

States Must Refuse to Define “Abuse” as Raising a Child According to His or Her Sex

THE ISSUE

For decades, ideologues have worked behind the scenes to weaponize Child Protective Services in the states. This includes accusing parents of “abuse” if they fail to affirm their child’s discordant “gender identity.” Blue states; legal, educational, and child welfare systems; and the gender-industry-medical complex are all pressing for this redefinition of abuse—which is a frontal attack on children and families. While President Donald Trump’s priorities and executive orders provide a welcome reprieve from the ideological strictures imposed nationally by the Biden Administration, the weaponization of Child Protective Services against families is primarily a state issue.

Legislation pending or passed in several states would criminalize “non-affirming” parents and remove their children by broadening the definition of “welfare” to include “gender affirmation” or by modifying “abuse” to mean any refusal to “affirm” a child’s claimed “gender identity” if it is discordant with the child’s sex. The Biden Administration also issued a federal rule requiring foster care families to “affirm” any LGBTQI+ identities claimed by a child. Typically these policies are justified with false claims that “gender-affirming care” reduces suicides and improves mental health. In fact, growing evidence shows that the reverse is true.

Parents often do not realize—until they are caught in hostile child “protective” systems—how deeply entrenched this perverse view of abuse already is among officials overseeing their cases.

- This perverse redefinition of abuse especially threatens children who can be wrongfully removed from loving homes, and children in state custody who can be denied foster and adoptive families.
- To protect parents and children, states must ensure that “abuse” is clearly defined to exclude parents who insist on recognizing their child’s sex rather than their discordant “gender identity.”

WHAT IS HAPPENING?

Many parents—in California, Indiana, Illinois, Virginia, Maryland, Montana, and other states—have already lost children to state systems that “transition” them to another sex or to the custody of an “affirming” parent or guardian. Children have suffered great harm and even died when taken into state systems by gender activists. Blue states requiring adherence to LGBTQ ideology have denied thousands of children the foster and adoptive homes they desperately need. Nineteen state attorneys general wrote a letter protesting the new Biden LGBTQ rule, citing evidence of the impact on the foster system of excluding families of faith. The loss of these families would be catastrophic to the foster care system.

How is this possible? Every facet of child protection systems is involved.

- **Schools and judges are trained to “affirm.”** The activist groups who train schools to conceal gender transition from parents are also training the juvenile and family court judges before whom children

This paper, in its entirety, can be found at <https://report.heritage.org/fs280>

The Heritage Foundation | 214 Massachusetts Avenue, NE | Washington, DC 20002 | (202) 546-4400 | heritage.org

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

and their parents may appear if an allegation of abuse is made.

- **Groups including Gender Spectrum, GLSEN, Trevor Project, the ACLU, and the Human Rights Campaign advocate policies that allow schools to conceal gender transition from parents.** They instruct educators to “support students on their gender journey even if they do not have affirming family.” Their jointly developed model policies for schools, “Schools in Transition,” train educators to believe they possess “unique insight into the student’s needs without the biases parents can or are perceived to have” and should be prepared to testify in court in favor of “affirming” the children if parents disagree with transition.
- **Gender Spectrum and other groups also train judges and legal personnel.** The case of Sage, a Virginia teen, exemplifies the dangers of this dual track of “affirming” schools and courts. Sage’s school transitioned her secretly, setting in motion events that led to her sex-trafficking. When she was rescued by the FBI in Maryland, an “affirming” judge withheld custody from her parents after a public defender alleged abuse related to “misgendering.” The school counselors appeared in court to testify against the parents, to their shock, as the counselors had never discussed transition with them. The judge ordered Sage to live in the male quarters of a state group home. He denied her mother’s request to place her in a treatment center for victims of trafficking, because the facility would have treated her as a girl. Sage was exposed to street drugs and other harm while in state custody. She eventually ran away and was brutally exploited again. Both episodes of trafficking followed the actions of state actors implementing the “affirming” model.
- **School personnel are “mandatory reporters,”** whose allegations of possible “abuse” must be officially reviewed. A young girl in California, Yaeli Martinez, was drawn to believe she was “trans” at her school. When her mother did not “affirm” her, Child Protective Services investigated and removed Yaeli from her home to transition in state custody. Away from her loving family, Yaeli spiraled into depression and took her life.
- **Social workers, therapists, and doctors,** who are also “mandatory reporters,” are trained that not “affirming” is abusive. An Indiana boy was taken from his parents when a social worker alleged abuse for not “affirming.” Although the parents were cleared of any unfitness and the boy’s health worsened in state custody, he was never returned to his family. In Washington, DC, parents lost custody of their son after they brought him to the hospital fearing he might be suicidal. At the hospital he was “affirmed” as a girl. When his parents would not concur, Maryland removed him from their custody and placed him in the home of a transgender chaplain. He started posting sexualized images on social media, and the parents received notices they were being billed for treatment related to sexual activity.
- **Forensic interviewers, who assess whether abuse has occurred, are trained to screen for parents and caregivers who may not “affirm” a child’s “authentic self,”** including by refusing to use alternate pronouns. A misguided abuse assessment can lead state authorities to remove a child from a loving home.
- **In the “gender affirming” ideological framework, a refusal to use alternative pronouns is a warning sign of abuse.** The Biden Administration directed child welfare organizations to assess whether they are

“actively countering barriers to gender-affirming care.” Training materials from the [National Children’s Advocacy Center](#) (since removed from their website) presume that “children who identify as having a sexual orientation and/or gender identity (e.g. transgender or non-binary) that is marginalized...are at high risk for all forms of maltreatment and other adversities and traumas for being who they are authentically.... [T]hese children may present with mental health issues possibly because of encountering criticism or rejection by peers or family.” The [National Child Trauma Stress Network](#) directs personnel to “[b]elieve and validate youth when they share their gender identities with you by always using and validating the names, pronouns, and identities that youth share with you.... As parents, caregivers, and providers, you are responsible to communicate this validation by actively affirming their identities.”

- **Foster care systems are denying placement in homes that do not “affirm” gender transition**, even if that means letting children languish in the [dangers](#) of state custody, instead.

HOW STATES CAN PROTECT CHILDREN AND PARENTS

An accurate definition of “abuse” in state law is foundational to every aspect of protecting children, from preventing false allegations and traumatic wrongful removals to denying foster placements. States need to enact legislation that prohibits state authorities from treating as “abuse” a parent’s decision to raise a child according to his or her sex. Every other harmful state policy, including school policies that conceal gender transition of a child at school, flows from this wrongful definition.

While [many states](#), such as Arizona, Georgia, and Virginia, have good parental rights laws, these do not, of course, give parents the authority to abuse their child. By redefining “abuse” to include not “affirming” a child’s claim

to be of another sex, state actors can effectively bypass these parental rights statutes. Without additional protections, parents often have little recourse against activist child protection systems.

The Heritage Foundation has crafted model legislation to address this pressing issue: the [Defining Abuse Child Protection Act](#). Protections in the Defining Abuse Child Protection Act include:

- **Defining “abuse”** to explicitly exclude affirming a child’s sex (rather than his or her feelings of *gender*);
- **Prohibiting investigation** by child protection systems at any stage on the basis of a parent or guardian affirming a child’s sex;
- **Prohibiting removal of a child** from fit parents who affirm a child’s sex;
- **Prohibiting denial of foster placement** to parents who affirm a child’s sex;
- **Prohibiting states from contracting** with any entity that teaches it is abuse to affirm a child’s sex;
- **Prohibiting state entity “alienating behaviors”** designed to displace a child’s trust;
- **Prohibiting secrecy related to affirming “gender”** in any state policy, to remove all presumption that affirming sex is a form of abuse;
- **Requiring state reporting** on compliance;
- **Providing conscience protections** to state entities and to parents, including foster parents; and
- **Granting a private right of action** to individuals against state entities who violate their rights.