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116TH CONGRESS
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[Report No. 116–56, Part I]

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2019

Mr. CICILLINE (for himself, Mr. FITZPATRICK, Mrs. CRAIG, Ms. DAVIDS of Kansas, Ms. HILL of California, Mr. SEAN PATRICK MALONEY of New York, Mr. PAPPAS, Mr. POCAN, Mr. TAKANO, Ms. ADAMS, Mr. AGUILAR, Mr. ALLRED, Mrs. AXNE, Ms. BARRAGÁN, Ms. BASS, Mrs. BEATTY, Mr. BERA, Mr. BEYER, Mr. BISHOP of Georgia, Mr. BLUMENAUER, Ms. BLUNT ROCHESTER, Ms. BONAMICI, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. BRINDISI, Mr. BROWN of Maryland, Ms. BROWNLEY of California, Mrs. BUSTOS, Mr. BUTTERFIELD, Mr. CARBAJAL, Mr. CÁRDENAS, Mr. CARSON of Indiana, Mr. CARTWRIGHT, Mr. CASE, Mr. CASTEN of Illinois, Ms. CASTOR of Florida, Mr. CASTRO of Texas, Ms. JUDY CHU of California, Mr. CISNEROS, Ms. CLARK of Massachusetts, Ms. CLARKE of New York, Mr. CLAY, Mr. CLEAVER, Mr. CLYBURN, Mr. COHEN, Mr. CONNOLLY, Mr. COOPER, Mr. CORREA, Mr. COSTA, Mr. COURTNEY, Mr. COX of California, Mr. CRIST, Mr. CROW, Mr. CUELLAR, Mr. CUMMINGS, Mr. CUNNINGHAM, Mrs. DAVIS of California, Mr. DANNY K. DAVIS of Illinois, Ms. DEAN, Mr. DEFazio, Ms. DEGETTE, Ms. DELAURO, Ms. DELBENE, Mr. DELGADO, Mrs. DEMINGS, Mr. DESAULNIER, Mr. DEUTCH, Mrs. DINGELL, Mr. DOGGETT, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. ENGEL, Ms. ESCOBAR, Ms. ESHOO, Mr. ESPALLAT, Mr. EVANS, Ms. FINKENAUER, Mrs. FLETCHER, Mr. FOSTER, Ms. FRANKEL, Ms. FUDGE, Ms. GABBARD, Mr. GALLEGO, Mr. GARAMENDI, Ms. GARCIA of Texas, Mr. GARCÍA of Illinois, Mr. GOLDEN, Mr. GOMEZ, Mr. GONZALEZ of Texas, Mr. GOTTHEIMER, Mr. GREEN of Texas, Mr. GRIJALVA, Ms. HAALAND, Mr. HARDER of California, Mr. HASTINGS, Mrs. HAYES, Mr. HECK, Mr. HIGGINS of New York, Mr. HIMES, Ms. KENDRA S. HORN of Oklahoma, Mr. HORSFORD, Ms. HOULAHAN, Mr. HOYER, Mr. HUFFMAN, Ms. JACKSON LEE, Ms. JAYAPAL, Mr. JEFFRIES, Mr. JOHNSON of Georgia, Ms. JOHNSON of

Texas, Ms. KAPTUR, Mr. KATKO, Mr. KEATING, Ms. KELLY of Illinois, Mr. KENNEDY, Mr. KHANNA, Mr. KILDEE, Mr. KILMER, Mr. KIM, Mr. KIND, Mrs. KIRKPATRICK, Mr. KRISHNAMOORTHY, Ms. KUSTER of New Hampshire, Mr. LAMB, Mr. LANGEVIN, Mr. LARSEN of Washington, Mr. LARSON of Connecticut, Mrs. LAWRENCE, Mr. LAWSON of Florida, Ms. LEE of California, Mrs. LEE of Nevada, Mr. LEVIN of California, Mr. LEVIN of Michigan, Mr. LEWIS, Mr. TED LIEU of California, Mr. LOEBSACK, Ms. LOFGREN, Mr. LOWENTHAL, Mrs. LOWEY, Mr. LUJÁN, Mrs. LURIA, Mr. LYNCH, Mr. MALINOWSKI, Mrs. CAROLYN B. MALONEY of New York, Ms. MATSUI, Mr. MCADAMS, Mrs. MCBATH, Ms. MCCOLLUM, Mr. MCEACHIN, Mr. MCGOVERN, Mr. MCNERNEY, Mr. MEEKS, Ms. MENG, Ms. MOORE, Mr. MORELLE, Mr. MOULTON, Ms. MUCARSEL-POWELL, Mrs. MURPHY, Mr. NADLER, Mrs. NAPOLITANO, Mr. NEAL, Mr. NEGUSE, Mr. NORCROSS, Ms. NORTON, Ms. OCASIO-CORTEZ, Mr. O'HALLERAN, Ms. OMAR, Mr. PALLONE, Mr. PANETTA, Mr. PASCRELL, Mr. PAYNE, Ms. PELOSI, Mr. PERLMUTTER, Mr. PETERS, Mr. PETERSON, Mr. PHILLIPS, Ms. PINGREE, Ms. PLASKETT, Ms. PORTER, Ms. PRESSLEY, Mr. PRICE of North Carolina, Mr. QUIGLEY, Mr. RASKIN, Miss RICE of New York, Mr. RICHMOND, Mr. ROSE of New York, Mr. ROUDA, Ms. ROYBAL-ALLARD, Mr. RUIZ, Mr. RUPPERSBERGER, Mr. RUSH, Mr. RYAN, Mr. SABLON, Mr. SAN NICOLAS, Ms. SÁNCHEZ, Mr. SARBANES, Ms. SCANLON, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SCHNEIDER, Mr. SCHRADER, Ms. SCHRIER, Mr. SCOTT of Virginia, Mr. DAVID SCOTT of Georgia, Mr. SERRANO, Ms. SEWELL of Alabama, Ms. SHALALA, Mr. SHERMAN, Ms. SHERRILL, Mr. SIRES, Ms. SLOTKIN, Mr. SMITH of Washington, Mr. SOTO, Ms. SPANBERGER, Ms. SPEIER, Mr. STANTON, Ms. STEVENS, Mr. SUOZZI, Mr. SWALWELL of California, Mr. THOMPSON of Mississippi, Mr. THOMPSON of California, Ms. TITUS, Ms. TLAIB, Mr. TONKO, Mrs. TORRES of California, Ms. TORRES SMALL of New Mexico, Mrs. TRAHAN, Mr. TRONE, Ms. UNDERWOOD, Mr. VAN DREW, Mr. VARGAS, Mr. VEASEY, Mr. VELA, Ms. VELÁZQUEZ, Mr. VISCLOSKEY, Ms. WASSERMAN SCHULTZ, Ms. WATERS, Mrs. WATSON COLEMAN, Mr. WELCH, Ms. WEXTON, Ms. WILD, Ms. WILSON of Florida, and Mr. YARMUTH) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Education and Labor, Financial Services, Oversight and Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MAY 10, 2019

Additional sponsor: Miss GONZÁLEZ-COLÓN of Puerto Rico

MAY 10, 2019

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

MAY 10, 2019

Committees on Education and Labor, Financial Services, Oversight and Reform, and House Administration discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 13, 2019]

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”.*

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, or pregnancy,*
9 *childbirth, or a related medical condition of an indi-*
10 *vidual, as well as because of sex-based stereotypes.*
11 *Each of these factors alone can serve as the basis for*
12 *discrimination, and each is a form of sex discrimina-*
13 *tion.*

14 (2) *A single instance of discrimination may have*
15 *more than one basis. For example, discrimination*
16 *against a married same-sex couple could be based on*
17 *the sex stereotype that marriage should only be be-*
18 *tween heterosexual couples, the sexual orientation of*
19 *the two individuals in the couple, or both. Discrimi-*
20 *nation against a pregnant lesbian could be based on*
21 *her sex, her sexual orientation, her pregnancy, or on*
22 *the basis of multiple factors.*

23 (3) *Lesbian, gay, bisexual, transgender, and*
24 *queer (referred to as “LGBTQ”) people commonly ex-*
25 *perience discrimination in securing access to public*

1 accommodations—including restaurants, senior cen-
2 ters, stores, places of or establishments that provide
3 entertainment, health care facilities, shelters, govern-
4 ment offices, youth service providers including adop-
5 tion and foster care providers, and transportation.
6 Forms of discrimination include the exclusion and de-
7 nial of entry, unequal or unfair treatment, harass-
8 ment, and violence. This discrimination prevents the
9 full participation of LGBTQ people in society and
10 disrupts the free flow of commerce.

11 (4) Women also have faced discrimination in
12 many establishments such as stores and restaurants,
13 and places or establishments that provide other goods
14 or services, such as entertainment or transportation,
15 including sexual harassment, differential pricing for
16 substantially similar products and services, and de-
17 nial of services because they are pregnant or
18 breastfeeding.

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

1 (6) *Regular and ongoing discrimination against*
2 *LGBTQ people, as well as women, in accessing public*
3 *accommodations contributes to negative social and*
4 *economic outcomes, and in the case of public accom-*
5 *modations operated by State and local governments,*
6 *abridges individuals' constitutional rights.*

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

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

17 (A) *is particularly troubling and inappro-*
18 *prate for programs and services funded wholly*
19 *or in part by the Federal Government;*

20 (B) *undermines national progress toward*
21 *equal treatment regardless of sex, sexual orienta-*
22 *tion, or gender identity; and*

23 (C) *is inconsistent with the constitutional*
24 *principle of equal protection under the Four-*

1 *teenth Amendment to the Constitution of the*
2 *United States.*

3 *(9) Federal courts have widely recognized that,*
4 *in enacting the Civil Rights Act of 1964, Congress*
5 *validly invoked its powers under the Fourteenth*
6 *Amendment to provide a full range of remedies in re-*
7 *sponse to persistent, widespread, and pervasive dis-*
8 *crimination by both private and government actors.*

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

20 *(11) Individuals who are LGBTQ, or are per-*
21 *ceived to be LGBTQ, have been subjected to a history*
22 *and pattern of persistent, widespread, and pervasive*
23 *discrimination on the bases of sexual orientation and*
24 *gender identity by both private sector and Federal,*
25 *State, and local government actors, including in em-*

1 *ployment, housing, and public accommodations, and*
2 *in programs and activities receiving Federal finan-*
3 *cial assistance. An explicit and comprehensive na-*
4 *tional solution is needed to address such discrimina-*
5 *tion, which has sometimes resulted in violence or*
6 *death, including the full range of remedies available*
7 *under the Civil Rights Act of 1964.*

8 *(12) Numerous provisions of Federal law ex-*
9 *pressly prohibit discrimination on the basis of sex,*
10 *and Federal agencies and courts have correctly inter-*
11 *preted these prohibitions on sex discrimination to in-*
12 *clude discrimination based on sexual orientation, gen-*
13 *der identity, and sex stereotypes. In particular, the*
14 *Equal Employment Opportunity Commission cor-*
15 *rectly interpreted title VII of the Civil Rights Act of*
16 *1964 in *Macy v. Holder*, *Baldwin v. Foxx*, and*
17 **Lusardi v. McHugh*.*

18 *(13) The absence of explicit prohibitions of dis-*
19 *crimination on the basis of sexual orientation and*
20 *gender identity under Federal statutory law has cre-*
21 *ated uncertainty for employers and other entities cov-*
22 *ered by Federal nondiscrimination laws and caused*
23 *unnecessary hardships for LGBTQ individuals.*

24 *(14) LGBTQ people often face discrimination*
25 *when seeking to rent or purchase housing, as well as*

1 *in every other aspect of obtaining and maintaining*
2 *housing. LGBTQ people in same-sex relationships are*
3 *often discriminated against when two names associ-*
4 *ated with one gender appear on a housing applica-*
5 *tion, and transgender people often encounter discrimi-*
6 *nation when credit checks or inquiries reveal a former*
7 *name.*

8 *(15) National surveys, including a study com-*
9 *missioned by the Department of Housing and Urban*
10 *Development, show that housing discrimination*
11 *against LGBTQ people is very prevalent. For in-*
12 *stance, when same-sex couples inquire about housing*
13 *that is available for rent, they are less likely to receive*
14 *positive responses from landlords. A national*
15 *matched-pair testing investigation found that nearly*
16 *one-half of same-sex couples face adverse, differential*
17 *treatment when seeking elder housing. According to*
18 *other studies, transgender people have half the home-*
19 *ownership rate of non-transgender people and about*
20 *1 in 5 transgender people experience homelessness.*

21 *(16) As a result of the absence of explicit prohi-*
22 *bitions against discrimination on the basis of sexual*
23 *orientation and gender identity, credit applicants*
24 *who are LGBTQ, or perceived to be LGBTQ, have un-*
25 *equal opportunities to establish credit. LGBTQ people*

1 *can experience being denied a mortgage, credit card,*
2 *student loan, or many other types of credit simply be-*
3 *cause of their sexual orientation or gender identity.*

4 (17) *Numerous studies demonstrate that LGBTQ*
5 *people, especially transgender people and women, are*
6 *economically disadvantaged and at a higher risk for*
7 *poverty compared with other groups of people. For ex-*
8 *ample, older women in same-sex couples have twice*
9 *the poverty rate of older different-sex couples.*

10 (18) *The right to an impartial jury of one's*
11 *peers and the reciprocal right to jury service are fun-*
12 *damental to the free and democratic system of justice*
13 *in the United States and are based in the Bill of*
14 *Rights. There is, however, an unfortunate and long-*
15 *documented history in the United States of attorneys*
16 *discriminating against LGBTQ individuals, or those*
17 *perceived to be LGBTQ, in jury selection. Failure to*
18 *bar peremptory challenges based on the actual or per-*
19 *ceived sexual orientation or gender identity of an in-*
20 *dividual not only erodes a fundamental right, duty,*
21 *and obligation of being a citizen of the United States,*
22 *but also unfairly creates a second class of citizenship*
23 *for LGBTQ victims, witnesses, plaintiffs, and defend-*
24 *ants.*

1 (19) Numerous studies document the shortage of
2 qualified and available homes for the 437,000 youth
3 in the child welfare system and the negative outcomes
4 for the many youth who live in group care as opposed
5 to a loving home or who age out without a permanent
6 family. Although same-sex couples are 7 times more
7 likely to foster or adopt than their different-sex coun-
8 terparts, many child placing agencies refuse to serve
9 same-sex couples and LGBTQ individuals. This has
10 resulted in a reduction of the pool of qualified and
11 available homes for youth in the child welfare system
12 who need placement on a temporary or permanent
13 basis. Barring discrimination in foster care and
14 adoption will increase the number of homes available
15 to foster children waiting for foster and adoptive fam-
16 ilies.

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

1 *bias and discrimination that they face and the dif-*
2 *ficulty of finding affirming foster placements. Fur-*
3 *ther, due to their physical distance from friends and*
4 *family, traumatic experiences, and potentially unsta-*
5 *ble living situations, all youth involved with child*
6 *welfare are at risk for being targeted by traffickers*
7 *seeking to exploit children. Barring discrimination in*
8 *child welfare services will ensure improved treatment*
9 *and outcomes for LGBTQ foster children.*

10 *(b) PURPOSE.—It is the purpose of this Act to expand*
11 *as well as clarify, confirm and create greater consistency*
12 *in the protections and remedies against discrimination on*
13 *the basis of all covered characteristics and to provide guid-*
14 *ance and notice to individuals, organizations, corporations,*
15 *and agencies regarding their obligations under the law.*

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

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

20 *(1) in subsection (a), by inserting “sex (includ-*
21 *ing sexual orientation and gender identity),” before*
22 *“or national origin”; and*

23 *(2) in subsection (b)—*

24 *(A) in paragraph (3), by striking “sta-*
25 *dium” and all that follows and inserting “sta-*

1 *dium or other place of or establishment that pro-*
2 *vides exhibition, entertainment, recreation, exer-*
3 *cise, amusement, public gathering, or public dis-*
4 *play;”;*

5 *(B) by redesignating paragraph (4) as*
6 *paragraph (6); and*

7 *(C) by inserting after paragraph (3) the fol-*
8 *lowing:*

9 *“(4) any establishment that provides a good,*
10 *service, or program, including a store, shopping cen-*
11 *ter, online retailer or service provider, salon, bank,*
12 *gas station, food bank, service or care center, shelter,*
13 *travel agency, or funeral parlor, or establishment that*
14 *provides health care, accounting, or legal services;*

15 *“(5) any train service, bus service, car service,*
16 *taxi service, airline service, station, depot, or other*
17 *place of or establishment that provides transportation*
18 *service; and”.*

19 *(b) PROHIBITION ON DISCRIMINATION OR SEGREGA-*
20 *TION UNDER LAW.—Section 202 of such Act (42 U.S.C.*
21 *2000a–1) is amended by inserting “sex (including sexual*
22 *orientation and gender identity),” before “or national ori-*
23 *gin”.*

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

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

5 *“A reference in this title to an establishment—*

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

9 *“(2) shall not be construed to be limited to a*
10 *physical facility or place.”.*

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

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

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

17 (a) *DEFINITIONS.*—Section 401(b) of the Civil Rights
18 Act of 1964 (42 U.S.C. 2000c(b)) is amended by inserting
19 “(including sexual orientation and gender identity),” before
20 “or national origin”.

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

1 (c) *CLASSIFICATION AND ASSIGNMENT.*—Section 410
2 of such Act (42 U.S.C. 2000c–9) is amended by inserting
3 “(including sexual orientation and gender identity),” before
4 “or national origin”.

5 **SEC. 6. FEDERAL FUNDING.**

6 Section 601 of the Civil Rights Act of 1964 (42 U.S.C.
7 2000d) is amended by inserting “sex (including sexual ori-
8 entation and gender identity),” before “or national ori-
9 gin,”.

10 **SEC. 7. EMPLOYMENT.**

11 (a) *RULES OF CONSTRUCTION.*—Title VII of the Civil
12 Rights Act of 1964 is amended by inserting after section
13 701 (42 U.S.C. 2000e) the following:

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

15 “Section 1106 shall apply to this title except that for
16 purposes of that application, a reference in that section to
17 an ‘unlawful practice’ shall be considered to be a reference
18 to an ‘unlawful employment practice’.”.

19 (b) *UNLAWFUL EMPLOYMENT PRACTICES.*—Section
20 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2)
21 is amended—

22 (1) in the section header, by striking “SEX,” and
23 inserting “SEX (INCLUDING SEXUAL ORIENTATION AND
24 GENDER IDENTITY),”;

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

4 (3) *in subsection (e)(1), by striking “enterprise,”*
5 *and inserting “enterprise, if, in a situation in which*
6 *sex is a bona fide occupational qualification, individ-*
7 *uals are recognized as qualified in accordance with*
8 *their gender identity,”.*

9 (c) *OTHER UNLAWFUL EMPLOYMENT PRACTICES.—*
10 *Section 704(b) of the Civil Rights Act of 1964 (42 U.S.C.*
11 *2000e-3(b)) is amended—*

12 (1) *by striking “sex,” the first place it appears*
13 *and inserting “sex (including sexual orientation and*
14 *gender identity),”;* and

15 (2) *by striking “employment.” and inserting*
16 *“employment, if, in a situation in which sex is a*
17 *bona fide occupational qualification, individuals are*
18 *recognized as qualified in accordance with their gen-*
19 *der identity.”.*

20 (d) *CLAIMS.—Section 706(g)(2)(A) of the Civil Rights*
21 *Act of 1964 (2000e-5(g)(2)(A)) is amended by striking*
22 *“sex,” and inserting “sex (including sexual orientation and*
23 *gender identity),”.*

1 (e) *EMPLOYMENT BY FEDERAL GOVERNMENT.*—Sec-
2 tion 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-
3 16) is amended—

4 (1) in subsection (a), by striking “sex,” and in-
5 serting “sex (including sexual orientation and gender
6 identity),”; and

7 (2) in subsection (c), by striking “sex” and in-
8 serting “sex (including sexual orientation and gender
9 identity),”.

10 (f) *GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.*—
11 The Government Employee Rights Act of 1991 (42 U.S.C.
12 2000e–16a et seq.) is amended—

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

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

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

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

21 “Sections 1101(b), 1106, and 1107 of the Civil Rights
22 Act of 1964 shall apply to this title except that for purposes
23 of that application, a reference in that section 1106 to ‘race,
24 color, religion, sex (including sexual orientation and gender
25 identity), or national origin’ shall be considered to be a ref-

1 erence to ‘race, color, religion, sex, sexual orientation, gen-
2 der identity, national origin, age, or disability’.”

3 (g) CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—
4 The Congressional Accountability Act of 1995 (2 U.S.C.
5 1301 et seq.) is amended—

6 (1) in section 201(a)(1) (2 U.S.C. 1311(a)(1)) by
7 inserting “(including sexual orientation and gender
8 identity),” before “or national origin,”; and

9 (2) by adding at the end of title II (42 U.S.C.
10 1311 et seq.) the following:

11 **“SEC. 208. RULES OF CONSTRUCTION AND CLAIMS.**

12 “Sections 1101(b), 1106, and 1107 of the Civil Rights
13 Act of 1964 shall apply to section 201 (and remedial provi-
14 sions of this Act related to section 201) except that for pur-
15 poses of that application, a reference in that section 1106
16 to ‘race, color, religion, sex (including sexual orientation
17 and gender identity), or national origin’ shall be considered
18 to be a reference to ‘race, color, religion, sex (including sex-
19 ual orientation and gender identity), national origin, age,
20 or disability’.”

21 (h) CIVIL SERVICE REFORM ACT OF 1978.—Chapter
22 23 of title 5, United States Code, is amended—

23 (1) in section 2301(b)(2), by striking “sex,” and
24 inserting “sex (including sexual orientation and gen-
25 der identity),”;

1 (2) *in section 2302—*

2 (A) *in subsection (b)(1)(A), by inserting*
3 *“(including sexual orientation and gender iden-*
4 *tity),” before “or national origin;”; and*

5 (B) *in subsection (d)(1), by inserting “(in-*
6 *cluding sexual orientation and gender identity),”*
7 *before “or national origin;”; and*

8 (3) *by adding at the end the following:*

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

10 *“Sections 1101(b), 1106, and 1107 of the Civil Rights*
11 *Act of 1964 shall apply to this chapter (and remedial provi-*
12 *sions of this title related to this chapter) except that for*
13 *purposes of that application, a reference in that section*
14 *1106 to ‘race, color, religion, sex (including sexual orienta-*
15 *tion and gender identity), or national origin’ shall be con-*
16 *sidered to be a reference to ‘race, color, religion, sex (includ-*
17 *ing sexual orientation and gender identity), national ori-*
18 *gin, age, a handicapping condition, marital status, or po-*
19 *litical affiliation’.”.*

20 **SEC. 8. INTERVENTION.**

21 *Section 902 of the Civil Rights Act of 1964 (42 U.S.C.*
22 *2000h-2) is amended by inserting “(including sexual ori-*
23 *entation and gender identity),” before “or national ori-*
24 *gin,”.*

1 **SEC. 9. MISCELLANEOUS.**

2 *Title XI of the Civil Rights Act of 1964 is amended—*

3 *(1) by redesignating sections 1101 through 1104*
4 *(42 U.S.C. 2000h et seq.) and sections 1105 and 1106*
5 *(42 U.S.C. 2000h–5, 2000h–6) as sections 1102*
6 *through 1105 and sections 1108 and 1109, respec-*
7 *tively;*

8 *(2) by inserting after the title heading the fol-*
9 *lowing:*

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

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

14 *“(1) RACE; COLOR; RELIGION; SEX; SEXUAL ORI-*
15 *ENTATION; GENDER IDENTITY; NATIONAL ORIGIN.—*
16 *The term ‘race’, ‘color’, ‘religion’, ‘sex’ (including ‘sex-*
17 *ual orientation’ and ‘gender identity’), or ‘national*
18 *origin’, used with respect to an individual, includes—*

19 *“(A) the race, color, religion, sex (including*
20 *sexual orientation and gender identity), or na-*
21 *tional origin, respectively, of another person with*
22 *whom the individual is associated or has been*
23 *associated; and*

24 *“(B) a perception or belief, even if inac-*
25 *curate, concerning the race, color, religion, sex*
26 *(including sexual orientation and gender iden-*

1 *tity), or national origin, respectively, of the indi-*
2 *vidual.*

3 “(2) *GENDER IDENTITY.*—*The term ‘gender iden-*
4 *tity’ means the gender-related identity, appearance,*
5 *mannerisms, or other gender-related characteristics of*
6 *an individual, regardless of the individual’s des-*
7 *ignated sex at birth.*

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

11 “(4) *SEX.*—*The term ‘sex’ includes—*

12 “(A) *a sex stereotype;*

13 “(B) *pregnancy, childbirth, or a related*
14 *medical condition;*

15 “(C) *sexual orientation or gender identity;*
16 *and*

17 “(D) *sex characteristics, including intersex*
18 *traits.*

19 “(5) *SEXUAL ORIENTATION.*—*The term ‘sexual*
20 *orientation’ means homosexuality, heterosexuality, or*
21 *bisexuality.*

22 “(b) *RULES.*—*In a covered title referred to in sub-*
23 *section (a)—*

24 “(1) *(with respect to sex) pregnancy, childbirth,*
25 *or a related medical condition shall not receive less*

1 *favorable treatment than other physical conditions;*
2 *and*

3 “(2) (with respect to gender identity) an indi-
4 *vidual shall not be denied access to a shared facility,*
5 *including a restroom, a locker room, and a dressing*
6 *room, that is in accordance with the individual’s gen-*
7 *der identity.”; and*

8 (3) *by inserting after section 1105 the following:*

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

10 “(a) *SEX.—Nothing in section 1101 or the provisions*
11 *of a covered title incorporating a term defined or a rule*
12 *specified in that section shall be construed—*

13 “(1) *to limit the protection against an unlawful*
14 *practice on the basis of pregnancy, childbirth, or a re-*
15 *lated medical condition provided by section 701(k); or*

16 “(2) *to limit the protection against an unlawful*
17 *practice on the basis of sex available under any provi-*
18 *sion of Federal law other than that covered title, pro-*
19 *hibiting a practice on the basis of sex.*

20 “(b) *CLAIMS AND REMEDIES NOT PRECLUDED.—*
21 *Nothing in section 1101 or a covered title shall be construed*
22 *to limit the claims or remedies available to any individual*
23 *for an unlawful practice on the basis of race, color, religion,*
24 *sex (including sexual orientation and gender identity), or*
25 *national origin including claims brought pursuant to sec-*

1 *tion 1979 or 1980 of the Revised Statutes (42 U.S.C. 1983,*
2 *1985) or any other law, including a Federal law amended*
3 *by the Equality Act, regulation, or policy.*

4 “(c) *NO NEGATIVE INFERENCE.*—*Nothing in section*
5 *1101 or a covered title shall be construed to support any*
6 *inference that any Federal law prohibiting a practice on*
7 *the basis of sex does not prohibit discrimination on the basis*
8 *of pregnancy, childbirth, or a related medical condition,*
9 *sexual orientation, gender identity, or a sex stereotype.*

10 **“SEC. 1107. CLAIMS.**

11 “*The Religious Freedom Restoration Act of 1993 (42*
12 *U.S.C. 2000bb et seq.) shall not provide a claim concerning,*
13 *or a defense to a claim under, a covered title, or provide*
14 *a basis for challenging the application or enforcement of*
15 *a covered title.”.*

16 **SEC. 10. HOUSING.**

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

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

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

24 “(q) ‘*Race*’, ‘*color*’, ‘*religion*’, ‘*sex*’ (including ‘*sexual*
25 *orientation*’ and ‘*gender identity*’), ‘*handicap*’, ‘*familial*

1 *status*’, or ‘*national origin*’, used with respect to an indi-
2 *vidual, includes—*

3 “(1) *the race, color, religion, sex (including sex-*
4 *ual orientation and gender identity), handicap, fa-*
5 *miliar status, or national origin, respectively, of an-*
6 *other person with whom the individual is associated*
7 *or has been associated; and*

8 “(2) *a perception or belief, even if inaccurate,*
9 *concerning the race, color, religion, sex (including sex-*
10 *ual orientation and gender identity), handicap, fa-*
11 *miliar status, or national origin, respectively, of the*
12 *individual.”;*

13 (2) *in section 804, by inserting “(including sex-*
14 *ual orientation and gender identity),” after “sex,”*
15 *each place that term appears;*

16 (3) *in section 805, by inserting “(including sex-*
17 *ual orientation and gender identity),” after “sex,”*
18 *each place that term appears;*

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

21 (5) *in section 808(e)(6), by inserting “(including*
22 *sexual orientation and gender identity),” after “sex,”;*
23 *and*

24 (6) *by adding at the end the following:*

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

2 *“Sections 1101(b) and 1106 of the Civil Rights Act of*
3 *1964 shall apply to this title and section 901, except that*
4 *for purposes of that application, a reference in that section*
5 *1101(b) or 1106 to a ‘covered title’ shall be considered a*
6 *reference to ‘this title and section 901’.*

7 **“SEC. 822. CLAIMS.**

8 *“Section 1107 of the Civil Rights Act of 1964 shall*
9 *apply to this title and section 901, except that for purposes*
10 *of that application, a reference in that section 1107 to a*
11 *‘covered title’ shall be considered a reference to ‘this title*
12 *and section 901’.”.*

13 **(b) PREVENTION OF INTIMIDATION IN FAIR HOUSING**
14 **CASES.**—*Section 901 of the Civil Rights Act of 1968 (42*
15 *U.S.C. 3631) is amended by inserting “(including sexual*
16 *orientation (as such term is defined in section 802 of this*
17 *Act) and gender identity (as such term is defined in section*
18 *802 of this Act)),” after “sex,” each place that term appears.*

19 **SEC. 11. EQUAL CREDIT OPPORTUNITY.**

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

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

1 (1) *by redesignating subsections (f) and (g) as*
2 *subsections (h) and (i), respectively;*

3 (2) *by inserting after subsection (e) the following:*

4 “*(f) The terms ‘gender identity’, ‘sex’, and ‘sexual ori-*
5 *entation’ have the meanings given those terms in section*
6 *1101(a) of the Civil Rights Act of 1964.*

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

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

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

21 (3) *by adding at the end the following:*

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

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

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

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

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

13 “(l) Section 1107 of the *Civil Rights Act of 1964* shall
14 apply to this title, except that for purposes of that applica-
15 tion, a reference in that section to a ‘covered title’ shall be
16 considered a reference to ‘this title’.”.

17 **SEC. 12. JURIES.**

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

20 (1) in section 1862, by inserting “(including sex-
21 ual orientation and gender identity),” after “sex,”;

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

25 (3) in section 1869—

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

3 (B) in subsection (k), by striking the period
4 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 status,
15 or national origin, respectively, of another person
16 with whom the individual is associated or has been
17 associated; and

18 “(2) a perception or belief, even if inaccurate,
19 concerning the race, color, religion, sex (including sex-
20 ual orientation and gender identity), economic status,
21 or national origin, respectively, of the individual.”;
22 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 Rights
3 Act of 1964 shall apply to this chapter, except that for pur-
4 poses of that application, a reference in those sections to
5 a ‘covered title’ shall be considered a reference to ‘this chap-
6 ter’.”.

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

“1879. Rules of construction and claims.”.

Union Calendar No. 34

116TH CONGRESS
1ST Session

H. R. 5

[Report No. 116-56, Part I]

A BILL

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

MAY 10, 2019

Reported from the Committee on the Judiciary with an amendment

MAY 10, 2019

Committees on Education and Labor, Financial Services, Oversight and Reform, and House Administration discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed