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TENNESSEE LEADS FIGHT AGAINST HHS' FOSTER CARE PLACEMENT RULE THAT WOULD VIOLATE LAW AND POTENTIALLY HARM CHILDREN

Nashville – On Monday, Tennessee Attorney General Jonathan Skrmetti led 16 other states in fighting back against the Administration's Health and Human Services proposed "Placement Rule," which would unlawfully condition federal funding on the State's compliance with new requirements for treatment of "LGBTQI+ youth" by state-run, private-facility, and family-based foster care providers.

As stated in a comment letter sent to HHS, the proposed rule would illegally expand HHS' authority into the traditionally state-regulated area of family law, risk violating providers' right to freedom of speech and religion and would likely harm rather than help foster youth by further increasing the already extensive costs and compliance burdens foster providers must shoulder.

Under the proposed rule, Tennessee's federal funding for its foster-care program would hinge on ensuring that foster-care providers undertake sufficiently "affirming" care to "LGBTQI+ youth," as defined by HHS officials. Yet the governing statute does not give HHS its claimed power to dictate how state foster systems and individual foster-providers must accommodate "LGBTQI+ youth" in areas implicating controversial social issues. HHS's directive risks penalizing foster-care providers for declining to violate their own conscience or religion by requiring them to provide access to sexually explicit literature or to irreversible gender-related treatments that are illegal in Tennessee and other states.

The comment further explains why HHS's rule also would be counterproductive to the goal of protecting foster children. Foster providers unable to afford compliance with the new requirements, or who are saddled with legal bills based on the broad new liability the proposed rule imposes, would have to close their doors to children in need. This result would add to the nation's foster-care woes and could create a shortage in care that would place all youth in the foster system at further risk.

"We all need to do our best to protect kids in foster care, and unfortunately our federal officials don't appreciate how big an impediment these onerous new rules will be. It's hard enough to run a foster care program without this extra bureaucracy and increased litigation risk," Attorney General Jonathan Skrmetti said in a statement. "The proposed rule exceeds the agency's authority and raises serious constitutional concerns. It also hampers the ability of the states to protect kids by forcing children's services agencies to police pronoun usage with the same urgency they address physical abuse."

Tennessee and the co-signing States are committed to adopting and enforcing rules to ensure every child in the State's foster system receives the most appropriate placement available. Experience shows that local members of each State's foster-care ecosystem are best placed to address foster providers and the children they serve.

The commenting letter can be read [here](#).

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