

119TH CONGRESS
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S. RES.

Recognizing that it is the duty of the Federal Government to develop and implement a Transgender Bill of Rights to protect and codify the rights of transgender and nonbinary people under the law and ensure their access to medical care, shelter, safety, and economic security.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY submitted the following resolution; which was referred to the Committee on _____

RESOLUTION

Recognizing that it is the duty of the Federal Government to develop and implement a Transgender Bill of Rights to protect and codify the rights of transgender and nonbinary people under the law and ensure their access to medical care, shelter, safety, and economic security.

Whereas an estimated 1,600,000 transgender adults live in the United States;

Whereas title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) requires equal treatment under the law regardless of sex;

Whereas the Supreme Court of the United States affirmed in *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020) that Federal protection against discrimination on the basis of

sex includes protection from discrimination on the basis of sexual orientation and gender identity;

Whereas several Federal courts have correctly concluded that discrimination against transgender people because of their sex and gender identity violates title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 1557 of the Patient Protection and Affordable Care Act (42 U.S.C. 18116), and the Fourteenth Amendment to the Constitution of the United States;

Whereas, despite the protections against discrimination on the basis of sexual orientation and gender identity, transgender people still experience discrimination in—

- (1) medical care;
- (2) employment;
- (3) housing;
- (4) education;
- (5) lending; and
- (6) other basic necessities;

Whereas President Trump has issued several executive orders that attempt to unlawfully discriminate against transgender people;

Whereas anti-trans individuals strive to deprive transgender and nonbinary people of access to gender affirming care, despite the overwhelming consensus of the medical community that gender-affirming care is essential, safe, and life-saving health care;

Whereas the provision of best-practice, age-appropriate, gender-affirming health care is endorsed by major medical associations such as the American Academy of Child and Adolescent Psychiatry, the American Academy of Family Physicians, the American Academy of Nursing, the

American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the American College of Physicians, the American Counseling Association, the American Heart Association, the American Medical Association, the American Nurses Association, the American Osteopathic Association, the American Psychiatric Association, the American Psychological Association, the American Public Health Association, the Endocrine Society, the National Association of Nurse Practitioners in Women's Health, the Pediatric Endocrine Society, the Society for Adolescent Health and Medicine, the World Medical Association, and the World Professional Association for Transgender Health;

Whereas transgender and nonbinary people—

- (1) face significant barriers to legal recognition of their truest selves on government-issued documentation and identification that reflects their gender;
- (2) experience disproportionately high rates of poverty, homelessness, violence, and suicide due to discrimination and persecution; and
- (3) are especially vulnerable to violence and abuse and are often deprived of gender-affirming resources and health care while detained in jails, prisons, and immigration detention centers; and

Whereas transgender and nonbinary people—

- (1) make unique, valuable contributions to American society and culture worth honoring and celebrating;
 - (2) have existed throughout history across the globe, demonstrating resilience, bravery, and authenticity; and
 - (3) are parents, siblings, children, chosen family, and friends deserving of human dignity and support:
- Now, therefore, be it

1 *Resolved*, That it is the sense of the Senate that—

2 (1) the Federal Government has a duty to pro-
3 tect the rights of transgender and nonbinary people
4 by implementing a “Transgender Bill of Rights”
5 that includes—

6 (A) ensuring that transgender and non-
7 binary people have equal access to services and
8 public accommodations that align with their
9 gender identity by—

10 (i) amending the Civil Rights Act of
11 1964 (42 U.S.C. 2000a et seq.) to prohibit
12 discrimination on the basis of sex, includ-
13 ing gender identity and sex characteristics,
14 in public accommodations and federally
15 funded programs and activities;

16 (ii) expanding the definition of public
17 accommodation to address the full range of
18 places and services that members of the
19 general public utilize;

20 (iii) explicitly clarifying that it is ille-
21 gal to discriminate on the basis of sex, in-
22 cluding gender identity or sex characteris-
23 tics, in public accommodations and services
24 on religious grounds; and

1 (iv) amending Federal law to ensure
2 that it protects students from discrimina-
3 tion based on sex, including gender iden-
4 tity and sex characteristics, thus guaran-
5 teeing the right of students to participate,
6 free from discrimination, including harass-
7 ment and sexual violence, in all areas of
8 school life, including in classes,
9 extracurriculars (including athletics), ac-
10 cess to facilities, and other school activi-
11 ties;

12 (B) clarifying and reaffirming the right to
13 bodily autonomy and health care for
14 transgender and nonbinary people by—

15 (i) enforcing prohibitions against dis-
16 crimination in the provision of health care
17 on the basis of sex, including on the basis
18 of actual or perceived gender identity or
19 sex characteristics;

20 (ii) eliminating unnecessary govern-
21 mental restrictions on the provision of, and
22 access to, gender-affirming medical care
23 and counseling for transgender and non-
24 binary adults and adolescents;

- 1 (iii) ensuring that health care providers that follow recognized standards of care for transgender and nonbinary people are not targeted for criminal or civil penalties, or for professional discipline;
 - 2 (iv) protecting children against forceful removal from supportive homes;
 - 3 (v) protecting providers of gender-affirming care, reproductive health care, and abortion health care from threats and acts of violence related to their work;
 - 4 (vi) expanding access to competent health care providers serving transgender and nonbinary patients, including by recruiting and training more health care providers to provide appropriate care;
 - 5 (vii) expanding telehealth access to provide patients in rural and other underserved locations better access to health care services;
 - 6 (viii) codifying the right to abortion and reproductive health care, such as contraceptives and assistive reproductive technology, for everyone, including transgender and nonbinary people;

1 (ix) banning the performing of non-
2 consensual surgeries that violate medical
3 ethics and the human rights of intersex
4 children and infants;

5 (x) banning conversion practices and
6 other abusive and torturous pseudo-med-
7 ical treatments that are overwhelmingly re-
8 jected by every major medical organization
9 as lacking efficacy and carrying significant
10 risks of harm;

11 (xi) protecting providers of gender-af-
12 firming care from specious consumer and
13 medical fraud accusations based on their
14 provision of medically necessary care; and

15 (xii) ensuring that the Sexual & Gen-
16 der Minority Research Office of the Na-
17 tional Institutes of Health is re-opened and
18 remains operational;

19 (C) ensuring transgender and nonbinary
20 people can care for themselves and their fami-
21 lies by fully codifying the judgment of the Su-
22 preme Court in *Bostock v. Clayton County*, 140
23 S. Ct. 1731 (2020) by—

24 (i) eliminating hiring and employment
25 discrimination and workforce exclusion by

1 amending title VII of the Civil Rights Act
2 of 1964 (42 U.S.C. 2000e et seq.) to ex-
3 plicitly clarify that employers may not dis-
4 criminate on the basis of actual or per-
5 ceived gender identity or sex characteris-
6 tics;

7 (ii) amending the Fair Housing Act
8 (42 U.S.C. 3601 et seq.) to explicitly clar-
9 ify that it prohibits all forms of sex dis-
10 crimination, including on the basis of gen-
11 der identity or sex characteristics; and

12 (iii) amending the Equal Credit Op-
13 portunity Act (15 U.S.C. 1691 et seq.) to
14 explicitly clarify that it prohibits all forms
15 of sex discrimination, including on the
16 basis of gender identity or sex characteris-
17 tics;

18 (D) providing accessible avenues for legal
19 recognition of transgender and nonbinary iden-
20 tities and guaranteeing full participation in civil
21 life by—

22 (i) eliminating Federal gender identi-
23 fication requirements on government docu-
24 ments that are unnecessary to determine

1 the identity of the holder or are otherwise
2 irrelevant to the purpose of the document;

3 (ii) eliminating burdensome barriers
4 to, or prohibitions on, updating sex and
5 names on passports, Social Security cards,
6 and other forms of Federal Government
7 identification and records, permitting,
8 where possible, changes on self-attestation
9 alone;

10 (iii) requiring that an “X” marker be
11 available on Federal Government identi-
12 fication and records that require gender;

13 (iv) requiring States to permit voters
14 to update their name and gender on their
15 voter registration and vote on the same
16 day of Federal elections;

17 (v) making explicit that existing Federal
18 statutes prohibiting sex discrimination
19 in jury service also prohibit discrimination
20 based on gender identity and sex charac-
21 teristics;

22 (vi) eliminating anti-trans bias in the
23 immigration system, including the asylum
24 process, by requiring culturally competent
25 training for adjudicators and ensuring that

1 gender identity and sex characteristics are
2 not used to the detriment of individuals in
3 immigration proceedings;

4 (vii) ensuring that dedicated and ca-
5 pable transgender and nonbinary
6 servicemembers can continue to serve
7 proudly and openly in the Armed Forces;

8 (viii) requiring the TRICARE pro-
9 gram (as defined in section 1072 of title
0 10, United States Code) and the Depart-
1 ment of Veterans Affairs to pay for gen-
2 der-affirming health care; and

13 (ix) requiring a review of military dis-
14 charges for transgender and nonbinary vet-
15 erans, and reclassification of discharge sta-
16 tus and code, to ensure the patriotism and
17 sacrifices of transgender and nonbinary
18 servicemembers is respected above partisan
19 politics;

20 (E) strengthening the safety of
21 transgender and nonbinary people by—

22 (i) investing in community services to
23 prevent intimate partner, family, and com-
24 munity violence against transgender and

1 nonbinary people and expand services for
2 transgender and nonbinary survivors;

3 (ii) investing in mental health services
4 and suicide prevention programs designed
5 for transgender and nonbinary people;

6 (iii) ensuring robust regulations and
7 procedures that affirm that claims for im-
8 migration relief or asylum based on perse-
9 cution related to gender, sexual orienta-
10 tion, gender identity, and sex characteris-
11 tics are protected grounds in the context of
12 asylum adjudications;

13 (iv) ensuring housing assignments for
14 transgender and nonbinary people in gov-
15 ernment custody are based on their safety
16 needs and providing individual housing de-
17 terminations that incorporate assessments
18 by qualified caseworkers and the assess-
19 ment of the individual of their safety
20 needs;

21 (v) prohibiting involuntary solitary or
22 administrative confinement of a
23 transgender or nonbinary individual be-
24 cause of their gender identity; and

1 (vi) exploring policies and practices
2 that improve the safety of transgender and
3 nonbinary individuals incarcerated in jails,
4 prisons, and immigration detention facil-
5 ties and ensuring that those populations of
6 transgender and nonbinary individuals
7 have access to gender-affirming care, ap-
8 propriate services, and commissary items
9 consistent with their gender identity; and

10 (F) actively enforcing the civil rights of
11 transgender and nonbinary people by all gov-
12 ernment agencies including by—

13 (i) requiring the Attorney General to
14 designate a liaison within the Civil Rights
15 Division of the Department of Justice
16 whose job is dedicated to advising on and
17 overseeing enforcement of the civil rights
18 of transgender and nonbinary people; and

19 (ii) appropriating the funds necessary
20 to fully staff and support the enforcement
21 of these rights across agencies;

22 (2) to carry out the goals in this resolution,
23 Federal agencies must collect gender identity and
24 sex characteristics information on a voluntary, con-

1 fidential basis solely for equity and public health
2 purposes in key Federal surveys;

3 (3) the Federal Government must make an on-
4 going commitment to the rights of transgender and
5 nonbinary people;

6 (4) policies concerning transgender rights must
7 be led and informed by transgender communities, in
8 particular Black and Indigenous women who face
9 heightened risk of violence, poverty, discrimination,
10 and other harm due to their intersecting identities;
11 and

12 (5) the actions listed in this resolution are only
13 the first steps toward transgender equality.