To amend the Higher Education Act of 1965 to uphold freedom of association protections, and for other purposes.

A BILL

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Collegiate Freedom of Association Act”.

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds the following:

(1) Single-sex social organizations, including sororities, fraternities, and private social clubs, have
existed at institutions of higher education for over 200 years, where they have played, and should continue to play, unique roles in the development of young women and men by creating sisterhoods and brotherhoods that foster leadership, promote academic achievement, and encourage civic and campus involvement through philanthropic activities.

(2) The freedom of association—that is, the freedom of joining, assembling, and residing with others—is protected under the First and Fourteenth Amendments to the Constitution, and allows individuals to create spaces that are safe, welcoming, empowering, enabling, uninhibited, and free.

(3) Single-sex social sororities, fraternities, and private social clubs meet the requirements for intimate and expressive associations protected by the freedom of association because they are small and selective, are bound together by friendship, common interests, and common purpose, and create safe and empowering spaces for their members.

(4) Some institutions of higher education, which stand in positions of power and authority over their students, have increasingly sought to eliminate or restrict access to single-sex social organizations, which are designed to nurture, lift, and empower students.
(5) While the history of equal access in higher education includes discriminatory actions taken on the basis of race, religion, national origin, and sex by students, faculty, staff, and social organizations, many members of these same groups have taken, and continue to take actions to make the higher education community more open and inclusive to all.

(6) While sex discrimination remains a serious problem in our society, allowing institutions of higher education to sanction members of sororities, fraternities, and private social clubs based solely on the single-sex status of the organization that the student belongs to will not solve these problems, is counter-productive, and violates an individual’s constitutional right to freedom of association.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) Protect any student in a single-sex social organization or any single-sex social organization from any adverse action by an institution of higher education based solely on the membership practice of such organization of limiting membership to only individuals of one sex.

(2) Ensure any student in a single-sex social organization or any single-sex social organization is
treated equitably in comparison to students at an institution of higher education who do not participate in single-sex social organizations, or other social organizations at an institution of higher education that are not single-sex.

(3) Protect the rights of students to freely associate with and participate in social organizations, including single-sex social organizations.

SEC. 3. FREEDOM OF ASSOCIATION PROTECTIONS FOR STUDENTS IN SOCIAL ORGANIZATIONS.

Part B of title I of the Higher Education Act of 1965 (20 U.S.C. 1011 et seq.) is amended by adding at the end the following:

“SEC. 124. FREEDOM OF ASSOCIATION PROTECTIONS FOR STUDENTS IN SOCIAL ORGANIZATIONS.

“(a) Upholding Freedom of Association Protections.—Any student (or group of students) enrolled in an institution of higher education shall—

“(1) have a right to form or apply to join any social organization, including any single-sex social organization; and

“(2) if selected for membership by any social organization, have a right to join such social organization and participate in such social organization.
“(b) NON-RETALIATION AGAINST MEMBERS OF SINGLE-SEX SOCIAL ORGANIZATIONS.—An institution of higher education that receives funds under this Act shall not—

“(1) take any action to require or coerce a student or social organization to waive the rights of the student or organization, respectively, under this section;

“(2) take any adverse action against a student who is a member of a single-sex social organization, or a single-sex social organization, based solely on the membership practice of such organization of limiting membership to only individuals of one sex; or

“(3) impose a recruitment restriction (including a recruitment restriction relating to the schedule for membership recruitment) on a single-sex social organization recognized by the institution, which is not imposed upon other student organizations by the institution, unless the organization and the institution have entered into a mutually agreed-upon written agreement that allows the institution to impose such restriction.

“(c) RULES OF CONSTRUCTION.—Nothing in this section shall—
“(1) require an institution of higher education to officially recognize, or enter into a mutually agreed-upon written agreement with, a social organization (such as a social organization whose purpose is incompatible with the religious or cultural mission of the institution of higher education);

“(2) prohibit an institution of higher education from taking an adverse action, which is not based solely on the membership practice of a social organization of limiting membership to only individuals of one sex, against a student who joins such social organization or such social organization—

“(A) whose purpose is incompatible with the religious or cultural mission of the institution of higher education; or

“(B) for another reason (such as academic or nonacademic misconduct);

“(3) subject to subsection (b)(3), prevent a social organization from regulating its own membership;

“(4) inhibit the ability of the faculty of an institution of higher education to express an opinion (either individually or collectively) on a single-sex social organization, or otherwise inhibit the academic free-
dom of such faculty to research, write, or publish
material on such an organization; or

“(5) create enforceable rights against a social
organization or against an institution of higher edu-
cation due to the decision of such social organization
to deny membership to an individual student.

“(d) DEFINITIONS.—In this section:

“(1) ADVERSE ACTION.—The term ‘adverse ac-
tion’ includes the following with respect to a single-
sex social organization or a member of such organi-
zation:

“(A) Expulsion, suspension, probation,
censure, condemnation, reprimand, or any other
disciplinary, coercive, or sanction taken by an
institution of higher education or administrative
unit of such institution.

“(B) An oral or written warning with re-
spect to an action described in subparagraph
(A) made by an official of an institution of
higher education acting in the official capacity
of the official.

“(C) An action to deny participation in
any education program or activity, including the
withholding of any rights, privileges, or oppor-
tunities.
“(D) An action to withhold, in whole or in part, any financial assistance (including scholarships and on campus employment), or denying the opportunity to apply for financial assistance, a scholarship, a graduate fellowship, or on-campus employment.

“(E) An action to deny or restrict access to on-campus housing.

“(F) An action to deny any certification, endorsement, or letter of recommendation that may be required by a student’s current or future employer, a government agency, a licensing board, an institution of higher education, a scholarship program, or a graduate fellowship to which the student seeks to apply.

“(G) An action to deny participation in any sports team, club, or other student organization, including a denial of any leadership position in any sports team, club, or other student organization.

“(H) An action to withdraw official recognition by an institution of higher education.

“(I) An action to require any student to certify that such student is not a member of a single-sex social organization or to disclose the
student’s membership in a single-sex social organization.

“(J) An action by an institution of higher education to interject its own criteria into the membership practices of the organization in any manner that conflicts with the rights of such organization under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) or this section.

“(K) An action to impose any operational policy or restriction that is in violation of this section.

“(2) SINGLE-SEX SOCIAL ORGANIZATION.—The term ‘single-sex social organization’ means—

“(A) a social fraternity or sorority that is an organization described in section 501(c) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code, the active membership of which consists primarily of students in attendance at an institution of higher education;

“(B) the Young Men’s Christian Association, Young Women’s Christian Association, Girl Scouts, Boy Scouts, Camp Fire Girls, and voluntary youth service organizations which are
so exempt, the membership of which has traditionally been limited to persons of one sex and principally to persons of less than nineteen years of age; or

“(C) a single-sex private social club (including an independent organization located off-campus) that consists primarily of students or alumni of an institution of higher education.”.