

Senators Jeff Merkley (D-OR), Tammy Baldwin (D-WI), and Cory Booker (D-NJ)
Congressman Mark Takano (D-CA-39)

THE EQUALITY ACT

Ending Discrimination against LGBTQ Americans in Public Accommodations, Education, Federal Financial Assistance, Employment, Housing, Credit, and Federal Jury Service

Section-by-Section Summary

Section 1: Short Title

Section 2: Findings and Purpose

- Makes findings of fact, documenting persistent discrimination against LGBTQ Americans, as well as findings of law.
- In particular, the findings emphasize that discrimination on the basis of sexual orientation or gender identity is discrimination on the basis of a person's sex, and that civil rights law protecting against discrimination on the basis of sex inherently provides protection against discrimination on the basis of sexual orientation and gender identity.
- Defines the purpose of the Act as clarifying and confirming these protections, as well as expanding protection in areas of law that do not address sex discrimination, to provide clear and consistent protection to all Americans against discrimination on the bases of sex, sexual orientation, and gender identity.

Section 3: Public Accommodations

- Amends Title II of the Civil Rights Act of 1964 to add sex, including sexual orientation and gender identity to the list of already protected classes (joining race, color, religion and national origin).
- Updates the types of public accommodations subject to federal non-discrimination law to cover all entities providing goods, services, or programs that have been covered by recent civil rights laws, such as the Americans with Disabilities Act; these include any establishment that provides a good, service, or program including but not limited to retail stores, transportation, healthcare, adoption, and youth services

Section 4, 5, and 6: Public Education and Federal Funding

- Amends the Civil Rights Act of 1964 to add sexual orientation and gender identity, to the list of protected classes in provisions related to desegregation of public facilities (in which case, sex is also added) and public education.
- Amends Title VI of the Civil Rights Act of 1964 to add sex, including sexual orientation and gender identity to the list of protected classes (joining race, color, and national origin) to ensure that entities receiving federal funds cannot discriminate in a range of programs such as healthcare, child welfare, nutrition assistance, public education, or financial assistance for higher education.

Section 7: Employment

- Amends Title VII of the Civil Rights Act of 1964 to make explicit the current-law protections against discrimination on the basis of sexual orientation and gender identity (joining race, color, religion, sex, and national origin).
 - Applies to same employers as current civil rights law, including public and private sector entities with at least 15 employees, as well as labor organizations.
- Does not change the existing religious exemption, so that discrimination on the basis of sexual orientation or gender identity is treated exactly the same as discrimination on the basis of race, sex, or national origin. The revised statute would continue to allow religious corporations, associations, educational institutions, and societies to hire only individuals of a particular religion to perform work connected with their religious activities.
- Amends the Government Employees Rights Act of 1991 and the Civil Service Reform Act to similarly make explicit the inclusion of sexual orientation and gender identity among protected classes (joining race, color, religion, sex and national origin) to protect employees of the Federal Government, the Government of the District of Columbia, and other government offices and organizations.

Section 8: Intervention in Equal Protection Cases

- Amends Title IX of the Civil Rights Act of 1964 to make explicit the inclusion of sexual orientation and gender identity among protected classes (joining race, color, religion, sex and national origin), allowing the Attorney General to intervene in equal protection cases under the 14th Amendment.

Section 9: Miscellaneous

- Adds new definitions and rules of construction to Title XI of the Civil Rights Act of 1964 (incorporated into the U.S. Code as Title IX) that will apply to all of the titles of the Civil Rights Act and other statutes amended by this bill. Those definitions and rules of construction—
 - Define ‘sex’ to ensure that discrimination on the basis of sex includes discrimination on the basis of sexual orientation and gender identity, including sex characteristics and intersex traits, as well as on the basis of sex stereotypes or on the basis of pregnancy, childbirth, or a related medical condition.
 - Stipulate that nothing in applicable civil rights law should be construed to support an inference that prohibitions against discrimination on the basis of sex do not include discrimination on the basis of sexual orientation, gender identity, sex stereotypes, pregnancy, childbirth, or a related medical condition.
 - Clarify that where sex-segregated facilities exist, individuals must be admitted in accordance with their gender identity.
 - Ensure that existing definitions of and protections for pregnant women are not modified.
 - Ensure that protections against discrimination for protected classes also apply when discrimination is based on an inaccurate perception that someone is a

member of a protected class, and also apply to discrimination against someone for associating with members of a protected class.

- Clarifies that the Religious Freedom Restoration Act (RFRA) cannot be used a defense for individuals or entities to discriminate on any basis under any provision of existing law amended by this Act.

Section 10: Housing

- Amends the Fair Housing Act to make explicit the inclusion of sexual orientation and gender identity among protected classes (joining race, color, religion, sex, marital status, and national origin) to ensure that LGBTQ individuals have redress for discrimination in any aspect of the sale, rental, or financing of housing. Does not alter the exemption for religious organizations or private clubs or require the collection of data on the sexual orientation and gender identity of applicants, participants or beneficiaries in federal housing programs.
- Clarifies that nothing in the Fair Housing Act shall be construed to require the construction of new or additional facilities except where required by the Americans with Disabilities Act.

Section 11: Equal Credit Opportunity

- Amends the Equal Credit Opportunity Act to make explicit the inclusion of sexual orientation and gender identity among protected classes (joining race, color, religion, sex, marital status, and national origin).
- Substitutes term “spouse” where the Act currently references “husband and wife” to ensure married same-sex couples are fully included.

Section 12: Juries

- Amends the Jury Selection and Service Act to make explicit the inclusion of sexual orientation and gender identity among protected classes (joining race, color, religion, sex and national origin) to provide clear Federal protections against exclusion from service as a juror in the district courts of the United States or in the Court of International Trade.