or such parent, legal guardian, or care-
4 giver pursuant to any safety plan or other pro-
5 tective-services action by a covered entity.

6 “(ii) Any assessment, investigation, or in-
7 quiry conducted for the purpose of determining
8 the existence of child abuse, neglect, or parental
9 unfitness or incapacity.

10 “(iii) Any dependency, child welfare, or ju-
11 venile court proceeding, including any investiga-
12 tion, removal proceeding, proceeding to limit or
13 condition the exercise of parental rights, pro-
14 ceeding relating to visitation, proceeding to ter-
15 minate parental rights, or other related child
16 welfare or court proceeding.

17 “(iv) Denying, impeding, interfering with,
18 or unreasonably delaying—

19 “(I) the parent’s, legal guardian’s, or
20 caregiver’s visitation, communication, or
21 meeting with the child;

22 “(II) the parent’s, legal guardian’s, or
23 caregiver’s scheduled meeting, case con-
24 ference, or other planned communication

1 with an employee or agent of a covered en-
2 tity regarding the child; or

3 “(III) the return of the child to the
4 parent, legal guardian, or caregiver.

5 “(v) The making of any finding or sub-
6 stantiation of child abuse, neglect, or parental
7 unfitness or incapacity.

8 “(vi) Any case plan, safety plan, service
9 plan, or reunification plan recommendation or
10 requirement imposed by a covered entity as a
11 condition of visitation, communication, or meet-
12 ing with a child, reunification, return of a child,
13 or continued family preservation.

14 “(vii) The involuntary termination of pa-
15 rental rights to a child or to a sibling of a child.

16 “(viii) Placement on a State child abuse
17 registry or index.

18 “(ix) The delay or denial of foster care
19 placement or adoption.

20 “(15) The terms ‘affirmed as his or her sex’,
21 ‘affirm a child’s sex’, ‘affirm the child’s sex’, ‘affir-
22 mation of a child’s sex’, ‘affirmation of the child’s
23 sex’, and ‘affirmed the sibling’s sex’ mean referring
24 to or raising the child, or intending to refer to or
25 raise the child, as his or her sex, including refusing

1 to consent to sex-rejecting interventions for the
2 child.

3 “(16) The term ‘disorder of sex development’
4 means a congenital condition involving atypical com-
5 plement or structure or development of sex chro-
6 mosomes, gonads, internal genital ducts, or external
7 genitalia, including disorders of sex hormone syn-
8 thesis or action, but does not include psychological
9 or behavioral conditions, nor typical male or female
10 sex development with distress regarding sexed anat-
11 omy.

12 “(17) The term ‘sex’ means an individual’s im-
13 mutable biological sex, either—

14 “(A) male, whereby the individual natu-
15 rally has, had, will have, or would have, but for
16 a disorder of sex development or an intentional
17 or unintentional disruption, the reproductive
18 system that produces, transports, and utilizes
19 the small gamete (sperm) for fertilization; or

20 “(B) female, whereby the individual natu-
21 rally has, had, will have, or would have, but for
22 a disorder of sex development or an intentional
23 or unintentional disruption, the reproductive
24 system that produces, transports, and utilizes
25 the large gamete (ova) for fertilization.

1 “(18) The term ‘sex-rejecting interventions’
2 means a psychological, medical, or surgical interven-
3 tion that is intended to promote, endorse, or enable
4 a child’s rejection of his or her sex, to promote, en-
5 dorse, or enable a child to adopt an appearance that
6 does not correspond to his or her sex, or to inten-
7 tionally change the body of a child, including the
8 child’s external appearance or biological functions, to
9 no longer correspond to his or her sex, including—

10 “(A) intentionally delaying, halting, or dis-
11 rupting the natural development of the child’s
12 body, including the onset or progression of pu-
13 berty, so that it does not develop or halts devel-
14 oping to correspond to the child’s sex, including
15 but not limited to the use of puberty blocking
16 drugs, such as gonadotropin releasing hormone
17 agonists or antagonists;

18 “(B) prescribing, administering, or dis-
19 pensing to the child androgen blockers or sex
20 hormones such as estrogen, progesterone, or
21 testosterone;

22 “(C) prescribing or performing any sur-
23 gical procedure that attempts to transform the
24 physical appearance or that attempts to alter or

1 remove the tissues, cavities, bone, cartilage, or
2 organs of a child;

3 “(D) providing compression materials or
4 garments that are designed to constrict female
5 breasts, or that flatten or tuck a male’s geni-
6 tals, prosthetic breasts, genitals, or hips, or any
7 other materials that enable the child to conceal
8 his or her sex or to simulate the physical char-
9 acteristics of the opposite sex;

10 “(E) permitting or assigning a child who is
11 4 years of age or older to—

12 “(i) use sleeping quarters, bathrooms,
13 locker rooms, changing rooms, or other
14 areas in which a child may be in a state
15 of undress that are designated for individ-
16 uals of the opposite sex; or

17 “(ii) participate in sex-separated ac-
18 tivities designated for individuals of the op-
19 posite sex.

20 Nothing in this paragraph shall be construed as pre-
21 cluding the treatment of a disorder of sex develop-
22 ment or the treatment of any infection, injury, dis-
23 ease, or disorder that has been caused or exacer-
24 bated by the performance of an intervention de-
25 scribed in subparagraph (A), (B), (C), or (D).

1 “(19) The term ‘covered entity’ means any of
2 the following entities that has received funds under
3 this part or part B directly or as a subrecipient:

4 “(A) Any State and any State or local
5 agency.

6 “(B) Any Indian tribe or tribal organiza-
7 tion.

8 “(C) Any public or private agency or orga-
9 nization that contracts with any entity listed in
10 subparagraph (A) or (B).

11 “(D) Any individual who is a contractor,
12 employee, or agent of any of the entities listed
13 in subparagraphs (A), (B), or (C).”.

14 **SEC. 203. AMENDMENTS TO THE JOHN H. CHAFEE FOSTER**
15 **CARE PROGRAM FOR SUCCESSFUL TRANSI-**
16 **TION TO ADULTHOOD.**

17 Section 477 of the Social Security Act (42 U.S.C.
18 677) is amended—

19 (1) in subsection (b)—

20 (A) in paragraph (2), by adding at the end
21 the following new subparagraphs:

22 “(G) Ensure that the programs comply
23 with, and require covered entities receiving
24 funds under this section to comply with, the re-
25 quirements of paragraphs (38) through (42) of

1 section 471(a) for any youth who has not at-
2 tained the age of 18 receiving services under
3 this section.

4 “(H) Ensure that any provider of transi-
5 tional or independent living services shall com-
6 ply with the housing requirements of paragraph
7 (41) of section 471(a) with regard to any youth
8 receiving such services who has not attained the
9 age of 18.”; and

10 (B) in paragraph (3), by adding at the end
11 the following new subparagraphs:

12 “(L) A certification by the chief executive
13 officer of the State that the State’s programs
14 under this section comply with the requirements
15 of paragraphs (38) through (42) of section
16 471(a) with respect to services provided to any
17 youth who has not attained the age of 18.

18 “(M) A certification by the chief executive
19 officer of the State that the State will ensure
20 that any youth who has not attained the age of
21 18 and who is receiving independent living serv-
22 ices funded under this section shall be housed
23 in accordance with the requirements of para-
24 graph (41) of section 471(a).”; and

1 (2) by adding at the end the following new sub-
2 section:

3 “(k) LIMITATIONS.—No amount paid to a State and
4 no amount received by a covered entity with such funds
5 may be used to provide, facilitate, fund, authorize, or per-
6 mit for a youth, or refer a youth for, any sex-rejecting
7 intervention for any youth who has not attained the age
8 of 18 and who is receiving services funded under this sec-
9 tion.”.

10 **SEC. 204. RULES OF CONSTRUCTION; APPLICATION TO**
11 **FUNDING RESTRICTIONS UNDER PARTS B**
12 **AND E OF TITLE IV OF THE SOCIAL SECURITY**
13 **ACT.**

14 Part E of title IV of the Social Security Act (42
15 U.S.C. 670 et seq.) is amended by adding at the end the
16 following new section:

17 **“SEC. 479C. RULES OF CONSTRUCTION; APPLICATION TO**
18 **FUNDING RESTRICTIONS UNDER PARTS B**
19 **AND E.**

20 “(a) AFFIRMING A CHILD’S SEX IS NOT ABUSE.—
21 In administering, enforcing, or awarding funds under this
22 part or part B, including under section 477, the Secretary
23 shall not treat, and shall ensure that no recipient or sub-
24 recipient uses funds awarded under such provisions to
25 treat, affirmation of a child’s sex by a parent, legal guard-

1 ian, caregiver, foster parent, prospective foster parent, or
2 prospective adoptive parent as child abuse, emotional
3 abuse, neglect, maltreatment, abandonment, contrary to
4 the child's best interests, contrary to a child's health, safe-
5 ty, or welfare, or as an indication of parental unfitness
6 or incapacity.

7 “(b) CONDITION ON RECEIPT OF FUNDS; RIGHTS
8 PROTECTED.—As a condition of receiving funds, including
9 any grants, subgrants, or other allocations, under this part
10 or part B, including under section 477, a covered entity
11 shall protect the following rights and shall not discrimi-
12 nate or take an adverse State action against an individual
13 because such individual exercises, has exercised, or intends
14 to exercise any such right:

15 “(1) A parent or legal guardian has the right
16 to affirm a child's sex, including the right for the
17 child not to be subjected by any covered entity, even
18 if the child is in the legal or physical custody of the
19 covered entity, to—

20 “(A) the provision, facilitation, funding,
21 authorization, or permission of any sex-rejecting
22 intervention for the child;

23 “(B) the use of pronouns or titles that do
24 not correspond to the child's sex, without the

1 express written consent of such parent or legal
2 guardian; or

3 “(C) if the child is 4 years of age or older,
4 being permitted or assigned the use of sleeping
5 quarters (other than sleeping quarters shared
6 only with a sibling), bathrooms, showers, locker
7 rooms, changing rooms, or any other area in
8 which the child would be in a state of undress,
9 with individuals of the opposite sex.

10 “(2) A parent or legal guardian has the right
11 not to be required to consent to the child being sub-
12 jected to any of the actions described in subpara-
13 graph (A), (B), or (C) of paragraph (1) as a condi-
14 tion of custody or return of the child, or visitation,
15 communication, or reunification with the child.

16 “(3) A parent, legal guardian, caregiver, foster
17 parent, prospective foster parent, or prospective
18 adoptive parent has a right to be free from discrimi-
19 nation or adverse State action for affirming or in-
20 tending to affirm a child’s sex.

21 “(4) A child has the right not to be subjected
22 by any covered entity, even if the child is in the legal
23 or physical custody of the covered entity, to any sex-
24 rejecting intervention.

1 “(c) SCOPE OF APPLICATION.—For purposes of the
2 restrictions on the use of awards under this part or part
3 B, including under section 477, if any covered entity re-
4 ceives funds under either such part or section, directly or
5 as a recipient of a subgrant, contract, or other allocation,
6 the requirements and prohibitions of such restrictions
7 shall apply to all of the operations, divisions, facilities, and
8 programs of that covered entity, regardless of whether the
9 specific operation, division, facility, or program that en-
10 gages in the conduct described in such restrictions itself
11 received such funds.”.

12 **SEC. 205. AMENDMENT TO SECTION 478 OF THE SOCIAL SE-**
13 **CURITY ACT.**

14 Section 478 of the Social Security Act (42 U.S.C.
15 678) is amended—

16 (1) by striking “Nothing in this part” and in-
17 serting the following:

18 “(a) IN GENERAL.—Nothing in this part”; and

19 (2) by adding at the end the following:

20 “(b) COMPLIANCE WITH Yaeli Martinez Child
21 PROTECTION ACT.—Notwithstanding subsection (a), as a
22 condition of receiving payments under this part, a State
23 shall ensure that determinations concerning the health,
24 safety, and best interests of a child comply with the re-

1 quirements of, and the amendments made by, the Yaeli
2 Martinez Child Protection Act.”.

3 **TITLE III—AMENDMENTS TO**
4 **THE FULL FAITH AND CREDIT**
5 **FOR CHILD CUSTODY DETER-**
6 **MINATIONS**

7 **SEC. 301. FULL FAITH AND CREDIT FOR CHILD CUSTODY**
8 **DETERMINATIONS.**

9 Section 1738A of title 28, United States Code, is
10 amended—

11 (1) in subsection (a), by striking “subsections
12 (f), (g), and (h)” and inserting “subsections (g)
13 through (j)”;

14 (2) in subsection (b)—

15 (A) by redesignating paragraphs (8) and
16 (9) as paragraphs (17) and (18), respectively;

17 (B) by redesignating paragraphs (5), (6),
18 and (7) as paragraphs (11), (12), and (13), re-
19 spectively;

20 (C) by redesignating paragraph (4) as
21 paragraph (9)

22 (D) by redesignating paragraphs (1), (2),
23 and (3) as paragraphs (3), (4), and (5), respec-
24 tively;

1 (E) by inserting before paragraph (3), as
2 so redesignated, the following:

3 “(1) ‘abuse’, ‘neglect’, ‘mistreatment’, ‘aban-
4 donment’, ‘endangerment’, ‘parental unfitness or in-
5 capacity’, and ‘any other similar claim relating to
6 the health, safety, or welfare of the child, however
7 characterized under the law of the State asserting
8 jurisdiction’ shall not be construed to include affirm-
9 ing a child’s sex;

10 “(2) ‘affirming a child’s sex’—

11 “(A) means referring to and raising a
12 child, or intending to refer to or raise a child,
13 in accordance with his or her sex, including re-
14 fusing to consent to sex-rejecting interventions
15 for the child; and

16 “(B) shall not be construed as contrary to
17 the best interest of the child or contrary to the
18 child’s safety, health, well-being, or welfare;”;

19 (F) by inserting after paragraph (5), as so
20 redesignated, the following:

21 “(6) ‘disorder of sex development’—

22 “(A) means a congenital condition involv-
23 ing atypical chromosome complement or struc-
24 ture or atypical development of sex chro-
25 mosomes, gonads, internal genital ducts, or ex-

1 ternal genitalia, including disorders of sex hor-
2 mone synthesis or action; and

3 “(B) does not include psychological or be-
4 havioral conditions or typical male or female sex
5 development with distress regarding sexed anat-
6 omy;

7 “(7) ‘female’ means an individual who naturally
8 has, had, will have, or would have but for a disorder
9 of sex development or intentional or unintentional
10 disruption, the reproductive system that produces,
11 transports, and utilizes the large gamete (commonly
12 known as ‘ova’) for fertilization;

13 “(8) ‘foreign State’ means a State that is not
14 the home State;”;

15 (G) by inserting after paragraph (9), as so
16 redesignated, the following:

17 “(10) ‘male’ means an individual who naturally
18 has, had, will have, or would have but for a disorder
19 of sex development or intentional or unintentional
20 disruption, the reproductive system that produces,
21 transports, and utilizes the small gamete (commonly
22 known as ‘sperm’) for fertilization;”;

23 (H) by inserting after paragraph (13), as
24 so redesignated, the following:

1 “(14) ‘sex’ means a child’s immutable biological
2 sex, either male or female;

3 “(15) ‘sex-rejecting intervention’—

4 “(A) means a psychological, medical, or
5 surgical intervention that is intended to pro-
6 mote, endorse, or enable a child’s rejection of
7 his or her sex, to promote, endorse, or enable
8 a child to adopt an appearance that does not
9 align with his or her sex, or to intentionally
10 change the body of a child, including the child’s
11 external appearance or biological functions, to
12 no longer correspond to his or her sex, includ-
13 ing—

14 “(i) intentionally delaying, halting, or
15 disrupting the natural development of the
16 child’s body, including the onset or pro-
17 gression of puberty, so that it does not de-
18 velop or halts developing to correspond to
19 the child’s sex, including the use of pu-
20 berty blocking drugs, such as gonadotropin
21 releasing hormone agonists;

22 “(ii) prescribing, administering, or
23 dispensing to the child androgen blockers
24 or sex hormones such as estrogen, pro-
25 gesterone, or testosterone;

1 “(iii) prescribing or performing any
2 surgical procedure that attempts to trans-
3 form the physical appearance or that at-
4 tempts to alter or remove the tissues, cav-
5 ities, bone, cartilage, or organs of a child;

6 “(iv) using pronouns or titles that do
7 not align with the child’s sex;

8 “(v) providing compression materials
9 or garments that are designed to constrict
10 female breasts or that flatten or tuck a
11 male’s genitals, prosthetic breasts, genitals,
12 or hips, or any other materials that enable
13 a child to conceal his or her sex or to sim-
14 ulate the physical characteristics of the op-
15 posite sex; and

16 “(vi) permitting or assigning a child
17 who is not less than 4 years of age to—

18 “(I) use sleeping quarters, bath-
19 rooms, locker rooms, changing rooms,
20 or other areas in which a child may be
21 in a state of undress that are des-
22 ignated for individuals of the opposite
23 sex; or

1 “(II) participate in sex-separated
2 activities designated for individuals of
3 the opposite sex;

4 “(B) shall not be construed to include the
5 treatment of a disorder of sex development; and

6 “(C) shall not be construed to include
7 emergency medical care for a child, unless the
8 medical care is for the treatment of any infec-
9 tion, injury, disease, or disorder that has been
10 caused or exacerbated by the performance of an
11 intervention described in subparagraph (A);

12 “(16) ‘sex-rejecting intervention kidnapping
13 law’ means a State law that permits a foreign State
14 to take temporary or permanent jurisdiction over a
15 child custody or visitation determination because a
16 contestant or a child is seeking a sex-rejecting inter-
17 vention or a custodial parent is affirming the child’s
18 sex;”;

19 (3) in subsection (c)(2)—

20 (A) in subparagraph (A), by inserting
21 “with the permission of each custodial parent”
22 after “had been the child’s home State”;

23 (B) in subparagraph (B), by striking
24 “training” and inserting “education”; and

1 (C) in subparagraph (E), by striking “sub-
2 section (d)” and inserting “subsections (d) and
3 (e)”;

4 (4) by redesignating subsection (g) as sub-
5 section (j) and transferring such subsection, as so
6 redesignated, so as to appear after subsection (h);

7 (5) by redesignating subsections (d), (e), and
8 (f) as subsections (e), (f), and (g), respectively;

9 (6) by inserting before subsection (e), as so re-
10 designated, the following:

11 “(d)(1) Notwithstanding any other provision of this
12 section, a court of a State shall not exercise jurisdiction
13 to make a custody or visitation determination if—

14 “(A)(i) the assumption of jurisdiction is based
15 on a contestant or a child seeking a sex-rejecting
16 intervention for the child; and

17 “(ii) sex-rejecting interventions are available in
18 such State; or

19 “(B) the assumption of jurisdiction is based on
20 a claim that a child has been subjected to or threat-
21 ened with abuse, neglect, mistreatment, abandon-
22 ment, endangerment, parental unfitness or inca-
23 pacity, or any other similar claim relating to the
24 health, safety, or welfare of the child, however char-
25 acterized under the law of the State asserting juris-

1 diction, if such claim is based on a contestant or a
2 child seeking a sex-rejecting intervention for the
3 child available in the State.

4 “(2) For purposes of subparagraph (B) of paragraph
5 (1)—

6 “(A) notwithstanding the laws of the home
7 State or the applicable foreign State—

8 “(i) abuse, neglect, mistreatment, aban-
9 donment, endangerment, parental unfitness or
10 incapacity, or any other similar claim relating
11 to the health, safety, or welfare of the child,
12 however characterized under the law of the
13 State asserting jurisdiction, shall not include
14 the refusal of a child’s parent or legal guardian
15 to consent to or provide a sex-rejecting inter-
16 vention; and

17 “(ii) the refusal of a child’s parent or legal
18 guardian to consent to a sex-rejecting interven-
19 tion shall not be construed as creating an un-
20 safe environment for a child; and

21 “(B) a court shall not determine that a court
22 of another State is a more appropriate forum for
23 custody or visitation determinations if a contestant
24 or a child is seeking sex rejecting interventions and
25 those sex rejecting interventions are not available in

1 the State of the court making the jurisdictional de-
2 termination.

3 “(3) A custody or visitation determination made in
4 violation of subparagraph (A) or (B) of paragraph (1) is
5 not entitled to full faith and credit, enforcement, or rec-
6 ognition under this section by any court and shall not be
7 given effect as a custody or visitation determination for
8 purposes of subsections (a), (e), and (g) through (j). Any
9 State law that purports to authorize the exercise of juris-
10 diction over a custody or visitation determination on a
11 basis prohibited by subparagraph (A) or (B) of paragraph
12 (1) is preempted and without effect.”;

13 (7) in subsection (e), as so redesignated, by
14 striking “the requirement of subsection (c)(1)” and
15 inserting “the requirements of subsections (c) and
16 (d)”;

17 (8) in paragraph (1) of subsection (g), as so re-
18 designated, by inserting “, unless a claim to such ju-
19 risdiction arises out of, or is related to, such State’s
20 sex-rejecting intervention kidnapping laws” after
21 “determination”; and

22 (9) by inserting after subsection (h) the fol-
23 lowing:

24 “(i) No court of a State with a prohibition against
25 a sex-rejecting intervention for children shall decline to ex-

1 ercise jurisdiction or be determined to have declined juris-
2 diction to determine a modification of custody or visitation
3 under subsection (g) or (h) if the child has been provided
4 or is seeking a sex-rejecting intervention in another
5 State.”.