

117TH CONGRESS
1ST SESSION

S. 393

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 23, 2021

Mr. MERKLEY (for himself, Ms. BALDWIN, Mr. BOOKER, Mr. BENNET, Mr. BLUMENTHAL, Mr. BROWN, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. COONS, Ms. CORTEZ MASTO, Ms. DUCKWORTH, Mr. DURBIN, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Ms. HASSAN, Mr. HEINRICH, Mr. HICKENLOOPER, Ms. HIRONO, Mr. KAINE, Mr. KELLY, Mr. KING, Ms. KLOBUCHAR, Mr. LEAHY, Mr. LUJÁN, Mr. MARKEY, Mr. MENENDEZ, Mr. MURPHY, Mrs. MURRAY, Mr. OSSOFF, Mr. PADILLA, Mr. PETERS, Mr. REED, Ms. ROSEN, Mr. SANDERS, Mr. SCHATZ, Mr. SCHUMER, Mrs. SHAHEEN, Ms. SINEMA, Ms. SMITH, Ms. STABENOW, Mr. TESTER, Mr. VAN HOLLEN, Mr. WARNER, Mr. WARNOCK, Ms. WARREN, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

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

3 (1) Discrimination can occur on the basis of the
4 sex, sexual orientation, gender identity, pregnancy,
5 childbirth, or a related medical condition of an indi-
6 vidual, as well as because of sex-based stereotypes.
7 Each of these factors alone can serve as the basis
8 for discrimination, and each is a form of sex dis-
9 crimination.

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

22 (3) Lesbian, gay, bisexual, transgender, and
23 queer (referred to as “LGBTQ”) people commonly
24 experience discrimination in securing access to pub-
25 lic accommodations—including restaurants, senior
26 centers, stores, places of or establishments that pro-

1 vide entertainment, health care facilities, shelters,
2 government offices, youth service providers including
3 adoption and foster care providers, and transpor-
4 tation. Forms of discrimination include the exclusion
5 and denial of entry, unequal or unfair treatment,
6 harassment, and violence. This discrimination pre-
7 vents the full participation of LGBTQ people in so-
8 ciety and disrupts the free flow of commerce.

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

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

24 (6) Regular and ongoing discrimination against
25 LGBTQ people, as well as women, in accessing pub-

1 lic accommodations contributes to negative social
2 and economic outcomes, and in the case of public ac-
3 commodations operated by State and local govern-
4 ments, abridges individuals’ constitutional rights.

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

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

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

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

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

1 (9) Federal courts have widely recognized that,
2 in enacting the Civil Rights Act of 1964, Congress
3 validly invoked its powers under the Fourteenth
4 Amendment to provide a full range of remedies in
5 response to persistent, widespread, and pervasive
6 discrimination by both private and government ac-
7 tors.

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

19 (11) Individuals who are LGBTQ, or are per-
20 ceived to be LGBTQ, have been subjected to a his-
21 tory and pattern of persistent, widespread, and per-
22 vasive discrimination on the bases of sexual orienta-
23 tion and gender identity by both private sector and
24 Federal, State, and local government actors, includ-
25 ing in employment, housing, and public accommoda-

1 tions, and in programs and activities receiving Fed-
2 eral financial assistance. This discrimination inflicts
3 a range of tangible and intangible harms, sometimes
4 even including serious physical injury or death. An
5 explicit and comprehensive national solution is need-
6 ed to address this discrimination, including the full
7 range of remedies available under the Civil Rights
8 Act of 1964.

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

21 (13) Numerous provisions of Federal law ex-
22 pressly prohibit discrimination on the basis of sex,
23 and Federal courts and agencies have correctly in-
24 terpreted these prohibitions on sex discrimination to
25 include discrimination based on sexual orientation,

1 gender identity, and sex stereotypes. In particular,
2 the Supreme Court of the United States correctly
3 held in *Bostock v. Clayton County*, 140 S. Ct. 1731
4 (2020) that the prohibition on employment discrimi-
5 nation because of sex under title VII of the Civil
6 Rights Act of 1964 inherently includes discrimina-
7 tion because of sexual orientation or transgender
8 status.

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

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

24 (16) National surveys, including a study com-
25 missioned by the Department of Housing and Urban

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

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

24 (18) Numerous studies demonstrate that
25 LGBTQ people, especially transgender people and

1 women, are economically disadvantaged and at a
2 higher risk for poverty compared with other groups
3 of people. For example, the poverty rate for older
4 women in same-sex couples is twice that of older dif-
5 ferent-sex couples.

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

21 (20) Numerous studies document the shortage
22 of qualified and available homes for the approxi-
23 mately 424,000 youth in the child welfare system
24 and the negative outcomes for the many youth who
25 live in group care as opposed to a loving home or

1 who age out of care without a permanent family
2 placement. Although same-sex couples are 7 times
3 more likely to foster or adopt than their different-
4 sex counterparts, many child-placing agencies refuse
5 to serve same-sex couples and LGBTQ individuals.
6 This has resulted in a reduction of the pool of quali-
7 fied and available homes for youth in the child wel-
8 fare system who need placement on a temporary or
9 permanent basis. It also sends a negative message
10 about LGBTQ people to children and youth in the
11 child welfare system about who is, and who is not,
12 considered fit to be a parent. While the priority
13 should be on providing the supports necessary to
14 keep children with their families, when removal is re-
15 quired, barring discrimination in foster care and
16 adoption will increase the number of homes available
17 to foster children waiting for foster and adoptive
18 families.

19 (21) LGBTQ youth are overrepresented in the
20 foster care system by at least a factor of two and
21 report twice the rate of poor treatment while in care
22 compared to their non-LGBTQ counterparts.
23 LGBTQ youth in foster care have a higher average
24 number of placements, higher likelihood of living in
25 a group home, and higher rates of hospitalization for

1 emotional reasons and of juvenile justice involvement
2 than their non-LGBTQ peers because of the high
3 level of bias and discrimination that they face and
4 the difficulty of finding affirming foster placements.
5 Further, due to their physical distance from friends
6 and family, traumatic experiences, and potentially
7 unstable living situations, all youth involved with
8 child welfare services are at risk for being targeted
9 by traffickers seeking to exploit children. Barring
10 discrimination in child welfare services will ensure
11 improved treatment and outcomes for LGBTQ foster
12 children.

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

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

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

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

1 porations, and agencies regarding their obligations under
2 the law.

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

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

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

10 (2) in subsection (b)—

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

17 (B) by redesignating paragraph (4) as
18 paragraph (6); and

19 (C) by inserting after paragraph (3) the
20 following:

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

1 ment that provides health care, accounting, or legal
2 services;

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

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

12 (c) RULE OF CONSTRUCTION.—Title II of such Act
13 (42 U.S.C. 2000a et seq.) is amended by adding at the
14 end the following:

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

16 “A reference in this title to an establishment—

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

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

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

23 Section 301(a) of the Civil Rights Act of 1964 (42
24 U.S.C. 2000b(a)) is amended by inserting “sex (including

1 sexual orientation and gender identity),” before “or na-
2 tional origin”.

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

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

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

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

17 **SEC. 6. FEDERAL FUNDING.**

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

22 **SEC. 7. EMPLOYMENT.**

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

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

2 “Section 1106 shall apply to this title except that for
3 purposes of that application, a reference in that section
4 to an ‘unlawful practice’ shall be considered to be a ref-
5 erence to an ‘unlawful employment practice’.”

6 (b) UNLAWFUL EMPLOYMENT PRACTICES.—Section
7 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–
8 2) is amended—

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

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

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

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

23 (c) OTHER UNLAWFUL EMPLOYMENT PRACTICES.—
24 Section 704(b) of the Civil Rights Act of 1964 (42 U.S.C.
25 2000e–3(b)) is amended—

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

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

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

13 (e) EMPLOYMENT BY FEDERAL GOVERNMENT.—Sec-
14 tion 717 of the Civil Rights Act of 1964 (42 U.S.C.
15 2000e–16) is amended—

16 (1) in subsection (a), by striking “sex,” and in-
17 serting “sex (including sexual orientation and gender
18 identity),”; and

19 (2) in subsection (c), by striking “sex” and in-
20 serting “sex (including sexual orientation and gender
21 identity),”.

22 (f) GOVERNMENT EMPLOYEE RIGHTS ACT OF
23 1991.—The Government Employee Rights Act of 1991
24 (42 U.S.C. 2000e–16a et seq.) is amended—

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

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

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

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

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

17 (g) CONGRESSIONAL ACCOUNTABILITY ACT OF
18 1995.—The Congressional Accountability Act of 1995 (2
19 U.S.C. 1301 et seq.) is amended—

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

23 (2) by adding at the end of title II (42 U.S.C.
24 1311 et seq.) the following:

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

2 “Sections 1101(b), 1106, and 1107 of the Civil
3 Rights Act of 1964 shall apply to section 201 (and reme-
4 dial provisions of this Act related to section 201) except
5 that for purposes of that application, a reference in that
6 section 1106 to ‘race, color, religion, sex (including sexual
7 orientation and gender identity), or national origin’ shall
8 be considered to be a reference to ‘race, color, religion,
9 sex (including sexual orientation and gender identity), na-
10 tional origin, age, or disability’.”.

11 (h) CIVIL SERVICE REFORM ACT OF 1978.—Chapter
12 23 of title 5, United States Code, is amended—

13 (1) in section 2301(b)(2), by striking “sex,”
14 and inserting “sex (including sexual orientation and
15 gender identity),”;

16 (2) in section 2302—

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

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

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

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

25 “Sections 1101(b), 1106, and 1107 of the Civil
26 Rights Act of 1964 shall apply to this chapter (and reme-

1 dial provisions of this title related to this chapter) except
2 that for purposes of that application, a reference in that
3 section 1106 to ‘race, color, religion, sex (including sexual
4 orientation and gender identity), or national origin’ shall
5 be considered to be a reference to ‘race, color, religion,
6 sex (including sexual orientation and gender identity), na-
7 tional origin, age, a handicapping condition, marital sta-
8 tus, or political affiliation’.”.

9 **SEC. 8. INTERVENTION.**

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

14 **SEC. 9. MISCELLANEOUS.**

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

16 (1) by redesignating sections 1101 through
17 1104 (42 U.S.C. 2000h et seq.) and sections 1105
18 and 1106 (42 U.S.C. 2000h–5, 2000h–6) as sections
19 1102 through 1105 and sections 1108 and 1109, re-
20 spectively;

21 (2) by inserting after the title heading the fol-
22 lowing:

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

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

5 “(1) RACE; COLOR; RELIGION; SEX; SEXUAL
6 ORIENTATION; GENDER IDENTITY; NATIONAL ORI-
7 GIN.—The term ‘race’, ‘color’, ‘religion’, ‘sex’ (in-
8 cluding ‘sexual orientation’ and ‘gender identity’), or
9 ‘national origin’, used with respect to an individual,
10 includes—

11 “(A) the race, color, religion, sex (includ-
12 ing sexual orientation and gender identity), or
13 national origin, respectively, of another person
14 with whom the individual is associated or has
15 been associated; and

16 “(B) a perception or belief, even if inac-
17 curate, concerning the race, color, religion, sex
18 (including sexual orientation and gender iden-
19 tity), or national origin, respectively, of the in-
20 dividual.

21 “(2) GENDER IDENTITY.—The term ‘gender
22 identity’ means the gender-related identity, appear-
23 ance, mannerisms, or other gender-related character-
24 istics of an individual, regardless of the individual’s
25 designated sex at birth.

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

4 “(4) SEX.—The term ‘sex’ includes—

5 “(A) a sex stereotype;

6 “(B) pregnancy, childbirth, or a related
7 medical condition;

8 “(C) sexual orientation or gender identity;
9 and

10 “(D) sex characteristics, including intersex
11 traits.

12 “(5) SEXUAL ORIENTATION.—The term ‘sexual
13 orientation’ means homosexuality, heterosexuality, or
14 bisexuality.

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

17 “(1) (with respect to sex) pregnancy, childbirth,
18 or a related medical condition shall not receive less
19 favorable treatment than other physical conditions;
20 and

21 “(2) (with respect to gender identity) an indi-
22 vidual shall not be denied access to a shared facility,
23 including a restroom, a locker room, and a dressing
24 room, that is in accordance with the individual’s
25 gender identity.”; and

1 (3) by inserting after section 1105 the fol-
2 lowing:

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

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

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

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

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

24 “(c) NO NEGATIVE INFERENCE.—Nothing in section
25 1101 or a covered title shall be construed to support any

1 inference that any Federal law prohibiting a practice on
2 the basis of sex does not prohibit discrimination on the
3 basis of pregnancy, childbirth, or a related medical condi-
4 tion, sexual orientation, gender identity, or a sex stereo-
5 type.

6 **“SEC. 1107. CLAIMS.**

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

12 **SEC. 10. HOUSING.**

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

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

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

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

24 “(1) the race, color, religion, sex (including sex-
25 ual orientation and gender identity), handicap, fa-

1 miliar status, or national origin, respectively, of an-
2 other person with whom the individual is associated
3 or has been associated; and

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

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

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

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

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

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

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

22 “Sections 1101(b) and 1106 of the Civil Rights Act
23 of 1964 shall apply to this title and section 901, except
24 that for purposes of that application, a reference in that

1 section 1101(b) or 1106 to a ‘covered title’ shall be consid-
2 ered a reference to ‘this title and section 901’.

3 **“SEC. 822. CLAIMS.**

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

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

16 **SEC. 11. EQUAL CREDIT OPPORTUNITY.**

17 (a) PROHIBITED DISCRIMINATION.—Section
18 701(a)(1) of the Equal Credit Opportunity Act (15 U.S.C.
19 1691(a)(1)) is amended by inserting “(including sexual
20 orientation and gender identity),” after “sex”.

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

23 (1) by redesignating subsections (f) and (g) as
24 subsections (h) and (i), respectively;

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

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

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

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

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

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

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

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

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

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

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

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

18 **SEC. 12. JURIES.**

19 (a) **IN GENERAL.**—Chapter 121 of title 28, United
20 States Code, is amended—

21 (1) in section 1862, by inserting “(including
22 sexual orientation and gender identity),” after
23 “sex,”;

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

4 (3) in section 1869—

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

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

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

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

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

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

22 “(2) a perception or belief, even if inaccurate,
23 concerning the race, color, religion, sex (including
24 sexual orientation and gender identity), economic

1 status, or national origin, respectively, of the indi-
2 vidual.”; and

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

4 **“§ 1879. Rules of construction and claims**

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

10 (b) TECHNICAL AND CONFORMING AMENDMENT.—

11 The table of sections for chapter 121 of title 28, United
12 States Code, is amended by adding at the end the fol-
13 lowing:

“1879. Rules of construction and claims.”.

○