

118TH CONGRESS
1ST SESSION

S. _____

To establish in the Bureau of Democracy, Human Rights, and Labor of the Department of State a Special Envoy for the Human Rights of LGBTQI+ Peoples, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY (for himself, Mr. CARDIN, Mrs. FEINSTEIN, Mr. HICKENLOOPER, Ms. BALDWIN, Mr. WHITEHOUSE, Ms. STABENOW, Mr. CARPER, Ms. SMITH, Ms. HASSAN, Ms. CANTWELL, Mr. KAINE, Mr. MURPHY, Mr. MENENDEZ, Mr. WELCH, Mr. VAN HOLLEN, Mr. KELLY, Mr. SANDERS, Mr. PADILLA, Mrs. MURRAY, Ms. KLOBUCHAR, and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To establish in the Bureau of Democracy, Human Rights, and Labor of the Department of State a Special Envoy for the Human Rights of LGBTQI+ Peoples, and for other purposes.

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 “International Human
5 Rights Defense Act of 2023”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Around the world, LGBTQI+ people face
4 violence, stigma, and discrimination based on their
5 sexual orientation, gender identity, or sex character-
6 istics.

7 (2) Sixty-seven countries have national laws
8 that criminalize same-sex relations and at least 42
9 United Nations member states have legal barriers
10 for freedom of expression on issues related to sexual
11 and gender diversity. That is equal to roughly 35
12 percent of United Nations member states.

13 (3) Eleven countries have jurisdictions in which
14 the death penalty can be imposed for private, con-
15 sensual same-sex sexual activity.

16 (4) Despite recent progress made toward de-
17 criminalization, marriage equality, and legal gender
18 recognition, several countries have introduced anti-
19 LGBTQI+ pieces of legislation that would further
20 criminalize or stigmatize LGBTQI+ peoples. This
21 includes a draconian law under review in Ghana that
22 would outlaw LGBTQI+ relationships or identities,
23 as well as actions by community allies, and bills that
24 ban so-called LGBTQI+ “propaganda”, such as
25 those in Russia and Hungary.

1 (5) In anti-LGBTQI+ prosecutions, law en-
2 forcement officials, working in tandem with medical
3 personnel, use the forensically discredited practice of
4 forced anal exams to try to prove same-sex sexual
5 activity or otherwise to torture or intimidate detain-
6 ees. The United Nations Special Rapporteur on Tor-
7 ture has described forced anal examinations as a
8 form of torture or cruel, inhuman, and degrading
9 treatment and the United Nations Office of the
10 High Commissioner for Human Rights issued a re-
11 port in 2015 calling for governments to ban the
12 practice. Human Rights Watch has documented sev-
13 eral cases in which forced anal examinations have
14 been used to sentence individuals for same-sex sex-
15 ual conduct, including in Uzbekistan and Egypt.

16 (6) The closing of civil society space, particu-
17 larly with the increased passage or enforcement of
18 laws that prevent the registration or operations of
19 nongovernmental organizations, discriminates
20 against LGBTQI+ human rights defenders and is a
21 violation of freedom of association. This includes the
22 wrongful closure of Sexual Minorities Uganda
23 (SMUG), a leading nongovernmental organization
24 committed to protecting and advancing the human
25 rights of LGBTQI+ individuals in Uganda.

1 (7) Extreme violence and insecurity in El Sal-
2 vador, Nicaragua, Guatemala, and Honduras has
3 driven LGBTQI+ people to flee their countries of
4 origin to the United States for protection. At the
5 United States border with Mexico, LGBTQI+ asy-
6 lum seekers face additional violence and many have
7 been returned to face persecution in their home
8 countries or in third countries that are not safe.

9 (8) Studies have shown that structural risks,
10 including country-level policies, prosecutions, and
11 legal barriers, might contribute to higher HIV preva-
12 lence among LGBTQI+ people, especially gay, bi-
13 sexual, and other men who have sex with men. De-
14 criminalization, decreasing enforcement, and stigma
15 reduction are necessary to effective control of HIV.

16 (9) The Trans Murder Monitoring Project,
17 which monitors homicides of transgender individuals,
18 documented at least 327 trans and gender-diverse
19 people killed between October 1, 2021, and Sep-
20 tember 30, 2022. Of these cases, 68 percent of all
21 of the murders occurred in Latin America and the
22 Caribbean, with 29 percent of the total occurring in
23 Brazil.

24 (10) Intersex people experience prejudice and
25 discrimination, including the common performance

1 of medically unnecessary surgeries without their con-
2 sent or approval, because their bodies do not con-
3 form to other people’s expectations about sex and
4 gender.

5 (11) Violence and discrimination based on sex-
6 ual orientation and gender identity are documented
7 in the Department of State’s annual Country Re-
8 ports on Human Rights Practices. The report cov-
9 ering 2021 continues to show a clear pattern of
10 human rights violations or abuses in every region of
11 the world based on sexual orientation, gender iden-
12 tity, or sex characteristics. These violations or
13 abuses include murder, rape, torture, death threats,
14 extortion, and imprisonment, as well as loss of em-
15 ployment, housing, access to health care, and other
16 forms of societal stigma and discrimination. The re-
17 ports further document LGBTQI+-specific restric-
18 tions on basic freedoms of assembly, press, and
19 speech in every region of the world.

20 (12) On December 6, 2011, President Barack
21 Obama released the “Presidential Memorandum—
22 International Initiatives to Advance the Human
23 Rights of Lesbian, Gay, Bisexual, and Transgender
24 Persons”. The memorandum directed all Federal
25 agencies engaged abroad to ensure that United

1 States diplomacy and foreign assistance promote and
2 protect the human rights of LGBT persons.

3 (13) On February 4, 2021, President Joe Biden
4 issued a similar memorandum, the “Memorandum
5 on Advancing the Human Rights of Lesbian, Gay,
6 Bisexual, Transgender, Queer, and Intersex Persons
7 Around the World”, to promote and protect the
8 human rights of LGBTQI+ persons and establish
9 that it is the “policy of the United States to pursue
10 an end to violence and discrimination on the basis
11 of sexual orientation, gender identity or expression,
12 or sex characteristics, and to lead by the power of
13 our example in the cause of advancing the human
14 rights of LGBTQI+ persons around the world”.

15 (14) On February 23, 2015, Secretary of State
16 John Kerry appointed senior diplomat Randy Berry
17 as the Department of State’s first-ever Special
18 Envoy for the Human Rights of LGBTI Persons.
19 No person was named to that position during the
20 Trump Administration.

21 (15) On June 25, 2021, President Joe Biden
22 announced the appointment of Jessica Stern to serve
23 as the United States Special Envoy to Advance the
24 Human Rights of LGBTQI+ Persons. She joined
25 the Department of State on September 27, 2021.

1 (16) On June 30, 2016, the United Nations
2 Human Rights Council passed a resolution cospon-
3 sored by the United States that established an Inde-
4 pendent Expert on violence and discrimination based
5 on sexual orientation and gender identity to help
6 monitor and track discrimination and violence expe-
7 rienced by LGBTQI+ persons around the world.

8 (17) In May 2020, the United Nations Inde-
9 pendent Expert on protection against violence and
10 discrimination based on sexual orientation and gen-
11 der identity released a report on so-called “conver-
12 sion therapy”, which is an umbrella term used to de-
13 scribe interventions based on a belief that a person’s
14 sexual orientation or gender identity can and should
15 be changed. The report concluded that such prac-
16 tices represent significant violations of rights to per-
17 sonal autonomy, health, and free expression and are
18 “by their very nature degrading, inhuman and cruel
19 and create a significant risk of torture”. The Inde-
20 pendent Expert noted “the psychological pain and
21 suffering inflicted by practices of ‘conversion ther-
22 apy’ are deep and long-lasting and often exacerbate
23 the risk of suicide,” and called for a global ban on
24 conversion therapy.

1 (18) On June 15, 2022, President Joe Biden
2 signed an Executive Order in part directing the Sec-
3 retary of State, in collaboration with the Secretary
4 of the Treasury, the Secretary of Health and
5 Human Services, and the Administrator of the
6 United States Agency for International Develop-
7 ment, to develop an action plan to promote an end
8 to so-called “conversion therapy” around the world
9 and ensure that United States foreign assistance
10 dollars do not fund the practice.

11 **SEC. 3. STATEMENT OF POLICY.**

12 It is the policy of the United States—

13 (1) to take effective action to prevent and re-
14 spond to discrimination and violence against all peo-
15 ple on any basis internationally, including sexual ori-
16 entation, gender identity, and sex characteristics,
17 and that human rights policy includes attention to
18 criminalization, violence, and other discrimination
19 against LGBTQI+ people;

20 (2) to systematically integrate and coordinate
21 into United States foreign policy efforts to prevent
22 and respond to criminalization, discrimination, and
23 violence against LGBTQI+ people internationally;

24 (3) to support and build local capacity in coun-
25 tries around the world, including of governments at

1 all levels and nongovernmental organizations, to pre-
2 vent and respond to criminalization, discrimination,
3 and violence against LGBTQI+ people internation-
4 ally;

5 (4) to consult, cooperate, coordinate, and col-
6 laborate with a wide variety of nongovernmental
7 partners, including faith-based organizations and
8 LGBTQI+-led organizations, with demonstrated ex-
9 perience in preventing and responding to criminal-
10 ization, discrimination, and violence against
11 LGBTQI+ people internationally;

12 (5) to employ a multisectoral approach to pre-
13 venting and responding to criminalization, discrimi-
14 nation, and violence against LGBTQI+ people inter-
15 nationally, including activities in the economic, edu-
16 cation, health, nutrition, legal, and judicial sectors;

17 (6) to work at all levels, from the individual to
18 the family, community, local, national, and inter-
19 national levels, to prevent and respond to criminal-
20 ization, discrimination, and violence against
21 LGBTQI+ people internationally;

22 (7) to enhance training by United States per-
23 sonnel of professional foreign military and police
24 forces and judicial officials to include appropriate
25 and thorough LGBTQI+-specific instruction on pre-

1 venting and responding to criminalization, discrimi-
2 nation, and violence based on sexual orientation and
3 gender identity;

4 (8) to engage non-LGBTQI+ people as allies
5 and partners, as an essential element of making sus-
6 tained reductions in criminalization, discrimination,
7 and violence against LGBTQI+ people internation-
8 ally;

9 (9) to require that all Federal contractors and
10 grant recipients awarded a contract or receiving a
11 grant, as the case may be, under an international
12 program of the United States Government establish
13 appropriate policies and take effective measures to
14 ensure the protection and safety of their staff and
15 workplace, including from discrimination and vio-
16 lence directed against LGBTQI+ people and those
17 who provide services to them;

18 (10) to exert sustained international leadership,
19 including in bilateral and multilateral fora, to pre-
20 vent and respond to criminalization, discrimination,
21 and violence against LGBTQI+ people internation-
22 ally;

23 (11) to fully implement and expand upon the
24 policies outlined in the “Presidential Memo-
25 randum—Advancing the Human Rights of Lesbian,

1 Gay, Bisexual, Transgender, Queer, and Intersex
2 Persons Around the World”;

3 (12) to ensure that international efforts to com-
4 bat HIV/AIDS take all appropriate measures to sup-
5 port at-risk communities, including LGBTQI+ peo-
6 ple, and to create enabling legal environments for
7 these communities;

8 (13) to work with governments and nongovern-
9 mental partners around the world to develop and im-
10 plement regional strategies to decriminalize homo-
11 sexuality and to counteract other restrictions on
12 the human rights of LGBTQI+ people, including re-
13 strictions on LGBTQI+ organizations and so-called
14 LGBTQ+ propaganda laws; and

15 (14) to ensure that those who have a well-
16 founded fear of persecution on account of being
17 LGBTQI+ or supporting LGBTQI+ rights have
18 the opportunity to seek protection in the United
19 States.

20 **SEC. 4. SPECIAL ENVOY FOR THE HUMAN RIGHTS OF**
21 **LGBTQI+ PEOPLE.**

22 (a) ESTABLISHMENT.—

23 (1) IN GENERAL.—The Secretary of State shall
24 establish in the Bureau of Democracy, Human
25 Rights, and Labor (DRL) of the Department of

1 State a permanent Special Envoy for the Human
2 Rights of LGBTQI+ Peoples (in this section re-
3 ferred to as the “Special Envoy”), who shall be ap-
4 pointed by the President. The Special Envoy shall
5 report directly to the Assistant Secretary for Democ-
6 racy, Human Rights, and Labor.

7 (2) RANK.—The President may appoint the
8 Special Envoy at the rank of Ambassador, by and
9 with the advice and consent of the Senate.

10 (b) PURPOSE.—In addition to the duties described in
11 subsection (c) and those duties determined by the Presi-
12 dent and the Secretary of State, the Special Envoy shall
13 direct efforts of the United States Government relating
14 to United States foreign policy, as directed by the Presi-
15 dent and the Secretary, regarding human rights abuses
16 against LGBTQI+ people and communities internation-
17 ally and the advancement of human rights for LGBTQI+
18 people, and shall represent the United States internation-
19 ally in bilateral and multilateral engagement on such mat-
20 ters.

21 (c) DUTIES.—The Special Envoy—

22 (1) shall serve as the principal advisor to the
23 Secretary of State regarding the human rights of
24 LGBTQI+ people internationally; and

25 (2) at the direction of the Secretary of State —

1 (A) shall, notwithstanding any other provi-
2 sion of law, direct activities, policies, programs,
3 and funding relating to the human rights of
4 LGBTQI+ people and the advancement of
5 LGBTQI+ equality initiatives internationally,
6 for all bureaus and offices of the Department of
7 State, and shall lead the coordination of rel-
8 evant international programs for all other Fed-
9 eral agencies relating to such matters;

10 (B) shall represent the United States in
11 diplomatic matters, including in bilateral and
12 multilateral fora, relevant to the human rights
13 of LGBTQI+ people, including criminalization,
14 discrimination, and violence against LGBTQI+
15 people internationally;

16 (C) shall direct, as appropriate, United
17 States Government resources to respond to
18 needs for protection, integration, resettlement,
19 and empowerment of LGBTQI+ people in
20 United States Government policies and inter-
21 national programs, including to prevent and re-
22 spond to criminalization, discrimination, and vi-
23 olence against LGBTQI+ people internation-
24 ally;

1 (D) shall design, support, and implement
2 activities regarding support, education, resettle-
3 ment, and empowerment of LGBTQI+ people
4 internationally, including for the prevention and
5 response to criminalization, discrimination, and
6 violence against LGBTQI+ people internation-
7 ally;

8 (E) shall lead interagency coordination be-
9 tween the foreign policy priorities related to the
10 human rights of LGBTQI+ people and the de-
11 velopment assistance priorities of the
12 LGBTQI+ Coordinator of the United States
13 Agency for International Development; and

14 (F) shall conduct regular consultation with
15 nongovernmental organizations working to pre-
16 vent and respond to criminalization, discrimina-
17 tion, and violence against LGBTQI+ people
18 internationally;

19 (d) BRIEFINGS AND ASSESSMENTS.—Not later than
20 180 days after the date of the enactment of this Act, and
21 annually thereafter, the Special Envoy shall provide to the
22 appropriate congressional committees a briefing on the
23 status of the human rights of LGBTQI+ people inter-
24 nationally, as well as on the status of programs and re-
25 sponse strategies of the United States Government to ad-

1 dress criminalization, discrimination, and violence against
2 LGBTQI+ people internationally.

3 (e) UNITED STATES POLICY TO PREVENT AND RE-
4 SPOND TO CRIMINALIZATION, DISCRIMINATION, AND VIO-
5 LENCE AGAINST LGBTQI+ PEOPLE GLOBALLY.—

6 (1) GLOBAL STRATEGY REQUIREMENT.—Not
7 later than 180 days after the date of the enactment
8 of this Act, and annually thereafter for each of the
9 following five years, the Special Envoy shall develop
10 or update, as the case may be, a United States glob-
11 al strategy to prevent and respond to criminaliza-
12 tion, discrimination, and violence against LGBTQI+
13 people internationally. The Special Envoy shall sub-
14 mit the global strategy to the appropriate congress-
15 sional committees and, if practicable, make the glob-
16 al strategy available to the public.

17 (2) COLLABORATION AND COORDINATION.—In
18 developing the global strategy required under para-
19 graph (1), the Special Envoy shall consult with—

20 (A) mid- and high-level officials of relevant
21 Federal agencies; and

22 (B) representatives of nongovernmental or-
23 ganizations with demonstrated experience in ad-
24 dressing criminalization, discrimination, and vi-
25 olence against LGBTQI+ people internationally

1 or promoting equal rights for LGBTQI+ people
2 internationally.

3 (f) MONITORING THE UNITED STATES STRATEGY TO
4 PREVENT AND RESPOND TO CRIMINALIZATION, DISCRIMI-
5 NATION, AND VIOLENCE AGAINST LGBTQI+ PEOPLE
6 AND COMMUNITIES INTERNATIONALLY.—In each global
7 strategy submitted under subsection (e), the Special
8 Envoy shall include an analysis of best practices for pre-
9 venting and addressing criminalization, discrimination,
10 and violence against LGBTQI+ people and communities
11 internationally, including—

12 (1) a description of successful efforts by foreign
13 governments and nongovernmental organizations to
14 prevent and respond to criminalization, discrimina-
15 tion, and violence against LGBTQI+ people and
16 communities internationally;

17 (2) recommendations related to best practices,
18 effective strategies, and improvements to enhance
19 the impact of such prevention and response efforts;
20 and

21 (3) the impact of activities funded by the global
22 strategy in preventing and reducing criminalization,
23 discrimination, and violence against LGBTQI+ peo-
24 ple and communities internationally.

1 **SEC. 5. DOCUMENTING AND RESPONDING TO BIAS-MOTI-**
2 **VATED VIOLENCE AGAINST LGBTQI+ PEOPLE**
3 **ABROAD.**

4 (a) REPORT ON HUMAN RIGHTS AND DEVELOPMENT
5 ASSISTANCE.—Section 116(d) of the Foreign Assistance
6 Act of 1961 (22 U.S.C. 2151n(d)) is amended—

7 (1) in paragraph (11)(C), by striking “; and”
8 and inserting a semicolon;

9 (2) in paragraph (12)(C)(ii), by striking the pe-
10 riod at the end and inserting “; and”; and

11 (3) by adding at the end the following new
12 paragraph:

13 “(13) wherever applicable, the nature and ex-
14 tent of criminalization, discrimination, and violence
15 by state and nonstate actors based on sexual ori-
16 entation or gender identity, as those terms are de-
17 fined in section 7 of the International Human
18 Rights Defense Act of 2023, or sex characteristics,
19 including an identification of those countries that
20 have adopted laws or constitutional provisions that
21 criminalize or discriminate based on such sexual ori-
22 entation, gender identity, or sex characteristics, in-
23 cluding descriptions of such laws and provisions.”.

24 (b) REPORT ON HUMAN RIGHTS AND SECURITY AS-
25 SISTANCE.—Section 502B of the Foreign Assistance Act
26 of 1961 (22 U.S.C. 2304) is amended—

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

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

6 “(k) **SEXUAL ORIENTATION, GENDER IDENTITY,**
7 **AND SEX CHARACTERISTICS.**—The report required under
8 subsection (b) shall include, wherever applicable, the na-
9 ture and extent of criminalization, discrimination, and vio-
10 lence by state and nonstate actors based on sexual orienta-
11 tion or gender identity, as those terms are defined in sec-
12 tion 7 of the International Human Rights Defense Act of
13 2023, or sex characteristics, including an identification of
14 those countries that have adopted laws or constitutional
15 provisions that criminalize or discriminate based on such
16 sexual orientation, gender identity, or sex characteristics,
17 including descriptions of such laws and provisions.”.

18 **SEC. 6. IMPLEMENTATION OF THE UNITED STATES STRAT-**
19 **EGY TO PREVENT AND RESPOND TO CRIM-**
20 **INALIZATION, DISCRIMINATION, AND VIO-**
21 **LENCE AGAINST LGBTQI+ PEOPLE AND COM-**
22 **MUNITIES INTERNATIONALLY.**

23 The Secretary of State and the Administrator of the
24 United States Agency for International Development are
25 authorized to provide assistance to prevent and respond

1 to criminalization, discrimination, and violence against
2 LGBTQI+ people internationally. The assistance may in-
3 clude the following activities:

4 (1) Development and implementation of pro-
5 grams, such as the Global Equality Fund of the De-
6 partment of State, that respond to human rights
7 abuses against, and the social and economic exclu-
8 sion of, LGBTQI+ people.

9 (2) Support and capacity building for the devel-
10 opment and enforcement of the laws of foreign gov-
11 ernments pertaining to relevant civil and criminal
12 legal and judicial sanctions, protection, and training.

13 (3) Enhancement of health sector capacity to
14 detect, prevent, and respond to violence against
15 LGBTQI+ people and communities internationally,
16 and to combat HIV/AIDS in the LGBTQI+ commu-
17 nity internationally, in close coordination with the
18 Office of the Global AIDS Coordinator and Health
19 Diplomacy of the Department of State.

20 (4) Development of a leadership program for
21 international LGBTQI+ activists that will foster
22 collaboration and knowledge sharing across the
23 world.

24 **SEC. 7. DEFINITIONS.**

25 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Foreign Relations
5 and the Committee on Appropriations of the
6 Senate; and

7 (B) the Committee on Foreign Affairs and
8 the Committee on Appropriations of the House
9 of Representatives.

10 (2) GENDER IDENTITY.—The term “gender
11 identity” means the gender-related identity, appear-
12 ance, or mannerisms or other gender-related charac-
13 teristics of an individual, regardless of the individ-
14 ual’s designated sex at birth.

15 (3) INTERSEX.—The term “intersex” means in-
16 dividuals born with sex characteristics (including
17 genitals, gonads, or chromosome patterns) that vary
18 from typical binary notions of male or female bodies
19 and is an umbrella term used to describe a wide
20 range of natural bodily variations.

21 (4) LGBTQI+.—The term “LGBTQI+”
22 means lesbian, gay, bisexual, transgender, queer, or
23 intersex.

1 (5) SEXUAL ORIENTATION.—The term “sexual
2 orientation” means actual or perceived homosex-
3 uality, heterosexuality, or bisexuality.