

118TH CONGRESS  
1ST SESSION

# S. 3438

To prohibit entities receiving Federal assistance that are involved in adoption or foster care placements from delaying or denying placements under certain conditions.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2023

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

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## A BILL

To prohibit entities receiving Federal assistance that are involved in adoption or foster care placements from delaying or denying placements under certain conditions.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sensible Adoption For  
5 Every Home Act” or the “SAFE Home Act”.

1 **SEC. 2. STATE PLAN REQUIREMENT UNDER THE FEDERAL**  
2 **FOSTER CARE AND ADOPTION ASSISTANCE**  
3 **PROGRAM.**

4 (a) IN GENERAL.—Section 471(a) of the Social Secu-  
5 rity Act (42 U.S.C. 671(a)) is amended—

6 (1) by striking “and” at the end of paragraph  
7 (36);

8 (2) by striking the period at the end of para-  
9 graph (37) and inserting “; and”; and

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

11 “(38)(A) prohibits any entity that receives Fed-  
12 eral assistance and is involved in adoption or foster  
13 care placements from delaying or denying the place-  
14 ment of a minor child for adoption or into foster  
15 care, or otherwise discriminating in making a place-  
16 ment decision with a prospective or actual adoptive  
17 or foster parent, for any of the following reasons—

18 “(i) the parent raises, cares for, and ad-  
19 dresses a child in a manner consistent with the  
20 child’s sex;

21 “(ii) the parent declines to consent to a  
22 child receiving any medical, surgical, pharma-  
23 cological, or psychological treatment or other  
24 medical or mental health service for the purpose  
25 of attempting to alter the appearance of, or to  
26 validate a child’s perception of, the child’s sex,

1 if the appearance or perception is inconsistent  
2 with the child's sex; or

3 “(iii) the parent declines to consent to an  
4 amendment or alteration to a child's birth cer-  
5 tificate, passport, driver's license, school  
6 records, or other government-issued identifica-  
7 tion document, if the amendment or alteration  
8 is inconsistent with the child's sex; and

9 “(B) for purposes of this paragraph, defines—

10 “(i) the term ‘sex’ as biological sex, either  
11 male or female;

12 “(ii) the term ‘female’ as an individual who  
13 has, had, will have, or but for a developmental  
14 or genetic anomaly or historical accident would  
15 have, a reproductive system that at some point  
16 produces, transports, and utilizes eggs for fer-  
17 tilization; and

18 “(iii) the term ‘male’ as an individual who  
19 has, had, will have, or but for a developmental  
20 or genetic anomaly or historical accident would  
21 have, a reproductive system that at some point  
22 produces, transports, and utilizes sperm for fer-  
23 tilization.”.

24 (b) EFFECTIVE DATE.—

1           (1) IN GENERAL.—The amendment made by  
2 this Act shall take effect on the 1st day of the 1st  
3 fiscal quarter beginning on or after the date of the  
4 enactment of this Act, and shall apply to payments  
5 under part E of title IV of the Social Security Act  
6 for calendar quarters beginning on or after such  
7 date.

8           (2) DELAY PERMITTED IF STATE LEGISLATION  
9 REQUIRED.—If the Secretary of Health and Human  
10 Services determines that State legislation (other  
11 than legislation appropriating funds) is required in  
12 order for a State plan developed pursuant to part E  
13 of title IV of the Social Security Act to meet the ad-  
14 ditional requirements imposed by the amendments  
15 made by this Act, the plan shall not be regarded as  
16 failing to meet any of the additional requirements  
17 before the 1st day of the 1st calendar quarter begin-  
18 ning after the first regular session of the State legis-  
19 lature that begins after the date of the enactment of  
20 this Act. For purposes of the preceding sentence, if  
21 the State has a 2-year legislative session, each year  
22 of the session is deemed to be a separate regular  
23 session of the State legislature.

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