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# S. 1996

To protect human rights and enhance opportunities for LGBTQI people around the world, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 9, 2021

Mr. MARKEY (for himself, Mrs. SHAHEEN, Mr. MERKLEY, Mr. LEAHY, Mr. VAN HOLLEN, Mr. BLUMENTHAL, Mr. WYDEN, Mr. CARDIN, Mr. DURBIN, Mr. BOOKER, Mr. MURPHY, Ms. KLOBUCHAR, Mr. PADILLA, Mr. WHITEHOUSE, Mr. SCHATZ, Mr. CASEY, Mr. COONS, Ms. BALDWIN, Mrs. MURRAY, Ms. STABENOW, Ms. SMITH, Ms. ROSEN, and Mr. KAINE) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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# A BILL

To protect human rights and enhance opportunities for LGBTQI people around the world, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLES; TABLE OF CONTENTS.**

(a) SHORT TITLES.—This Act may be cited as the ''Greater Leadership Overseas for the Benefit of Equality Act of 2021'' or the ''GLOBE Act of 2021''.

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

Sec. 1. Short titles; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. Documenting and responding to bias-motivated violence against LGBTQI people abroad.
Sec. 5. Sanctions on individuals responsible for violations of human rights against LGBTQI people.
Sec. 6. Combating international criminalization of LGBTQI status, expression, or conduct.
Sec. 7. Foreign assistance to protect human rights of LGBTQI people.
Sec. 8. Global health inclusivity.
Sec. 9. Immigration reform.
Sec. 10. Issuance of passports and guarantee of citizenship to certain children born abroad.
Sec. 11. Engaging international organizations in the fight against LGBTQI discrimination.
Sec. 12. Representing the rights of LGBTQI United States citizens deployed to diplomatic and consular posts.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) The norms of good governance, human rights protections, and the rule of law have been violated unconscionably with respect to LGBTQI people in an overwhelming majority of countries around the world, where LGBTQI people face violence, hatred, bigotry, and discrimination because of who they are and who they love.

(2) In at least 68 countries (almost 40 percent of countries in the world), same-sex relations and relationships are criminalized. Many countries also criminalize or otherwise prohibit cross-dressing and gender-affirming treatments for transgender individuals.

(3) The World Bank has begun to measure the macro-economic costs of criminal laws targeting

LGBTQI individuals through lost productivity, detrimental health outcomes and violence, as a step toward mitigating those costs.

(4) Violence and discrimination based on sexual orientation and gender identity are documented in the Department of State's annual Country Human Rights Reports to Congress. These reports continue to show a clear pattern of human rights violations, including murder, rape, torture, death threats, extortion, and imprisonment, in every region of the world based on sexual orientation and gender identity. In many instances police, prison, military, and civilian government authorities have been directly complicit in abuses aimed at LGBTQI citizens.

(5) As documented by the Department of State, LGBTQI individuals are subjected in many countries to capricious imprisonment, loss of employment, housing, access to health care, and societal stigma and discrimination. LGBTQI-specific restrictions on basic freedoms of assembly, press, and speech exist in every region of the world.

(6) Targeted sanctions are an important tool to push for accountability for violations of the human rights of LGBTQI people.

(7) Anti-LGBTQI laws and discrimination pose significant risks for LGBTQI youth who come out to their family or community and often face rejection, homelessness, and limited educational and economic opportunities. These factors contribute to increased risks of substance abuse, suicide, and HIV infection among LGBTQI youth.

(8) Anti-LGBTQI laws also increase global health risks. Studies have shown that when LGBTQI people (especially LGBTQI youth) face discrimination, they are less likely to seek HIV testing, prevention, and treatment services.

(9) LGBTQI populations are disproportionately impacted by the Mexico City Policy, also widely referred to as the ''global gag rule''. LGBTQI people often receive much of their health care through reproductive health clinics, and organizations that cannot comply with the policy are forced to discontinue work on United States-supported global health projects that are frequently used by LGBTQI populations, including HIV prevention and treatment, stigma reduction, and research.

(10) Because they face tremendous discrimination in the formal labor sector, many sex workers are also LGBTQI individuals, and many sex-worker-

led programs and clinics serve the LGBTQI community with safe, non-stigmatizing, medical and social care. The United States Agency for International Development has also referred to sex workers as a ''most-at-risk population''. The anti-prostitution loyalty oath that health care providers receiving United States assistance must take isolates sex-worker-led and serving groups from programs and reinforces stigma, undermining both the global AIDS response and human rights. A 2013 Supreme Court opinion held this requirement to be unconstitutional as it applies to United States nongovernmental organizations and their foreign affiliates.

(11) According to the Trans Murder Monitoring Project, which monitors homicides of transgender individuals, there were at least 350 cases of reported killings of trans and gender-diverse people between October 2019 and September 2020.

(12) In many countries, intersex individuals experience prejudice and discrimination because their bodies do not conform to general expectations about sex and gender. Because of these expectations, medically unnecessary interventions are often performed in infancy without the consent or approval of

intersex individuals, in violation of international human rights standards.

(13) Asylum and refugee protection are critical last-resort protections for LGBTQI individuals, but those who seek such protections face ostracization and abuse in refugee camps and detention facilities. They are frequently targeted for violence, including sexual assault, in refugee camps and in immigration detention. LGBTQI individuals may be segregated against their will for long periods in solitary confinement, in an effort to protect them from such violence, but prolonged solitary confinement itself represents an additional form of abuse that is profoundly damaging to the social and psychological well-being of any individual.

(14) The global COVID–19 pandemic has exacerbated inequalities faced by LGBTQI individuals, including access to health care, stigma, and discrimination, undermining LGBTQI rights around the world.

(15) In December 2011, President Barack Obama directed all Federal foreign affairs agencies to ensure that their diplomatic, humanitarian, health and foreign assistance programs take into account

the needs of marginalized LGBTQI communities and persons.

(16) In 2015, the Department of State established the position of Special Envoy for the Human Rights of LGBTQI Persons.

(17) In 2021, President Joseph Biden issued the Memorandum on Advancing the Human Rights of Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Persons Around the World, which stated that it ''shall be the policy of the United States to pursue an end to violence and discrimination on the basis of sexual orientation, gender identity or expression, or sex characteristics'' and called for United States global leadership'' in the cause of advancing the human rights of LGBTQI+ persons around the world''.

(18) In 2020, in Bostock v. Clayton County, the Supreme Court held that Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) prohibits discrimination on the basis of gender identity and sexual orientation. On January 20, 2021, President Biden issued Executive Order 13988 (86 Fed. Reg. 7023) to enforce this holding, which orders all Federal agency heads, including the Secretary of State and the Administrator of the United States

Agency for International Development, to review agency actions to determine what additional steps should be taken to ensure that agency policies are consistent with the nondiscrimination policy set forth in the Executive order.

(19) The use of United States diplomatic tools, including the Department of State's exchange and speaker programs, to address the human rights needs of marginalized communities has helped inform public debates in many countries regarding the protective responsibilities of any democratic government.

(20) Inclusion of human rights protections for LGBTQI individuals in United States trade agreements, such as the Agreement between the United States of America, the United Mexican States, and Canada (commonly known as the ''USMCA'') and trade preference programs, is intended—

(A) to ensure a level playing field for United States businesses; and

(B) to provide greater workplace protections overseas, compatible with those of the United States.

(21) Engaging multilateral fora and international institutions is critical to impacting global

norms and to broadening global commitments to fairer standards for the treatment of all people, including LGBTQI people. The United States must remain a leader in the United Nations system and has a vested interest in the success of that multilateral engagement.

(22) Ongoing United States participation in the Equal Rights Coalition, which is a new intergovernmental coalition of more than 40 governments and leading civil society organizations that work together to protect the human rights of LGBTQI people around the world, remains vital to international efforts to respond to violence and impunity.

(23) Those who represent the United States abroad, including our diplomats, development specialists and military, should reflect the diversity of our country and honor America's call to equality, including through proud and open service abroad by LGBTQI Americans and those living with HIV.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—Except as provided in section 5, the term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on the Judiciary of the Senate;

(C) the Committee on Appropriations of the Senate;

(D) the Committee on Foreign Affairs of the House of Representatives;

(E) the Committee on the Judiciary of the House of Representatives; and

(F) the Committee on Appropriations of the House of Representatives.

(2) GENDER IDENTITY.—The term ''gender identity'' means the gender-related identity, appearance, or mannerisms or other gender-related characteristics of an individual, regardless of the individual's designated sex at birth.

(3) LGBTQI.—The term ''LGBTQI'' means lesbian, gay, bisexual, transgender, queer, or intersex.

(4) MEMBER OF A VULNERABLE GROUP.—The term ''member of a vulnerable group'' means an alien who—

(A) is younger than 21 years of age or older than 60 years of age;

(B) is pregnant;

(C) identifies as lesbian, gay, bisexual, transgender, or intersex;

(D) is victim or witness of a crime;

(E) has filed a nonfrivolous civil rights claim in Federal or State court;

(F) has a serious mental or physical illness or disability;

(G) has been determined by an asylum officer in an interview conducted under section 235(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)) to have a credible fear of persecution; or

(H) has been determined by an immigration judge or by the Secretary of Homeland Security, based on information obtained during intake, from the alien's attorney or legal service provider, or through credible self-reporting, to be—

(i) experiencing severe trauma; or

(ii) a survivor of torture or gender-based violence.

(5) SEXUAL ORIENTATION.—The term ''sexual orientation'' means actual or perceived homosexuality, heterosexuality, or bisexuality.

**SEC. 4. DOCUMENTING AND RESPONDING TO BIAS-MOTIVATED VIOLENCE AGAINST LGBTQI PEOPLE ABROAD.**

(a) INFORMATION REQUIRED TO BE INCLUDED IN ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.—

(1) SECTION 116.—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended—

(A) in paragraph (11)(C), by striking ''and'' at the end;

(B) in paragraph (12)(C)(ii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(13) wherever applicable, the nature and extent of criminalization, discrimination, and violence based on sexual orientation or gender identity, including the identification of countries that have adopted laws or constitutional provisions that criminalize or discriminate based on sexual orientation or gender identity, including detailed descriptions of such laws and provisions.''.

(2) SECTION 502B.—Section 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2304) is amended—

(A) by redesignating the second subsection (i) (relating to child marriage status) as subsection (j); and

(B) by adding at the end the following:

''(k) SEXUAL ORIENTATION AND GENDER IDENTITY.—The report required under subsection (b) shall include, wherever applicable, the nature and extent of criminalization, discrimination, and violence based on sexual orientation or gender identity, including the identification of countries that have adopted laws or constitutional provisions that criminalize or discriminate based on sexual orientation or gender identity, including detailed descriptions of such laws and provisions.''.

(b) REVIEW AT DIPLOMATIC AND CONSULAR POSTS.—

(1) IN GENERAL.—In preparing the annual country reports on human rights practices required under section 116 or 502B of the Foreign Assistance Act of 1961, as amended by subsection (a), the Secretary of State shall obtain information from each diplomatic and consular post with respect to—

(A) incidents of violence against LGBTQI people in the country in which such post is located;

(B) an analysis of the factors enabling or aggravating such incidents, such as government policy, societal pressure, or external actors; and

(C) the response (whether public or private) of the personnel of such post with respect to such incidents.

(2) ADDRESSING BIAS-MOTIVATED VIOLENCE.—The Secretary of State shall include in the annual strategic plans of the regional bureaus concrete diplomatic strategies, programs, and policies to address bias-motivated violence using information obtained pursuant to paragraph (1), such as programs to build capacity among civil society or governmental entities to document, investigate, and prosecute instances of such violence and provide support to victims of such violence.

(c) INTERAGENCY GROUP.—

(1) ESTABLISHMENT.—There is established an interagency group on responses to urgent threats to LGBTQI people in foreign countries (referred to in this subsection as the ''interagency group''), which—

(A) shall be chaired by the Secretary of State; and

(B) shall include the Secretary of Defense, the Secretary of the Treasury, the Adminis-

trator of the United States Agency for International Development, the Attorney General, and the head of each other Federal department or agency that the President determines is relevant to the duties of the interagency group.

(2) DUTIES.—The duties of the interagency group shall be—

(A) to coordinate the responses of each participating agency with respect to threats directed towards LGBTQI populations in other countries;

(B) to develop longer-term approaches to policy developments and incidents negatively impacting the LGBTQI populations in specific countries;

(C) to advise the President on the designation of foreign persons for sanctions pursuant to section 5;

(D) to identify United States laws and policies, at the Federal, State, and local levels, that affirm the equality of LGBTQI persons; and

(E) to use such identified laws and policies to develop diplomatic strategies to share the expertise obtained from the implementation of

such laws and policies with appropriate officials of countries where LGBTQI persons do not enjoy equal protection under the law.

(d) SPECIAL ENVOY FOR THE HUMAN RIGHTS OF LGBTQI PEOPLES.—

(1) ESTABLISHMENT.—The Secretary of State shall establish, in the Bureau of Democracy, Human Rights, and Labor of the Department of State, a permanent Special Envoy for the Human Rights of LGBTQI Peoples (referred to in this section as the ''Special Envoy''), who—

(A) shall be appointed by the President; and

(B) shall report directly to the Assistant Secretary for Democracy, Human Rights, and Labor.

(2) RANK.—The Special Envoy may be appointed at the rank of Ambassador.

(3) PURPOSES.—The Special Envoy shall—

(A) direct the efforts of the United States Government relating to United States foreign policy, as directed by the Secretary, regarding—

(i) human rights abuses against LGBTQI people and communities internationally; and

(ii) the advancement of human rights for LGBTQI people; and

(B) represent the United States internationally in bilateral and multilateral engagement on the matters described in subparagraph (A).

(4) DUTIES.—

(A) IN GENERAL.—The Special Envoy—

(i) shall serve as the principal advisor to the Secretary of State regarding human rights for LGBTQI people internationally;

(ii) notwithstanding any other provision of law—

(I) shall direct activities, policies, programs, and funding relating to the human rights of LGBTQI people and the advancement of LGBTQI equality initiatives internationally, for all bureaus and offices of the Department of State; and

(II) shall lead the coordination of relevant international programs for all

other Federal agencies relating to such matters;

(iii) shall represent the United States in diplomatic matters relevant to the human rights of LGBTQI people, including criminalization, discrimination, and violence against LGBTQI people internationally;

(iv) shall direct, as appropriate, United States Government resources to respond to needs for protection, integration, resettlement, and empowerment of LGBTQI people in United States Government policies and international programs, including to prevent and respond to criminalization, discrimination, and violence against LGBTQI people internationally;

(v) shall design, support, and implement activities regarding support, education, resettlement, and empowerment of LGBTQI people internationally, including for the prevention and response to criminalization, discrimination, and violence against LGBTQI people internationally;

(vi) shall lead interagency coordination between the foreign policy priorities related to the human rights of LGBTQI people and the development assistance priorities of the LGBTQI Coordinator of the United States Agency for International Development;

(vii) shall conduct regular consultation with nongovernmental organizations working to prevent and respond to criminalization, discrimination, and violence against LGBTQI people internationally;

(viii) shall ensure that—

(I) programs, projects, and activities of the Department of State and the United States Agency for International Development designed to prevent and respond to criminalization, discrimination, and violence against LGBTQI people internationally are subject to rigorous monitoring and evaluation; and

(II) there is a uniform set of indicators and standards for such monitoring and evaluation that is used

across international programs in Federal agencies; and

(ix) is authorized to represent the United States in bilateral and multilateral fora on matters relevant to the human rights of LGBTQI people internationally, including criminalization, discrimination, and violence against LGBTQI people internationally.

(5) DATA REPOSITORY.—The Bureau of Democracy, Human Rights, and Labor—

(A) shall be the central repository of data on all United States programs, projects, and activities that relate to prevention and response to criminalization, discrimination, and violence against LGBTQI people internationally; and

(B) shall produce—

(i) a full accounting of United States Government spending on such programs, projects, and activities; and

(ii) evaluations of the effectiveness of such programs, projects, and activities.

(e) TRAINING AT INTERNATIONAL LAW ENFORCEMENT ACADEMIES.—The President shall ensure that any international law enforcement academy supported by

United States assistance shall provide training with respect to the rights of LGBTQI people, including through specialized courses highlighting best practices in the documentation, investigation and prosecution of bias-motivated hate crimes targeting persons based on actual or perceived sexual orientation, gender identity, or sex characteristics.

**SEC. 5. SANCTIONS ON INDIVIDUALS RESPONSIBLE FOR VIOLATIONS OF HUMAN RIGHTS AGAINST LGBTQI PEOPLE.**

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Armed Services of the Senate;

(B) the Committee on Foreign Relations of the Senate;

(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

(D) the Committee on the Judiciary of the Senate;

(E) the Committee on Armed Services of the House of Representatives;

(F) the Committee on Foreign Affairs of the House of Representatives;

(G) the Committee on Homeland Security of the House of Representatives; and

(H) the Committee on the Judiciary of the House of Representatives.

(2) FOREIGN PERSON.—The term ''foreign person'' has the meaning given such term in section 595.304 of title 31, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

(3) IMMEDIATE FAMILY MEMBER.—The term ''immediate family member'' has the meaning given such term for purposes of section 7031(c) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2021 (division K of Public Law 116–260).

(4) PERSON.—The term ''person'' has the meaning given such term in section 591.308 of title 31, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

(b) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act and biannually thereafter, the President shall submit to the appropriate congressional committees a list of each foreign person the President determines, based on credible information, including information obtained by other countries or by non-

governmental organizations that monitor violations of human rights—

(1) is responsible for or complicit in, with respect to persons based on actual or perceived sexual orientation, gender identity, or sex characteristics—

(A) cruel, inhuman, or degrading treatment or punishment;

(B) prolonged detention without charges and trial;

(C) causing the disappearance of such persons by the abduction and clandestine detention of such persons; or

(D) other flagrant denial of the right to life, liberty, or the security of such persons;

(2) acted as an agent of or on behalf of a foreign person in a matter relating to an activity described in paragraph (1); or

(3) is responsible for or complicit in inciting a foreign person to engage in an activity described in paragraph (1).

(c) FORM; UPDATES; REMOVAL.—

(1) FORM.—The list required under subsection (b) shall be submitted in unclassified form and published in the Federal Register without regard to the requirements of section 222(f) of the Immigration

and Nationality Act (8 U.S.C. 1202(f)) with respect to confidentiality of records pertaining to the issuance or refusal of visas or permits to enter the United States, except that the President may include a foreign person in a classified, unpublished annex to such list if the President—

(A) determines that—

(i) such annex is vital for the national security interests of the United States; and

(ii) the use of such annex, and the inclusion of such person in such annex, would not undermine the overall purpose of this section to publicly identify foreign persons engaging in the conduct described in subsection (b) in order to increase accountability for such conduct; and

(B) not later than 15 days before including such person in a classified annex, provides to the appropriate congressional committees notice of, and a justification for, including or continuing to include each foreign person in such annex despite the existence of any publicly available credible information indicating that each such foreign person engaged in an activity described in subsection (b).

(2) UPDATES.—The President shall submit to the appropriate congressional committees an update of the list required under subsection (b) as new information becomes available.

(3) REMOVAL.—A foreign person may be removed from the list required under subsection (b) if the President determines and reports to the appropriate congressional committees not later than 15 days before the removal of such person from such list that—

(A) credible information exists that such person did not engage in the activity for which the person was included in such list;

(B) such person has been prosecuted appropriately for the activity in which such person engaged; or

(C) such person has credibly demonstrated a significant change in behavior, has paid an appropriate consequence for the activities in which such person engaged, and has credibly committed to not engage in an activity described in subsection (b).

(d) PUBLIC SUBMISSION OF INFORMATION.—The President shall issue public guidance, including through United States diplomatic and consular posts, setting forth

the manner by which the names of foreign persons that may meet the criteria to be included on the list required under subsection (b) may be submitted to the Department of State for evaluation.

(e) REQUESTS FROM CHAIR AND RANKING MEMBER OF APPROPRIATE CONGRESSIONAL COMMITTEES.—

(1) CONSIDERATION OF INFORMATION.—In addition to the guidance issued pursuant to subsection (d), the President shall also consider information provided by the Chair or Ranking Member of each of the appropriate congressional committees in determining whether to include a foreign person in the list required under subsection (b).

(2) REQUESTS.—Not later than 120 days after receiving a written request from the Chair or Ranking Member of one of the appropriate congressional committees with respect to whether a foreign person meets the criteria for being included in the list required under subsection (b), the President shall respond to such Chair or Ranking Member, as the case may be, with respect to the President's determination relating to such foreign person.

(3) REMOVAL.—If the President removes a foreign person from the list required under subsection (b) that had been included in such list pursuant to

a request under paragraph (2), the President shall provide to the relevant Chair or Ranking Member of one of the appropriate congressional committees any information that contributed to such decision.

(4) FORM.—The President may submit the response required under paragraph (2) or paragraph (3) in classified form if the President determines that such form is necessary for the national security interests of the United States.

(f) INADMISSIBILITY OF CERTAIN INDIVIDUALS.—

(1) INELIGIBILITY FOR VISAS AND ADMISSION TO THE UNITED STATES.—A foreign person on the list required under subsection (b), and each immediate family member of such person, is—

(A) inadmissible to the United States;

(B) ineligible to receive a visa or other documentation to enter the United States; and

(C) otherwise ineligible to be admitted or paroled into the United States or to receive any other benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) CURRENT VISAS REVOKED.—

(A) IN GENERAL.—The issuing consular officer or the Secretary of State, (or a designee of the Secretary of State), in accordance with

section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)), shall revoke any visa or other entry documentation issued to a foreign person on the list required under subsection (b), and any visa or other entry documentation issued to any immediate family member of such person, regardless of when the visa or other entry documentation is issued.

(B) EFFECT OF REVOCATION.—A revocation under subparagraph (A) shall—

(i) take effect immediately; and

(ii) automatically cancel any other valid visa or entry documentation that is in the foreign person's possession.

(C) RULEMAKING.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prescribe such regulations as may be necessary to carry out this subsection.

(D) EXCEPTION TO COMPLY WITH INTERNATIONAL OBLIGATIONS.—Sanctions under this subsection shall not apply with respect to a foreign person if admitting or paroling such person into the United States is necessary to permit the United States to comply with the

Agreement regarding the Headquarters of the United Nations, signed at Lake Success, June 26, 1947, and entered into force November 21, 1947, between the United Nations and the United States, or other applicable international obligations.

(3) SENSE OF CONGRESS WITH RESPECT TO ADDITIONAL SANCTIONS.—It is the sense of Congress that the President should impose additional targeted sanctions with respect to foreign persons on the list required under subsection (b) to push for accountability for flagrant denials of the right to life, liberty, or the security of the person, through the use of designations and targeted sanctions provided for such conduct under other existing authorities.

(4) WAIVERS IN THE INTEREST OF NATIONAL SECURITY.—

(A) IN GENERAL.—The President may waive the application of paragraph (1) or (2) with respect to a foreign person included in the list required under subsection (b) if the President determines, and submits to the appropriate congressional committees notice of, and justification for, such determination, that such a waiver—

(i) is necessary to permit the United States to comply with the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, signed June 26, 1947, and entered into force November 21, 1947, or other applicable international obligations of the United States; or

(ii) is in the national security interests of the United States.

(B) TIMING OF CERTAIN WAIVERS.—A waiver pursuant to a determination under subparagraph (A)(ii) shall be submitted not later than 15 days before the granting of such waiver.

(g) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the President, acting through the Secretary of State, shall submit a report to the appropriate congressional committees that describes—

(1) the actions taken to carry out this section, including—

(A) the number of foreign persons added to or removed from the list required under sub-

section (b) during the year immediately preceding each such report;

(B) the dates on which such persons were added or removed;

(C) the reasons for adding or removing such persons; and

(D) an analysis that compares increases or decreases in the number of such persons added or removed year-over-year and the reasons for such increases or decreases; and

(2) any efforts by the President to coordinate with the governments of other countries, as appropriate, to impose sanctions that are similar to the sanctions imposed under this section.

**SEC. 6. COMBATING INTERNATIONAL CRIMINALIZATION OF LGBTQI STATUS, EXPRESSION, OR CONDUCT.**

(a) ANNUAL STRATEGIC REVIEW.—The Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall include, during the course of annual strategic planning, an examination of—

(1) the progress made in countries around the world toward the decriminalization of the status, expression, and conduct of LGBTQI individuals;

(2) the obstacles that remain toward achieving such decriminalization; and

(3) the strategies available to the Department of State and the United States Agency for International Development to address such obstacles.

(b) ELEMENTS.—The examination described in subsection (a) shall include—

(1) an examination of the full range of criminal and civil laws of other countries that disproportionately impact communities of LGBTQI individuals or apply with respect to the conduct of LGBTQI individuals;

(2) in consultation with the Attorney General, a list of countries in each geographic region with respect to which—

(A) the Attorney General, acting through the Office of Overseas Prosecutorial Development Assistance and Training of the Department of Justice, shall prioritize programs seeking—

(i) to decriminalize the status, expression, and conduct of LGBTQI individuals;

(ii) to monitor the trials of those prosecuted because of such status, expression, or conduct; and

(iii) to reform related laws having a discriminatory impact on LGBTQI individuals;

(B) applicable speaker or exchange programs sponsored by the United States Government shall bring together civil society and governmental leaders—

(i) to promote the recognition of LGBTQI rights through educational exchanges in the United States; and

(ii) to support better understanding of the role that governments and civil societies mutually play in assurance of equal treatment of LGBTQI populations abroad.

**SEC. 7. FOREIGN ASSISTANCE TO PROTECT HUMAN RIGHTS OF LGBTQI PEOPLE.**

(a) SENSE OF CONGRESS.— It is the sense of Congress that the full implementation of Executive Order 13988 (86 Fed. Reg. 7023; January 20, 2021) and the holding in Bostock v. Clayton County requires that United States foreign assistance and development organizations adopt the policy that no contractor, grantee, or implementing partner administering United States assistance for any humanitarian, development, or global health programs may discriminate against any employee or applicant

for employment because of their gender identity or sexual orientation.

(b) GLOBAL EQUALITY FUND.—

(1) IN GENERAL.—The Secretary of State shall establish a fund, to be known as the ''Global Equality Fund'', to be managed by the Assistant Secretary of the Bureau of Democracy, Human Rights and Labor, consisting of such sums as may be appropriated to provide grants, emergency assistance, and technical assistance to eligible civil society organizations and human rights defenders working to advance and protect human rights for all including LGBTQI persons, by seeking—

(A) to ensure the freedoms of assembly, association, and expression;

(B) to protect persons or groups against the threat of violence, including medically unnecessary interventions performed on intersex infants;

(C) to advocate against laws that—

(i) criminalize LGBTQI status, expression, or conduct; or

(ii) discriminate against individuals on the basis of sexual orientation, gender identity, or sex characteristics;

(D) to end explicit and implicit forms of discrimination in the workplace, housing, education, and other public institutions or services; and

(E) to build community awareness and support for the human rights of LGBTQI persons.

(2) CONTRIBUTIONS.—The Secretary of State may accept financial and technical contributions, through the Global Equality Fund, from corporations, bilateral donors, foundations, nongovernmental organizations, and other entities supporting the outcomes described in paragraph (1).

(3) PRIORITIZATION.—In providing assistance through the Global Equality Fund, the Secretary of State shall ensure due consideration and appropriate prioritization of assistance to groups that have historically been excluded from programs undertaken for the outcomes described in paragraph (1).

(c) LGBTQI GLOBAL DEVELOPMENT PARTNERSHIP.—The Administrator of the United States Agency for International Development, in consultation with the Secretary of State, shall establish a partnership, to be known as the ''LGBTQI Global Development Partnership'', to leverage the financial and technical contributions

of corporations, bilateral donors, foundations, nongovernmental organizations, and universities to support the human rights and development of LGBTQI persons around the world by supporting programs, projects, and activities—

(1) to strengthen the capacity of LGBTQI leaders and civil society organizations;

(2) to train LGBTQI leaders to effectively participate in democratic processes and lead civil institutions;

(3) to conduct research to inform national, regional, or global policies and programs; and

(4) to promote economic empowerment through enhanced LGBTQI entrepreneurship and business development.

(d) CONSULTATION.—In coordinating programs, projects, and activities through the Global Equality Fund or the Global Development Partnership, the Secretary of State shall consult, as appropriate, with the Administrator of the United States Agency for International Development and the heads of other relevant Federal departments and agencies.

(e) REPORT.—The Secretary of State shall submit to the appropriate congressional committees an annual report on the work of, successes obtained, and challenges

faced by the Global Equality Fund and the LGBTQI Global Development Partnership established in accordance with this section.

(f) LIMITATION ON ASSISTANCE RELATING TO EQUAL ACCESS.—

(1) IN GENERAL.—None of the amounts authorized to be appropriated or otherwise made available to provide United States assistance for any humanitarian, development, or global health programs may be made available to any contractor, grantee, or implementing partner, unless such recipient—

(A) ensures that the program, project, or activity funded by such amounts are made available to all elements of the population, except to the extent that such program, project, or activity targets a population because of the higher assessed risk of negative outcomes among such populations;

(B) undertakes to make every reasonable effort to ensure that each subcontractor or subgrantee of such recipient will also adhere to the requirement described in subparagraph (A); and

(C) agrees to return all amounts awarded or otherwise provided by the United States, including such additional penalties as the Sec-

retary of State may determine to be appropriate, if the recipient is not able to adhere to the requirement described in subparagraph (A).

(2) QUARTERLY REPORT.—The Secretary of State shall provide to the appropriate congressional committees a quarterly report on the methods by which the Department of State monitors compliance with the requirement under paragraph (1)(A).

(g) OFFICE OF FOREIGN ASSISTANCE.—The Secretary of State, acting through the Director of the Office of Foreign Assistance, shall—

(1) monitor the amount of foreign assistance obligated and expended on programs, projects, and activities relating to LGBTQI people; and

(2) provide the results of the indicators tracking such expenditure, upon request, to the Organization for Economic Co-Operation and Development.

**SEC. 8. GLOBAL HEALTH INCLUSIVITY.**

(a) IN GENERAL.—The Coordinator of United States Government Activities to Combat HIV/AIDS Globally shall—

(1) develop mechanisms to ensure that the President's Emergency Plan for AIDS Relief (PEPFAR) is implemented in a way that equitably serves LGBTQI people in accordance with the goals

described in section 7(f), including by requiring all partner entities receiving assistance through PEPFAR to receive training on the health needs of and human rights standards relating to LGBTQI people; and

(2) promptly notify Congress of any obstacles encountered by a foreign government or contractor, grantee, or implementing partner in the effort to equitably implement PEPFAR as described in such subsection, including any remedial steps taken by the Coordinator to overcome such obstacles.

(b) REPORT ON INTERNATIONAL PROSECUTIONS FOR SEX WORK OR CONSENSUAL SEXUAL ACTIVITY.—Not later than 180 days after the date of the enactment of this Act, the Coordinator shall submit a report to the appropriate congressional committees that describes the manner in which commodities, such as condoms provided by programs, projects, or activities funded through PEPFAR or other sources of United States assistance, have been used as evidence to arrest, detain, or prosecute individuals in other countries in order to enforce domestic laws criminalizing sex work or consensual sexual activity.

(c) REPORT ON HIV/AIDS-RELATED INDEX TESTING.—Not later than 180 days after the date of the enactment of this Act, the Coordinator shall submit a report

to the appropriate congressional committees that describes the impact of partner notification services and index testing on treatment adherence, intimate partner violence, and exposure to the criminal justice system for key populations, including LGBTQI people and sex workers, using qualitative and quantitative data.

(d) REPORT ON IMPACT OF "GLOBAL GAG" RULE.—Not later than 180 days after the date of the enactment of this Act, the Government Accountability Office shall submit a report to the appropriate congressional committees that describes the impact, as of the date of the submission of the report, on the implementation and enforcement of any iteration of the Mexico City Policy on the global LGBTQI community.

(e) CONFORMING AMENDMENTS.—

(1) PEPFAR AUTHORIZATION.—Section 301 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7631) is amended—

(A) by striking subsections (d) through (f); and

(B) by redesignating subsection (g) as subsection (d).

(2) ALLOCATION OF FUNDS BY THE GLOBAL AIDS COORDINATOR.—Section 403(a) of the United

States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7673(a)) is amended—

(A) in paragraph (1)—

(i) by striking ''shall—'' and all that follows through ''(A) provide'' and inserting ''shall provide'';

(ii) by striking ''; and'' and inserting a period; and

(iii) by striking subparagraph (B); and

(B) in paragraph (2)—

(i) by striking ''PREVENTION STRATEGY.—'' and all that follows through ''In carrying out paragraph (1), the'' and inserting ''PREVENTION STRATEGY.—The''; and

(ii) by striking subparagraph (B).

(3) TVPA AUTHORIZATION.—Section 113 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7110) is amended—

(A) by striking subsection (g); and

(B) by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

**SEC. 9. IMMIGRATION REFORM.**

(a) REFUGEES AND ASYLUM SEEKERS.—

(1) LGBTQI SOCIAL GROUP.—Section 101(a)(42) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42)) is amended by adding at the end the following: ''For purposes of determinations under this Act, a person who has been persecuted on the basis of sexual orientation or gender identity shall be deemed to have been persecuted on account of membership in a particular social group and a person who has a well founded fear of persecution on the basis of sexual orientation or gender identity shall be deemed to have a well founded fear of persecution on account of membership in a particular social group.''.

(2) ANNUAL REPORT.—Section 103(e)(2) of the Immigration and Nationality Act (8 U.S.C. 1103(e)) is amended—

(A) by striking ''information on the number'' and inserting the following: ''information on—

''(A) the number''; and

(B) by striking the period at the end and inserting the following: ''; and

''(B) the total number of applications for asylum and refugee status received that are, in whole

or in part, based on persecution or a well founded fear of persecution on account of sexual orientation or gender identity, and the rate of approval administratively of such applications.''.

(3) ASYLUM FILING DEADLINE REPEAL.—

(A) IN GENERAL.—Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively;

(iii) in subparagraph (C), as redesignated—

(I) by striking ''notwithstanding subparagraphs (B) and (C)'' and inserting ''notwithstanding subparagraph (B)'';

(II) by striking ''either''; and

(III) by striking ''or extraordinary circumstances relating to the delay in filing an application within the period specified in subparagraph (B)''; and

(iv) in subparagraph (D), as redesignated, by striking ''Subparagraphs (A) and (B)'' and inserting ''Subparagraph (A)''.

(B) APPLICATION.—The amendments made by subparagraph (A) shall apply to applications for asylum filed before, on, or after the date of the enactment of this Act.

(b) PERMANENT PARTNERS.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended—

(1) in paragraph (35), by inserting ''includes any permanent partner, but'' before ''does not include''; and

(2) by adding at the end the following:

''(53) The term 'marriage' includes a permanent partnership.

''(54) The term 'permanent partner' means an individual who is 18 years of age or older and who—

''(A) is in a committed, intimate relationship with another individual who is 18 years of age or older, in which both parties intend a lifelong commitment;

''(B) is financially interdependent with the other individual;

''(C) is not married to anyone other than the other individual;

''(D) is a national of or, in the case of a person having no nationality, last habitually resided in a country that prohibits marriage between the individuals; and

''(E) is not a first-, second-, or third-degree blood relation of the other individual.

''(55) The term 'permanent partnership' means the relationship that exists between 2 permanent partners.''.

(c) COUNSEL.—

(1) APPOINTMENT OF COUNSEL.—Section 240(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)(4)) is amended—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting '', and''; and

(C) by adding at the end the following:

''(D) notwithstanding subparagraph (A), in a case in which an indigent alien requests representation, such representation shall be appointed by the court, at the expense of the Government, for such proceedings.''.

(2) RIGHT TO COUNSEL.—Section 292 of the Immigration and Nationality Act (8 U.S.C. 1362) is amended—

(A) by inserting ''(a)'' before ''In any'';

(B) by striking ''he'' and inserting ''the person''; and

(C) by adding at the end the following:

''(b) Notwithstanding subsection (a), in a case in which an indigent alien requests representation, such representation shall be appointed by the court, at the expense of the Government, for the proceedings described in subsection (a).

''(c) In an interview relating to admission under section 207, an alien shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as the alien shall choose.''.

(d) REFUGEE ADMISSIONS OF LGBTQI ALIENS FROM CERTAIN COUNTRIES.—

(1) IN GENERAL.—Aliens who are nationals of or, in the case of aliens having no nationality, last habitually resided in a country that fails to protect against persecution on the basis of sexual orientation or gender identity, and who share common characteristics that identify them as targets of per-

secution on account of sexual orientation or gender identity, are eligible for Priority 2 processing under the refugee resettlement priority system.

(2) RESETTLEMENT PROCESSING.—

(A) IN GENERAL.—If a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) discloses information to an employee or contractor of the Bureau of Population, Refugees, and Migration of the Department of State regarding the refugee's sexual orientation or gender identity, the Secretary of State, with the refugee's consent, shall provide such information to the appropriate national resettlement agency—

(i) to prevent the refugee from being placed in a community in which the refugee is likely to face continued discrimination; and

(ii) to place the refugee in a community that offers services to meet the needs of the refugee.

(B) DEFINED TERM.—The term ''national resettlement agency'' means an agency contracting with the Department of State to pro-

vide sponsorship and initial resettlement services to refugees entering the United States.

(e) TRAINING PROGRAM.—

(1) TRAINING PROGRAM.—In order to create an environment in which an alien may safely disclose such alien's sexual orientation or gender identity, the Secretary of Homeland Security, in consultation with the Secretary of State, shall establish a training program for staff and translators who participate in the interview process of aliens seeking asylum or status as a refugee.

(2) COMPONENTS OF TRAINING PROGRAM.—The training program described in paragraph (1) shall include instruction regarding—

(A) appropriate word choice and word usage;

(B) creating safe spaces and facilities for LGBTQI aliens;

(C) confidentiality requirements; and

(D) nondiscrimination policies.

(f) LIMITATION ON DETENTION.—

(1) PRESUMPTION OF RELEASE.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C) and notwith-

standing any other provision of law, the Secretary of Homeland Security—

(i) may not detain an alien who is a member of a vulnerable group under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) pending a decision with respect to whether the alien is to be removed from the United States; and

(ii) shall immediately release any detained alien who is a member of a vulnerable group.

(B) EXCEPTIONS.—The Secretary of Homeland Security may detain, pursuant to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), an alien who is a member of a vulnerable group if the Secretary makes a determination, using credible and individualized information, that the use of alternatives to detention will not reasonably ensure the appearance of the alien at removal proceedings, or that the alien is a threat to another person or to the community. The fact that an alien has a criminal charge pending against the alien may

not be the sole factor to justify the detention of the alien.

(C) REMOVAL.—If detention is the least restrictive means of effectuating the removal from the United States of an alien who is a member of a vulnerable group, the subject of a final order of deportation or removal, and not detained under subparagraph (B), the Secretary of Homeland Security may, solely for the purpose of such removal, detain the alien for a period that is—

(i) the shortest possible period immediately preceding the removal of the alien from the United States; and

(ii) not more than 5 days.

(2) WEEKLY REVIEW REQUIRED.—

(A) IN GENERAL.—Not less frequently than weekly, the Secretary of Homeland Security shall conduct an individualized review of any alien detained pursuant to paragraph (1)(B) to determine whether the alien should continue to be detained under such paragraph.

(B) RELEASE.—Not later than 24 hours after the date on which the Secretary makes a determination under subparagraph (A) that an

alien should not be detained under paragraph (1)(B), the Secretary shall release the detainee.

(g) PROTECTIVE CUSTODY FOR LGBTQI ALIEN DETAINEES.—

(1) DETAINEES.—An LGBTQI alien who is detained pursuant to subparagraph (B) or (C) of subsection (f)(1) may not be placed in housing that is segregated from the general population unless—

(A) the alien requests placement in such housing for the protection of the alien; or

(B) the Secretary of Homeland Security determines, after assessing all available alternatives, that there is no available alternative means of separation from likely abusers.

(2) PLACEMENT FACTORS.—If an LGBTQI alien is placed in segregated housing pursuant to paragraph (1), the Secretary of Homeland Security shall ensure that such housing—

(A) includes non-LGBTQI aliens, to the extent practicable; and

(B) complies with any applicable court order for the protection of LGBTQI aliens.

(3) PROTECTIVE CUSTODY REQUESTS.—If a detained LGBTQI alien requests placement in segregated housing for the protection of such alien, the

Secretary of Homeland Security shall grant such request.

(h) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Homeland Security should hire a sufficient number of Refugee Corps officers for refugee interviews to be held within a reasonable period of time and adjudicated not later than 180 days after a request for Priority 2 consideration is filed.

**SEC. 10. ISSUANCE OF PASSPORTS AND GUARANTEE OF CITIZENSHIP TO CERTAIN CHILDREN BORN ABROAD.**

(a) SEX IDENTIFICATION MARKERS.—The Secretary of State, through any appropriate regulation, manual, policy, form, or other updates, shall ensure that an applicant may self-select the sex designation (including a non-binary or neutral designation, such as ''X'') on any identity document issued by the Department of State that displays sex information, including passports and consular reports of birth abroad.

(b) GUARANTEE OF CITIZENSHIP TO CHILDREN BORN ABROAD USING ASSISTIVE REPRODUCTION TECHNOLOGY.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall issue regulations clarifying that no biological connection between a parent and a child is required for a child to ac-

quire citizenship at birth from a United States citizen parent under subsections (c), (d), (e), and (g) of section 301 of the Immigration and Nationality Act (8 U.S.C. 1401) if such parent is recognized as the legal parent of the child from birth under the local law at the place of birth or under United States law.

**SEC. 11. ENGAGING INTERNATIONAL ORGANIZATIONS IN THE FIGHT AGAINST LGBTQI DISCRIMINATION.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should be a leader in efforts by the United Nations to ensure that human rights norms, development principles, and political rights are fully inclusive of LGBTQI people;

(2) United States leadership within international financial institutions, such as the World Bank and the regional development banks, should be used to ensure that the programs, projects, and activities undertaken by such institutions are fully inclusive of all people, including LGBTQI people; and

(3) the Secretary of State should seek appropriate opportunities to encourage the equal treatment of LGBTQI people during discussions with or participation in the full range of regional, multilat-

eral, and international fora, such as the Organization of American States, the Organization for Security and Cooperation in Europe, the European Union, the African Union, and the Association of South East Asian Nations.

(b) ACTION THROUGH THE EQUAL RIGHTS COALITION.—The Secretary of State shall promote diplomatic coordination through the Equal Rights Coalition, established in July 2016 at the Global LGBTQI Human Rights Conference in Montevideo, Uruguay, and other multilateral mechanisms, to achieve the goals and outcomes described in subsection (a).

**SEC. 12. REPRESENTING THE RIGHTS OF LGBTQI UNITED STATES CITIZENS DEPLOYED TO DIPLOMATIC AND CONSULAR POSTS.**

(a) SENSE OF CONGRESS.—Recognizing the importance of a diverse workforce in the representation of the United States abroad and in support of sound personnel staffing policies, it is the sense of Congress that the Secretary of State should—

(1) prioritize efforts to ensure that foreign governments do not impede the assignment of LGBTQI United States citizens and their families to diplomatic and consular posts;

(2) open conversations with entities in the United States private sector that engage in business in other countries to the extent necessary to address any visa issues faced by such private sector entities with respect to their LGBTQI employees; and

(3) prioritize efforts to improve post and post school information for LGBTQI employees and employees with LGBTQI family members.

(b) REMEDIES FOR FAMILY VISA DENIAL.—

(1) IN GENERAL.—The Secretary of State shall use all appropriate diplomatic efforts to ensure that the families of LGBTQI employees of the Department of State are issued visas from countries where such employees are posted.

(2) LIST REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to Congress—

(A) a classified list of each country that has refused to grant accreditation to LGBTQI employees of the Department of State or to their family members during the most recent 2-year period; and

(B) a description of the actions taken or intended to be taken by the Secretary, in accordance with paragraph (1), to ensure that

LGBTQI employees are appointed to appropriate positions in accordance with diplomatic needs and personnel qualifications, including actions specifically relating to securing the accreditation of the families of such employees by relevant countries.

(c) IMPROVING POST INFORMATION AND OVERSEAS ENVIRONMENT FOR LGBTQI ADULTS AND CHILDREN.—

(1) IN GENERAL.—The Secretary of State shall ensure that LGBTQI employees and employees with LGBTQI family members have adequate information to pursue overseas postings, including country environment information for adults and children.

(2) NONDISCRIMINATION POLICIES FOR UNITED STATES GOVERNMENT-SUPPORTED SCHOOLS.—The Secretary shall make every effort to ensure schools abroad that receive assistance and support from the United States Government under programs administered by the Office of Overseas Schools of the Department of State have active and clear nondiscrimination policies, including policies relating to sexual orientation and gender identity impacting LGBTQI children of all ages.

(3) REQUIRED INFORMATION FOR LGBTQI CHILDREN.—The Secretary shall ensure that infor-

mation focused on LGBTQI children of all ages (including transgender and gender nonconforming students) is included in post reports, bidding materials, and Office of Overseas Schools reports, databases, and adequacy lists.

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