

# The Equality Act:

## Ensuring Non-Discrimination Protections for all LGBTQ People

# POLICY BRIEF

The Equality Act (H.R. 5/ S. 788) was first introduced in 2015 during the 114th Congress. It was most recently introduced into the House on March 13, 2019 by Representatives David Cicilline (D-RI) Brian Fitzpatrick (R-PA) and into the Senate by Senators Jeff Merkley (D-OR), Tammy Baldwin (D-WI) and Cory Booker (D-NJ). The bill amends the Civil Rights Act of 1964 to include sex, sexual orientation, and gender identity as protected from discrimination and segregation. Young people face discrimination based on sexual orientation and gender identity in their schools and communities, and are more likely than their straight counterparts to be homeless. Passing the Equality Act would ensure that LGBTQ-identified youth are protected from discrimination and cannot be turned away from service-providers or shelters, especially those that receive federal funds. The Equality Act was last introduced with 285 original cosponsors—the most congressional support that any piece of pro-LGBTQ legislation has received upon introduction.

### WHAT WOULD THE EQUALITY ACT DO?

The Civil Rights Act of 1964 is far-reaching and impacts interactions in many legal areas of life, including housing, credit, finances, and more. The Equality Act amends the Civil Rights Act, ensuring that discrimination based on sex, sexual orientation, and gender identity is not tolerated. These protections would make discrimination in public places, schools, restaurants and shelters illegal. It would also ensure that shelters and hospitals that receive federal funding cannot refuse to provide someone services based on sexual orientation and gender identity. In addition, the Equality Act would protect LGBTQ people from discrimination when buying or renting a home.

More explicitly, the Equality Act does the following:

- Expands the categories of public accommodations to include places that provide exhibitions, recreation, exercise,

amusement, goods, services, programs, or transportation services.

- Revises public school desegregation standards to allow students to be assigned without regard to sexual orientation or gender identity.
- Prohibits programs or activities receiving federal funds from discriminating against people based on sex, sexual orientation, or gender identity.
- Prohibits employers with 15 or more employees from discriminating based on sexual orientation or gender identity. Employers must recognize individuals in accordance with their gender identity.
- Prohibits an individual from being denied access to a shared facility, including a restroom, a locker room, and a dressing room, that is in accordance with the individual's gender identity.
- Prohibits the Religious Freedom Restoration Act of 1993 from providing a claim, defense, or basis for challenging such protections.

### WHY IS THE EQUALITY ACT NECESSARY?

Current protections against discrimination based on sex do not explicitly cover sexual orientation and gender identity, which has led to uneven and inconsistent responses to discrimination and harassment. In March 2017, Jameka Evans sued Georgia Regional Hospital for firing her based on her sexual orientation. A panel of three judges ruled against Evans, with one judge saying that "Because Congress has not made sexual orientation a protected class, the appropriate venue for pressing the argument... is before Congress, not this Court."<sup>1</sup> Without the Equality Act, there is no legal recourse for LGBTQ persons experiencing unfair treatment.

Recent surveys of LGBTQ students have found that 62.2% experienced some form

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of discrimination in school policies and practices. This includes being prevented from writing about LGBTQ topics, participating in school sports, attending a school dance with someone of the same gender, using a preferred name or pronoun, and being disciplined for shows of affection for which non-LGBTQ students were not disciplined.<sup>2</sup> The continued discrimination of LGBTQ students in schools illustrates the need for a clear federal ban on actions that create hostile learning environments for young people.

LGBT youth are 120% more likely to be homeless than their straight counterparts.<sup>3</sup> These young people may have an increased difficulty in finding homeless shelters. Some shelters require transgender youth be placed in beds according to their gender assigned at birth, leading to an increased risk of abuse and bullying. Young people who face unsafe and unaccepting environments in homeless shelters, are more likely to return to living on the streets.<sup>4</sup>

## HOW DOES THE EQUALITY ACT IMPACT YOUNG PEOPLE?

The Equality Act revises school discrimination standards to include sexual orientation and gender identity, prohibits discrimination based on sexual orientation and discrimination by federally funded entities and programs, and expands the categories of public accommodation. The Equality Act also forbids the Religious Freedom Restoration Act of 1993 from being used as a basis for discrimination or challenge of the Act. The codification of these measures will prevent businesses such as gyms and restaurants, and public schools of all grade levels from barring people from using the locker room or bathroom that corresponds with their gender identity. It will not allow public places or entities that receive public funding, such as homeless shelters and schools, to use religious freedom as a justification for discrimination. The Equality Act is a step in the right direction to ensure that LGBTQ youth can live unhindered by discrimination.

## SUPPORT THE EQUALITY ACT

The Equality Act is needed to clarify ambiguity in current anti-discrimination laws and to explicitly forbid discrimination based on sexual orientation and gender identity. The Equality Act has been referred

to Committee in both the House and the Senate. It currently has 240 co-sponsors in the House of Representatives, and 46 co-sponsors in the Senate. At a time when the executive branch has issued rules allowing for and protecting discrimination justified by religious freedom, it is incredibly important for the Equality Act to become law.

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