

Calendar No. 9

117TH CONGRESS
1ST SESSION**H. R. 5**

IN THE SENATE OF THE UNITED STATES

MARCH 1, 2021

Received

MARCH 2 (legislative day, MARCH 1), 2021

Read the first time

MARCH 2, 2021

Read the second time and placed on the calendar

AN ACT

To prohibit discrimination on the basis of sex, gender identity, and sexual orientation, 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 “Equality Act”.

5 **SEC. 2. FINDINGS AND PURPOSE.**

6 (a) FINDINGS.—Congress finds the following:

7 (1) Discrimination can occur on the basis of the
8 sex, sexual orientation, gender identity, pregnancy,

1 childbirth, or a related medical condition of an indi-
2 vidual, as well as because of sex-based stereotypes.
3 Each of these factors alone can serve as the basis
4 for discrimination, and each is a form of sex dis-
5 crimination.

6 (2) A single instance of discrimination may
7 have more than one basis. For example, discrimina-
8 tion against a married same-sex couple could be
9 based on the sex stereotype that marriage should
10 only be between heterosexual couples, the sexual ori-
11 entation of the two individuals in the couple, or
12 both. In addition, some persons are subjected to dis-
13 crimination based on a combination or the intersec-
14 tion of multiple protected characteristics. Discrimi-
15 nation against a pregnant lesbian could be based on
16 her sex, her sexual orientation, her pregnancy, or on
17 the basis of multiple factors.

18 (3) Lesbian, gay, bisexual, transgender, and
19 queer (referred to as “LGBTQ”) people commonly
20 experience discrimination in securing access to pub-
21 lic accommodations—including restaurants, senior
22 centers, stores, places of or establishments that pro-
23 vide entertainment, health care facilities, shelters,
24 government offices, youth service providers including
25 adoption and foster care providers, and transpor-

1 tation. Forms of discrimination include the exclusion
2 and denial of entry, unequal or unfair treatment,
3 harassment, and violence. This discrimination pre-
4 vents the full participation of LGBTQ people in so-
5 ciety and disrupts the free flow of commerce.

6 (4) Women also have faced discrimination in
7 many establishments such as stores and restaurants,
8 and places or establishments that provide other
9 goods or services, such as entertainment or transpor-
10 tation, including sexual harassment, differential pric-
11 ing for substantially similar products and services,
12 and denial of services because they are pregnant or
13 breastfeeding.

14 (5) Many employers already and continue to
15 take proactive steps, beyond those required by some
16 States and localities, to ensure they are fostering
17 positive and respectful cultures for all employees.
18 Many places of public accommodation also recognize
19 the economic imperative to offer goods and services
20 to as many consumers as possible.

21 (6) Regular and ongoing discrimination against
22 LGBTQ people, as well as women, in accessing pub-
23 lic accommodations contributes to negative social
24 and economic outcomes, and in the case of public ac-

1 accommodations operated by State and local govern-
2 ments, abridges individuals’ constitutional rights.

3 (7) The discredited practice known as “conver-
4 sion therapy” is a form of discrimination that harms
5 LGBTQ people by undermining individuals’ sense of
6 self worth, increasing suicide ideation and substance
7 abuse, exacerbating family conflict, and contributing
8 to second-class status.

9 (8) Both LGBTQ people and women face wide-
10 spread discrimination in employment and various
11 services, including by entities that receive Federal fi-
12 nancial assistance. Such discrimination—

13 (A) is particularly troubling and inappro-
14 priate for programs and services funded wholly
15 or in part by the Federal Government;

16 (B) undermines national progress toward
17 equal treatment regardless of sex, sexual ori-
18 entation, or gender identity; and

19 (C) is inconsistent with the constitutional
20 principle of equal protection under the Four-
21 teenth Amendment to the Constitution of the
22 United States.

23 (9) Federal courts have widely recognized that,
24 in enacting the Civil Rights Act of 1964, Congress
25 validly invoked its powers under the Fourteenth

1 Amendment to provide a full range of remedies in
2 response to persistent, widespread, and pervasive
3 discrimination by both private and government ac-
4 tors.

5 (10) Discrimination by State and local govern-
6 ments on the basis of sexual orientation or gender
7 identity in employment, housing, and public accom-
8 modations, and in programs and activities receiving
9 Federal financial assistance, violates the Equal Pro-
10 tection Clause of the Fourteenth Amendment to the
11 Constitution of the United States. In many cir-
12 cumstances, such discrimination also violates other
13 constitutional rights such as those of liberty and pri-
14 vacy under the due process clause of the Fourteenth
15 Amendment.

16 (11) Individuals who are LGBTQ, or are per-
17 ceived to be LGBTQ, have been subjected to a his-
18 tory and pattern of persistent, widespread, and per-
19 vasive discrimination on the bases of sexual orienta-
20 tion and gender identity by both private sector and
21 Federal, State, and local government actors, includ-
22 ing in employment, housing, and public accommoda-
23 tions, and in programs and activities receiving Fed-
24 eral financial assistance. This discrimination inflicts
25 a range of tangible and intangible harms, sometimes

1 even including serious physical injury or death. An
2 explicit and comprehensive national solution is need-
3 ed to address this discrimination, including the full
4 range of remedies available under the Civil Rights
5 Act of 1964.

6 (12) Discrimination based on sexual orientation
7 includes discrimination based on an individual's ac-
8 tual or perceived romantic, emotional, physical, or
9 sexual attraction to other persons, or lack thereof,
10 on the basis of gender. LGBTQ people, including
11 gender nonbinary people, also commonly experience
12 discrimination because of sex-based stereotypes.
13 Many people are subjected to discrimination because
14 of others' perceptions or beliefs regarding their sex-
15 ual orientation. Even if these perceptions are incor-
16 rect, the identity imputed by others forms the basis
17 of discrimination.

18 (13) Numerous provisions of Federal law ex-
19 pressly prohibit discrimination on the basis of sex,
20 and Federal courts and agencies have correctly in-
21 terpreted these prohibitions on sex discrimination to
22 include discrimination based on sexual orientation,
23 gender identity, and sex stereotypes. In particular,
24 the Supreme Court of the United States correctly
25 held in *Bostock v. Clayton County*, 140 S. Ct. 1731

1 (2020) that the prohibition on employment discrimi-
2 nation because of sex under title VII of the Civil
3 Rights Act of 1964 inherently includes discrimina-
4 tion because of sexual orientation or transgender
5 status.

6 (14) This Act makes explicit that existing Fed-
7 eral statutes prohibiting sex discrimination in em-
8 ployment (including in access to benefits),
9 healthcare, housing, education, credit, and jury serv-
10 ice also prohibit sexual orientation and gender iden-
11 tity discrimination.

12 (15) LGBTQ people often face discrimination
13 when seeking to rent or purchase housing, as well as
14 in every other aspect of obtaining and maintaining
15 housing. LGBTQ people in same-sex relationships
16 are often discriminated against when two names as-
17 sociated with one gender appear on a housing appli-
18 cation, and transgender people often encounter dis-
19 crimination when credit checks or inquiries reveal a
20 former name.

21 (16) National surveys, including a study com-
22 missioned by the Department of Housing and Urban
23 Development, show that housing discrimination
24 against LGBTQ people is very prevalent. For in-
25 stance, when same-sex couples inquire about housing

1 that is available for rent, they are less likely to re-
2 ceive positive responses from landlords. A national
3 matched-pair testing investigation found that nearly
4 one-half of same-sex couples had encountered ad-
5 verse, differential treatment when seeking elder
6 housing. According to other studies, transgender
7 people have half the homeownership rate of non-
8 transgender people and about 1 in 5 transgender
9 people experience homelessness. Another survey
10 found that 82 percent of gender nonbinary people
11 experiencing homelessness lacked access to shelter.

12 (17) As a result of the absence of explicit prohi-
13 bitions against discrimination on the basis of sexual
14 orientation and gender identity, credit applicants
15 who are LGBTQ, or are perceived to be LGBTQ,
16 have unequal opportunities to establish credit.
17 LGBTQ people can experience being denied a mort-
18 gage, credit card, student loan, or many other types
19 of credit simply because of their sexual orientation
20 or gender identity.

21 (18) Numerous studies demonstrate that
22 LGBTQ people, especially transgender people and
23 women, are economically disadvantaged and at a
24 higher risk for poverty compared with other groups
25 of people. For example, the poverty rate for older

1 women in same-sex couples is twice that of older dif-
2 ferent-sex couples.

3 (19) The right to an impartial jury of one's
4 peers and the reciprocal right to jury service are
5 fundamental to the free and democratic system of
6 justice in the United States and are based in the
7 Bill of Rights. There is, however, an unfortunate
8 and long-documented history in the United States of
9 attorneys discriminating against LGBTQ individ-
10 uals, or those perceived to be LGBTQ, in jury selec-
11 tion. Failure to bar peremptory challenges based on
12 the actual or perceived sexual orientation or gender
13 identity of an individual not only erodes a funda-
14 mental right, duty, and obligation of being a citizen
15 of the United States, but also unfairly creates a sec-
16 ond class of citizenship for LGBTQ victims, wit-
17 nesses, plaintiffs, and defendants.

18 (20) Numerous studies document the shortage
19 of qualified and available homes for the approxi-
20 mately 424,000 youth in the child welfare system
21 and the negative outcomes for the many youth who
22 live in group care as opposed to a loving home or
23 who age out of care without a permanent family
24 placement. Although same-sex couples are 7 times
25 more likely to foster or adopt than their different-

1 sex counterparts, many child-placing agencies refuse
2 to serve same-sex couples and LGBTQ individuals.
3 This has resulted in a reduction of the pool of quali-
4 fied and available homes for youth in the child wel-
5 fare system who need placement on a temporary or
6 permanent basis. It also sends a negative message
7 about LGBTQ people to children and youth in the
8 child welfare system about who is, and who is not,
9 considered fit to be a parent. While the priority
10 should be on providing the supports necessary to
11 keep children with their families, when removal is re-
12 quired, barring discrimination in foster care and
13 adoption will increase the number of homes available
14 to foster children waiting for foster and adoptive
15 families.

16 (21) LGBTQ youth are overrepresented in the
17 foster care system by at least a factor of two and
18 report twice the rate of poor treatment while in care
19 compared to their non-LGBTQ counterparts.
20 LGBTQ youth in foster care have a higher average
21 number of placements, higher likelihood of living in
22 a group home, and higher rates of hospitalization for
23 emotional reasons and of juvenile justice involvement
24 than their non-LGBTQ peers because of the high
25 level of bias and discrimination that they face and

1 the difficulty of finding affirming foster placements.
2 Further, due to their physical distance from friends
3 and family, traumatic experiences, and potentially
4 unstable living situations, all youth involved with
5 child welfare services are at risk for being targeted
6 by traffickers seeking to exploit children. Barring
7 discrimination in child welfare services will ensure
8 improved treatment and outcomes for LGBTQ foster
9 children.

10 (22) Courts consistently have found that the
11 government has a compelling interest in preventing
12 and remedying discrimination. For example, the Su-
13 preme Court of the United States found there to be
14 a compelling government interest in eliminating sex
15 discrimination in *Board of Directors of Rotary*
16 *International v. Rotary Club of Duarte*, 481 U.S.
17 537, 549 (1987). Because discrimination based on
18 sexual orientation or gender identity inherently is a
19 form of sex discrimination, as held in *Bostock v.*
20 *Clayton County*, 140 S. Ct. 1731 (2020), this Act
21 furthers the compelling government interest in pro-
22 viding redress for the serious harms to mental and
23 physical health, financial security and wellbeing,
24 civic participation, freedom of movement and oppor-
25 tunity, personal dignity, and physical safety that re-

1 sult from discrimination. Consistent with the role
2 nondiscrimination laws play in protecting lives and
3 livelihoods, alleviating suffering, and improving indi-
4 vidual and public health, the Supreme Court of the
5 United States has long recognized, under the deci-
6 sion in *Heart of Atlanta Motel, Inc. v. United*
7 *States*, 379 U.S. 241 (1964), that these laws also
8 benefit society as a whole by ending the “disruptive
9 effect” discrimination has on travel and commerce,
10 and by creating a level field for all participants in
11 a given sector.

12 (23) As with all prohibitions on invidious dis-
13 crimination, this Act furthers the government’s com-
14 pelling interest in the least restrictive way because
15 only by forbidding discrimination is it possible to
16 avert or redress the harms described in this sub-
17 section.

18 (b) PURPOSE.—It is the purpose of this Act to ex-
19 pand as well as clarify, confirm and create greater consist-
20 ency in the protections and remedies against discrimina-
21 tion on the basis of all covered characteristics and to pro-
22 vide guidance and notice to individuals, organizations, cor-
23 porations, and agencies regarding their obligations under
24 the law.

1 **SEC. 3. PUBLIC ACCOMMODATIONS.**

2 (a) PROHIBITION ON DISCRIMINATION OR SEGREGA-
3 TION IN PUBLIC ACCOMMODATIONS.—Section 201 of the
4 Civil Rights Act of 1964 (42 U.S.C. 2000a) is amended—

5 (1) in subsection (a), by inserting “sex (includ-
6 ing sexual orientation and gender identity),” before
7 “or national origin”; and

8 (2) in subsection (b)—

9 (A) in paragraph (3), by striking “sta-
10 dium” and all that follows and inserting “sta-
11 dium or other place of or establishment that
12 provides exhibition, entertainment, recreation,
13 exercise, amusement, public gathering, or public
14 display;”;

15 (B) by redesignating paragraph (4) as
16 paragraph (6); and

17 (C) by inserting after paragraph (3) the
18 following:

19 “(4) any establishment that provides a good,
20 service, or program, including a store, shopping cen-
21 ter, online retailer or service provider, salon, bank,
22 gas station, food bank, service or care center, shel-
23 ter, travel agency, or funeral parlor, or establish-
24 ment that provides health care, accounting, or legal
25 services;

1 “(5) any train service, bus service, car service,
2 taxi service, airline service, station, depot, or other
3 place of or establishment that provides transpor-
4 tation service; and”.

5 (b) PROHIBITION ON DISCRIMINATION OR SEGREGA-
6 TION UNDER LAW.—Section 202 of such Act (42 U.S.C.
7 2000a–1) is amended by inserting “sex (including sexual
8 orientation and gender identity),” before “or national ori-
9 gin”.

10 (c) RULE OF CONSTRUCTION.—Title II of such Act
11 (42 U.S.C. 2000a et seq.) is amended by adding at the
12 end the following:

13 **“SEC. 208. RULE OF CONSTRUCTION.**

14 “A reference in this title to an establishment—

15 “(1) shall be construed to include an individual
16 whose operations affect commerce and who is a pro-
17 vider of a good, service, or program; and

18 “(2) shall not be construed to be limited to a
19 physical facility or place.”.

20 **SEC. 4. DESEGREGATION OF PUBLIC FACILITIES.**

21 Section 301(a) of the Civil Rights Act of 1964 (42
22 U.S.C. 2000b(a)) is amended by inserting “sex (including
23 sexual orientation and gender identity),” before “or na-
24 tional origin”.

1 **SEC. 5. DESEGREGATION OF PUBLIC EDUCATION.**

2 (a) DEFINITIONS.—Section 401(b) of the Civil Rights
3 Act of 1964 (42 U.S.C. 2000c(b)) is amended by inserting
4 “(including sexual orientation and gender identity),” be-
5 fore “or national origin”.

6 (b) CIVIL ACTIONS BY THE ATTORNEY GENERAL.—
7 Section 407 of such Act (42 U.S.C. 2000c–6) is amended,
8 in subsection (a)(2), by inserting “(including sexual ori-
9 entation and gender identity),” before “or national ori-
10 gin”.

11 (c) CLASSIFICATION AND ASSIGNMENT.—Section 410
12 of such Act (42 U.S.C. 2000c–9) is amended by inserting
13 “(including sexual orientation and gender identity),” be-
14 fore “or national origin”.

15 **SEC. 6. FEDERAL FUNDING.**

16 Section 601 of the Civil Rights Act of 1964 (42
17 U.S.C. 2000d) is amended by inserting “sex (including
18 sexual orientation and gender identity),” before “or na-
19 tional origin,”.

20 **SEC. 7. EMPLOYMENT.**

21 (a) RULES OF CONSTRUCTION.—Title VII of the
22 Civil Rights Act of 1964 is amended by inserting after
23 section 701 (42 U.S.C. 2000e) the following:

24 **“SEC. 701A. RULES OF CONSTRUCTION.**

25 “Section 1106 shall apply to this title except that for
26 purposes of that application, a reference in that section

1 to an ‘unlawful practice’ shall be considered to be a ref-
2 erence to an ‘unlawful employment practice’.”

3 (b) UNLAWFUL EMPLOYMENT PRACTICES.—Section
4 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–
5 2) is amended—

6 (1) in the section header, by striking “SEX,”
7 and inserting “SEX (INCLUDING SEXUAL ORIENTA-
8 TION AND GENDER IDENTITY),”;

9 (2) except in subsection (e), by striking “sex,”
10 each place it appears and inserting “sex (including
11 sexual orientation and gender identity),”;

12 (3) in subsection (e)(1), by striking “enter-
13 prise,” and inserting “enterprise, if, in a situation in
14 which sex is a bona fide occupational qualification,
15 individuals are recognized as qualified in accordance
16 with their gender identity,”; and

17 (4) in subsection (h), by striking “sex” the sec-
18 ond place it appears and inserting “sex (including
19 sexual orientation and gender identity),”.

20 (c) OTHER UNLAWFUL EMPLOYMENT PRACTICES.—
21 Section 704(b) of the Civil Rights Act of 1964 (42 U.S.C.
22 2000e–3(b)) is amended—

23 (1) by striking “sex,” the first place it appears
24 and inserting “sex (including sexual orientation and
25 gender identity),”;

1 (2) by striking “employment.” and inserting
2 “employment, if, in a situation in which sex is a
3 bona fide occupational qualification, individuals are
4 recognized as qualified in accordance with their gen-
5 der identity.”.

6 (d) CLAIMS.—Section 706(g)(2)(A) of the Civil
7 Rights Act of 1964 (2000e–5(g)(2)(A)) is amended by
8 striking “sex,” and inserting “sex (including sexual ori-
9 entation and gender identity),”.

10 (e) EMPLOYMENT BY FEDERAL GOVERNMENT.—Sec-
11 tion 717 of the Civil Rights Act of 1964 (42 U.S.C.
12 2000e–16) is amended—

13 (1) in subsection (a), by striking “sex,” and in-
14 serting “sex (including sexual orientation and gender
15 identity),”; and

16 (2) in subsection (c), by striking “sex” and in-
17 serting “sex (including sexual orientation and gender
18 identity),”.

19 (f) GOVERNMENT EMPLOYEE RIGHTS ACT OF
20 1991.—The Government Employee Rights Act of 1991
21 (42 U.S.C. 2000e–16a et seq.) is amended—

22 (1) in section 301(b), by striking “sex,” and in-
23 serting “sex (including sexual orientation and gender
24 identity),”;

1 (2) in section 302(a)(1), by striking “sex,” and
2 inserting “sex (including sexual orientation and gen-
3 der identity),”; and

4 (3) by adding at the end the following:

5 **“SEC. 305. RULES OF CONSTRUCTION AND CLAIMS.**

6 “Sections 1101(b), 1106, and 1107 of the Civil
7 Rights Act of 1964 shall apply to this title except that
8 for purposes of that application, a reference in that section
9 1106 to ‘race, color, religion, sex (including sexual orienta-
10 tion and gender identity), or national origin’ shall be con-
11 sidered to be a reference to ‘race, color, religion, sex, sex-
12 ual orientation, gender identity, national origin, age, or
13 disability’.”.

14 (g) CONGRESSIONAL ACCOUNTABILITY ACT OF
15 1995.—The Congressional Accountability Act of 1995 (2
16 U.S.C. 1301 et seq.) is amended—

17 (1) in section 201(a)(1) (2 U.S.C. 1311(a)(1))
18 by inserting “(including sexual orientation and gen-
19 der identity),” before “or national origin,”; and

20 (2) by adding at the end of title II (42 U.S.C.
21 1311 et seq.) the following:

22 **“SEC. 209. RULES OF CONSTRUCTION AND CLAIMS.**

23 “Sections 1101(b), 1106, and 1107 of the Civil
24 Rights Act of 1964 shall apply to section 201 (and reme-
25 dial provisions of this Act related to section 201) except

1 that for purposes of that application, a reference in that
2 section 1106 to ‘race, color, religion, sex (including sexual
3 orientation and gender identity), or national origin’ shall
4 be considered to be a reference to ‘race, color, religion,
5 sex (including sexual orientation and gender identity), na-
6 tional origin, age, or disability’.”.

7 (h) CIVIL SERVICE REFORM ACT OF 1978.—Chapter
8 23 of title 5, United States Code, is amended—

9 (1) in section 2301(b)(2), by striking “sex,”
10 and inserting “sex (including sexual orientation and
11 gender identity),”;

12 (2) in section 2302—

13 (A) in subsection (b)(1)(A), by inserting
14 “(including sexual orientation and gender iden-
15 tity),” before “or national origin,”; and

16 (B) in subsection (d)(1), by inserting “(in-
17 cluding sexual orientation and gender iden-
18 tity),” before “or national origin,”; and

19 (3) by adding at the end the following:

20 **“SEC. 2307. RULES OF CONSTRUCTION AND CLAIMS.**

21 “Sections 1101(b), 1106, and 1107 of the Civil
22 Rights Act of 1964 shall apply to this chapter (and reme-
23 dial provisions of this title related to this chapter) except
24 that for purposes of that application, a reference in that
25 section 1106 to ‘race, color, religion, sex (including sexual

1 orientation and gender identity), or national origin’ shall
2 be considered to be a reference to ‘race, color, religion,
3 sex (including sexual orientation and gender identity), na-
4 tional origin, age, a handicapping condition, marital sta-
5 tus, or political affiliation’.”.

6 **SEC. 8. INTERVENTION.**

7 Section 902 of the Civil Rights Act of 1964 (42
8 U.S.C. 2000h–2) is amended by inserting “(including sex-
9 ual orientation and gender identity),” before “or national
10 origin,”.

11 **SEC. 9. MISCELLANEOUS.**

12 Title XI of the Civil Rights Act of 1964 is amended—

13 (1) by redesignating sections 1101 through
14 1104 (42 U.S.C. 2000h et seq.) and sections 1105
15 and 1106 (42 U.S.C. 2000h–5, 2000h–6) as sections
16 1102 through 1105 and sections 1108 and 1109, re-
17 spectively;

18 (2) by inserting after the title heading the fol-
19 lowing:

20 **“SEC. 1101. DEFINITIONS AND RULES.**

21 “(a) DEFINITIONS.—In titles II, III, IV, VI, VII, and
22 IX (referred to individually in sections 1106 and 1107 as
23 a ‘covered title’):

24 “(1) RACE; COLOR; RELIGION; SEX; SEXUAL
25 ORIENTATION; GENDER IDENTITY; NATIONAL ORI-

1 GIN.—The term ‘race’, ‘color’, ‘religion’, ‘sex’ (in-
2 cluding ‘sexual orientation’ and ‘gender identity’), or
3 ‘national origin’, used with respect to an individual,
4 includes—

5 “(A) the race, color, religion, sex (includ-
6 ing sexual orientation and gender identity), or
7 national origin, respectively, of another person
8 with whom the individual is associated or has
9 been associated; and

10 “(B) a perception or belief, even if inac-
11 curate, concerning the race, color, religion, sex
12 (including sexual orientation and gender iden-
13 tity), or national origin, respectively, of the in-
14 dividual.

15 “(2) GENDER IDENTITY.—The term ‘gender
16 identity’ means the gender-related identity, appear-
17 ance, mannerisms, or other gender-related character-
18 istics of an individual, regardless of the individual’s
19 designated sex at birth.

20 “(3) INCLUDING.—The term ‘including’ means
21 including, but not limited to, consistent with the
22 term’s standard meaning in Federal law.

23 “(4) SEX.—The term ‘sex’ includes—

24 “(A) a sex stereotype;

1 “(B) pregnancy, childbirth, or a related
2 medical condition;

3 “(C) sexual orientation or gender identity;
4 and

5 “(D) sex characteristics, including intersex
6 traits.

7 “(5) SEXUAL ORIENTATION.—The term ‘sexual
8 orientation’ means homosexuality, heterosexuality, or
9 bisexuality.

10 “(b) RULES.—In a covered title referred to in sub-
11 section (a)—

12 “(1) (with respect to sex) pregnancy, childbirth,
13 or a related medical condition shall not receive less
14 favorable treatment than other physical conditions;
15 and

16 “(2) (with respect to gender identity) an indi-
17 vidual shall not be denied access to a shared facility,
18 including a restroom, a locker room, and a dressing
19 room, that is in accordance with the individual’s
20 gender identity.”; and

21 (3) by inserting after section 1105 the fol-
22 lowing:

1 **“SEC. 1106. RULES OF CONSTRUCTION.**

2 “(a) SEX.—Nothing in section 1101 or the provisions
3 of a covered title incorporating a term defined or a rule
4 specified in that section shall be construed—

5 “(1) to limit the protection against an unlawful
6 practice on the basis of pregnancy, childbirth, or a
7 related medical condition provided by section 701(k);
8 or

9 “(2) to limit the protection against an unlawful
10 practice on the basis of sex available under any pro-
11 vision of Federal law other than that covered title,
12 prohibiting a practice on the basis of sex.

13 “(b) CLAIMS AND REMEDIES NOT PRECLUDED.—
14 Nothing in section 1101 or a covered title shall be con-
15 strued to limit the claims or remedies available to any indi-
16 vidual for an unlawful practice on the basis of race, color,
17 religion, sex (including sexual orientation and gender iden-
18 tity), or national origin including claims brought pursuant
19 to section 1979 or 1980 of the Revised Statutes (42
20 U.S.C. 1983, 1985) or any other law, including a Federal
21 law amended by the Equality Act, regulation, or policy.

22 “(c) NO NEGATIVE INFERENCE.—Nothing in section
23 1101 or a covered title shall be construed to support any
24 inference that any Federal law prohibiting a practice on
25 the basis of sex does not prohibit discrimination on the
26 basis of pregnancy, childbirth, or a related medical condi-

1 tion, sexual orientation, gender identity, or a sex stereo-
2 type.

3 **“SEC. 1107. CLAIMS.**

4 “The Religious Freedom Restoration Act of 1993 (42
5 U.S.C. 2000bb et seq.) shall not provide a claim con-
6 cerning, or a defense to a claim under, a covered title,
7 or provide a basis for challenging the application or en-
8 forcement of a covered title.”.

9 **SEC. 10. HOUSING.**

10 (a) FAIR HOUSING ACT.—The Fair Housing Act (42
11 U.S.C. 3601 et seq.) is amended—

12 (1) in section 802 (42 U.S.C. 3602), by adding
13 at the end the following:

14 “(p) ‘Gender identity’, ‘sex’, and ‘sexual orientation’
15 have the meanings given those terms in section 1101(a)
16 of the Civil Rights Act of 1964.

17 “(q) ‘Race’, ‘color’, ‘religion’, ‘sex’ (including ‘sexual
18 orientation’ and ‘gender identity’), ‘handicap’, ‘familial
19 status’, or ‘national origin’, used with respect to an indi-
20 vidual, includes—

21 “(1) the race, color, religion, sex (including sex-
22 ual orientation and gender identity), handicap, fa-
23 miliary status, or national origin, respectively, of an-
24 other person with whom the individual is associated
25 or has been associated; and

1 “(2) a perception or belief, even if inaccurate,
2 concerning the race, color, religion, sex (including
3 sexual orientation and gender identity), handicap,
4 familial status, or national origin, respectively, of the
5 individual.”;

6 (2) in section 804, by inserting “(including sex-
7 ual orientation and gender identity),” after “sex,”
8 each place that term appears;

9 (3) in section 805, by inserting “(including sex-
10 ual orientation and gender identity),” after “sex,”
11 each place that term appears;

12 (4) in section 806, by inserting “(including sex-
13 ual orientation and gender identity),” after “sex,”;

14 (5) in section 808(e)(6), by inserting “(includ-
15 ing sexual orientation and gender identity),” after
16 “sex,”; and

17 (6) by adding at the end the following:

18 **“SEC. 821. RULES OF CONSTRUCTION.**

19 “Sections 1101(b) and 1106 of the Civil Rights Act
20 of 1964 shall apply to this title and section 901, except
21 that for purposes of that application, a reference in that
22 section 1101(b) or 1106 to a ‘covered title’ shall be consid-
23 ered a reference to ‘this title and section 901’.

1 **“SEC. 822. CLAIMS.**

2 “Section 1107 of the Civil Rights Act of 1964 shall
3 apply to this title and section 901, except that for pur-
4 poses of that application, a reference in that section 1107
5 to a ‘covered title’ shall be considered a reference to ‘this
6 title and section 901’.”.

7 (b) PREVENTION OF INTIMIDATION IN FAIR HOUS-
8 ING CASES.—Section 901 of the Civil Rights Act of 1968
9 (42 U.S.C. 3631) is amended by inserting “(including sex-
10 ual orientation (as such term is defined in section 802 of
11 this Act) and gender identity (as such term is defined in
12 section 802 of this Act)),” after “sex,” each place that
13 term appears.

14 **SEC. 11. EQUAL CREDIT OPPORTUNITY.**

15 (a) PROHIBITED DISCRIMINATION.—Section
16 701(a)(1) of the Equal Credit Opportunity Act (15 U.S.C.
17 1691(a)(1)) is amended by inserting “(including sexual
18 orientation and gender identity),” after “sex”.

19 (b) DEFINITIONS.—Section 702 of the Equal Credit
20 Opportunity Act (15 U.S.C. 1691a) is amended—

21 (1) by redesignating subsections (f) and (g) as
22 subsections (h) and (i), respectively;

23 (2) by inserting after subsection (e) the fol-
24 lowing:

1 “(f) The terms ‘gender identity’, ‘sex’, and ‘sexual
2 orientation’ have the meanings given those terms in sec-
3 tion 1101(a) of the Civil Rights Act of 1964.

4 “(g) The term ‘race’, ‘color’, ‘religion’, ‘national ori-
5 gin’, ‘sex’ (including ‘sexual orientation’ and ‘gender iden-
6 tity’), ‘marital status’, or ‘age’, used with respect to an
7 individual, includes—

8 “(1) the race, color, religion, national origin,
9 sex (including sexual orientation and gender iden-
10 tity), marital status, or age, respectively, of another
11 person with whom the individual is associated or has
12 been associated; and

13 “(2) a perception or belief, even if inaccurate,
14 concerning the race, color, religion, national origin,
15 sex (including sexual orientation and gender iden-
16 tity), marital status, or age, respectively, of the indi-
17 vidual.”; and

18 (3) by adding at the end the following:

19 “(j) Sections 1101(b) and 1106 of the Civil Rights
20 Act of 1964 shall apply to this title, except that for pur-
21 poses of that application—

22 “(1) a reference in those sections to a ‘covered
23 title’ shall be considered a reference to ‘this title’;
24 and

1 “(2) paragraph (1) of such section 1101(b)
2 shall apply with respect to all aspects of a credit
3 transaction.”.

4 (c) RELATION TO STATE LAWS.—Section 705(a) of
5 the Equal Credit Opportunity Act (15 U.S.C. 1691d(a))
6 is amended by inserting “(including sexual orientation and
7 gender identity),” after “sex”.

8 (d) CIVIL LIABILITY.—Section 706 of the Equal
9 Credit Opportunity Act (15 U.S.C. 1691e) is amended by
10 adding at the end the following:

11 “(1) Section 1107 of the Civil Rights Act of 1964
12 shall apply to this title, except that for purposes of that
13 application, a reference in that section to a ‘covered title’
14 shall be considered a reference to ‘this title’.”.

15 **SEC. 12. JURIES.**

16 (a) IN GENERAL.—Chapter 121 of title 28, United
17 States Code, is amended—

18 (1) in section 1862, by inserting “(including
19 sexual orientation and gender identity),” after
20 “sex,”;

21 (2) in section 1867(e), in the second sentence,
22 by inserting “(including sexual orientation and gen-
23 der identity),” after “sex,”;

24 (3) in section 1869—

1 (A) in subsection (j), by striking “and” at
2 the end;

3 (B) in subsection (k), by striking the pe-
4 riod at the end and inserting a semicolon; and

5 (C) by adding at the end the following:

6 “(l) ‘gender identity’, ‘sex’, and ‘sexual orientation’
7 have the meanings given such terms under section 1101(a)
8 of the Civil Rights Act of 1964; and

9 “(m) ‘race’, ‘color’, ‘religion’, ‘sex’ (including ‘sexual
10 orientation’ and ‘gender identity’), ‘economic status’, or
11 ‘national origin’, used with respect to an individual, in-
12 cludes—

13 “(1) the race, color, religion, sex (including sex-
14 ual orientation and gender identity), economic sta-
15 tus, or national origin, respectively, of another per-
16 son with whom the individual is associated or has
17 been associated; and

18 “(2) a perception or belief, even if inaccurate,
19 concerning the race, color, religion, sex (including
20 sexual orientation and gender identity), economic
21 status, or national origin, respectively, of the indi-
22 vidual.”; and

23 (4) by adding at the end the following:

1 **“§ 1879. Rules of construction and claims**

2 “Sections 1101(b), 1106, and 1107 of the Civil
3 Rights Act of 1964 shall apply to this chapter, except that
4 for purposes of that application, a reference in those sec-
5 tions to a ‘covered title’ shall be considered a reference
6 to ‘this chapter’.”.

7 (b) TECHNICAL AND CONFORMING AMENDMENT.—
8 The table of sections for chapter 121 of title 28, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

“1879. Rules of construction and claims.”.

Passed the House of Representatives February 25,
2021.

Attest:

CHERYL L. JOHNSON,

Clerk.

Calendar No. 9

117TH CONGRESS
1ST Session

H. R. 5

AN ACT

To prohibit discrimination on the basis of sex, gender identity, and sexual orientation, and for other purposes.

MARCH 2 (legislative day, MARCH 1), 2021

Read the first time

MARCH 2, 2021

Read the second time and placed on the calendar