

118TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To provide requirements related to the eligibility of individuals who identify as transgender from serving in the Armed Forces.

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IN THE SENATE OF THE UNITED STATES

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Mr. RUBIO introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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## **A BILL**

To provide requirements related to the eligibility of individuals who identify as transgender from serving in the Armed Forces.

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 “Ensuring Military  
5 Readiness Act of 2023”.

6 **SEC. 2. LIMITATIONS ON MILITARY SERVICE BY INDIVID-**  
7 **UALS WHO IDENTIFY AS TRANSGENDER.**

8 Not later than 90 days after the date of the enact-  
9 ment of this Act, the Secretary of Defense shall prescribe

1 regulations regarding service of individuals who identify  
2 as transgender as follows:

3 (1) Persons who identify as transgender with a  
4 history of diagnosis of gender dysphoria are disquali-  
5 fied from military service except under the following  
6 limited circumstances:

7 (A) Individuals may serve in the Armed  
8 Forces if they have been stable for 36 consecu-  
9 tive months in their biological sex prior to ac-  
10 cession.

11 (B) Members of the Armed Forces diag-  
12 nosed with gender dysphoria after entering into  
13 service may be retained if they do not undergo  
14 gender transition procedures and remain  
15 deployable within applicable retention standards  
16 for their biological sex.

17 (C) Members of the Armed Forces serving  
18 as of the date of the enactment of this Act who  
19 have been diagnosed with gender dysphoria may  
20 continue to serve only in their biological sex, ir-  
21 respective of any changes previously made to  
22 their gender marker in the Defense Enrollment  
23 Eligibility Reporting System (DEERS), and re-  
24 ceive medically necessary treatment for gender

1 dysphoria. Such treatment may not include gen-  
2 der transition procedures.

3 (2) Persons who identify as transgender who  
4 seek or have undergone gender transition are dis-  
5 qualified from military service.

6 (3) Persons who identify as transgender with-  
7 out a history or diagnosis of gender dysphoria, who  
8 are otherwise qualified for service and meet all phys-  
9 ical and mental requirements, may serve in the  
10 Armed Forces in their biological sex.

11 **SEC. 3. REVISED REGULATIONS REGARDING GENDER**  
12 **MARKINGS.**

13 Not later than 90 days after the date of the enact-  
14 ment of this Act, the Secretary of Defense shall prescribe  
15 regulations updating the Defense Enrollment Eligibility  
16 Reporting System (DEERS) to require the gender mark-  
17 ers for members of the Armed Forces to match their bio-  
18 logical sex, irrespective of any previous changes allowed.

19 **SEC. 4. DEFINITIONS.**

20 In this Act:

21 (1) **CROSS-SEX HORMONES.**—The term “cross-  
22 sex hormones” means testosterone or other  
23 androgens given to biological females at doses that  
24 are profoundly larger or more potent than would  
25 normally occur naturally in healthy biological fe-

1 males, or estrogen given to biological males at doses  
2 that are profoundly larger or more potent than  
3 would normally occur naturally in healthy biological  
4 males.

5 (2) GENDER.—The term “gender” means the  
6 psychological, behavioral, social, and cultural aspects  
7 of being male or female.

8 (3) GENDER DYSPHORIA.—The term “gender  
9 dysphoria” means a marked incongruence between  
10 one’s experienced or expressed gender and biological  
11 sex.

12 (4) GENDER TRANSITION.—The term “gender  
13 transition” means the process by which a person  
14 goes from identifying with and living as a gender  
15 that corresponds to his or her biological sex to iden-  
16 tifying with and living as a gender different from his  
17 or her biological sex, and may involve social, legal,  
18 or physical changes.

19 (5) GENDER TRANSITION PROCEDURES.—The  
20 term “gender transition procedures”—

21 (A) means—

22 (i) any medical or surgical interven-  
23 tion, including physician’s services, inpa-  
24 tient and outpatient hospital services, or  
25 prescribed drugs related to gender transi-

1 tion, that seeks to alter or remove physical  
2 or anatomical characteristics or features  
3 that are typical for the individual's biological  
4 sex or to instill or create physiological  
5 or anatomical characteristics that resemble  
6 a sex different from the individual's birth  
7 sex, including medical services that provide  
8 puberty-blocking drugs, cross-sex hormones,  
9 or other mechanisms to promote  
10 the development of feminizing or  
11 masculinizing features (in the opposite  
12 sex); and

13 (ii) genital or non-genital gender transition  
14 surgery performed for the purpose of  
15 assisting an individual with a gender transition;  
16 and

17 (B) does not include—

18 (i) services to those born with a medically-verifiable  
19 disorder of sex development, including a person with  
20 external biological sex characteristics that are irresolvably  
21 ambiguous, such as those born with 46 XX  
22 chromosomes with virilization, 46 XY chromosomes  
23 with undervirilization, or having  
24 both ovarian and testicular tissue;  
25

1 (ii) services provided when a physician  
2 has otherwise diagnosed a disorder of sex-  
3 ual development, in which the physician  
4 has determined through genetic or bio-  
5 chemical testing that the person does not  
6 have normal sex chromosome structure, sex  
7 steroid hormone production, or sex steroid  
8 hormone action for a biological male or bi-  
9 ological female; or

10 (iii) the treatment of any infection, in-  
11 jury, disease, or disorder that has been  
12 caused by or exacerbated by the perform-  
13 ance of gender transition procedures,  
14 whether or not the gender transition proce-  
15 dure was performed in accordance with  
16 State and Federal law or whether or not  
17 funding for the gender transition proce-  
18 dure is permissible.

19 (6) GENDER TRANSITION SURGERY.—The term  
20 “gender transition surgery” means any medical or  
21 surgical service that seeks to surgically alter or re-  
22 move healthy physical or anatomical characteristics  
23 or features that are typical for the individual’s bio-  
24 logical sex in order to instill or create physiological  
25 or anatomical characteristics that resemble a sex dif-

1       ferent from the individual’s birth sex, including gen-  
2       ital or non-genital gender reassignment surgery per-  
3       formed for the purpose of assisting an individual  
4       with a gender transition.

5               (7) GENITAL GENDER TRANSITION SURGERY.—

6       The term “genital gender transition surgery” in-  
7       cludes surgical procedures such as penectomy,  
8       orchietomy, vaginoplasty, clitoroplasty, or  
9       vulvoplasty for biologically male patients or  
10      hysterectomy, ovariectomy, reconstruction of the  
11      fixed part of the urethra with or without a  
12      metoidioplasty or a phalloplasty, vaginectomy,  
13      scrotoplasty, or implantation of erection or testicular  
14      prostheses for biologically female patients, when per-  
15      formed for the purpose of assisting an individual  
16      with a gender transition.

17              (8) NON-GENITAL GENDER TRANSITION SUR-

18      GERY.—The term “non-genital gender transition  
19      surgery”—

20              (A) includes, when performed for the pur-  
21              pose of assisting an individual with a gender  
22              transition—

23                      (i) surgical procedures such as aug-  
24                      mentation mammoplasty, facial feminiza-  
25                      tion surgery, liposuction, lipofilling, voice

1 surgery, thyroid cartilage reduction, gluteal  
2 augmentation (implants or lipofilling), hair  
3 reconstruction, or various aesthetic proce-  
4 dures for biologically male patients; or

5 (ii) subcutaneous mastectomy, voice  
6 surgery, liposuction, lipofilling, pectoral  
7 implants or various aesthetic procedures  
8 for biologically female patients; and

9 (B) does not include any procedure under-  
10 taken because the individual suffers from a  
11 physical disorder, physical injury, or physical  
12 illness that would, as certified by a physician,  
13 place the individual in imminent danger of  
14 death or impairment of major bodily function  
15 unless surgery is performed, unless the proce-  
16 dure is for the purpose of a gender transition.

17 (9) PUBERTY-BLOCKING DRUGS.—The term  
18 “puberty-blocking drugs” means, when used to delay  
19 or suppress pubertal development in children for the  
20 purpose of assisting an individual with a gender  
21 transition—

22 (A) Gonadotropin-releasing hormone  
23 (GnRH) analogues or other synthetic drugs  
24 used in biological males to stop luteinizing hor-



1           mone secretion and therefore testosterone secre-  
2           tion; and

3                   (B) synthetic drugs used in biological fe-  
4           males that stop the production of estrogen and  
5           progesterone.

6           (10) SEX; BIRTH SEX; BIOLOGICAL SEX.—The  
7           terms “sex”, “birth sex,” and “biological sex” refer  
8           to the biological indication of male and female in the  
9           context of reproductive potential or capacity, such as  
10          sex chromosomes, naturally occurring sex hormones,  
11          gonads, and non-ambiguous internal and external  
12          genitalia present at birth, without regard to an indi-  
13          vidual’s psychological, chosen, or subjective experi-  
14          ence of gender.