

117TH CONGRESS  
1ST SESSION

# H. R. 5

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## 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Equality Act”.

3 **SEC. 2. FINDINGS AND PURPOSE.**

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

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

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

24 (3) Lesbian, gay, bisexual, transgender, and  
25 queer (referred to as “LGBTQ”) people commonly  
26 experience discrimination in securing access to pub-

1       lic accommodations—including restaurants, senior  
2       centers, stores, places of or establishments that pro-  
3       vide entertainment, health care facilities, shelters,  
4       government offices, youth service providers including  
5       adoption and foster care providers, and transpor-  
6       tation. Forms of discrimination include the exclusion  
7       and denial of entry, unequal or unfair treatment,  
8       harassment, and violence. This discrimination pre-  
9       vents the full participation of LGBTQ people in so-  
10      ciety and 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  
14      goods or services, such as entertainment or transpor-  
15      tation, including sexual harassment, differential pric-  
16      ing for substantially similar products and services,  
17      and denial 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  
22      positive and respectful cultures for all employees.  
23      Many places of public accommodation also recognize  
24      the economic imperative to offer goods and services  
25      to as many consumers as possible.

1           (6) Regular and ongoing discrimination against  
2           LGBTQ people, as well as women, in accessing pub-  
3           lic accommodations contributes to negative social  
4           and economic outcomes, and in the case of public ac-  
5           commodations operated by State and local govern-  
6           ments, 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                 priate 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 ori-  
22                 entation, 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  
7           response to persistent, widespread, and pervasive  
8           discrimination by both private and government ac-  
9           tors.

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

21          (11) Individuals who are LGBTQ, or are per-  
22          ceived to be LGBTQ, have been subjected to a his-  
23          tory and pattern of persistent, widespread, and per-  
24          vasive discrimination on the bases of sexual orienta-  
25          tion and gender identity by both private sector and

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

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

23 (13) Numerous provisions of Federal law ex-  
24 pressly prohibit discrimination on the basis of sex,  
25 and Federal courts and agencies have correctly in-

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

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

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

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

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



1           (18) Numerous studies demonstrate that  
2           LGBTQ people, especially transgender people and  
3           women, are economically disadvantaged and at a  
4           higher risk for poverty compared with other groups  
5           of people. For example, the poverty rate for older  
6           women in same-sex couples is twice that of older dif-  
7           ferent-sex couples.

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

23          (20) Numerous studies document the shortage  
24          of qualified and available homes for the approxi-  
25          mately 424,000 youth in the child welfare system

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

21 (21) LGBTQ youth are overrepresented in the  
22 foster care system by at least a factor of two and  
23 report twice the rate of poor treatment while in care  
24 compared to their non-LGBTQ counterparts.  
25 LGBTQ youth in foster care have a higher average

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

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

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

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

23 (b) PURPOSE.—It is the purpose of this Act to ex-  
24 pand as well as clarify, confirm and create greater consist-  
25 ency in the protections and remedies against discrimina-

1 tion on the basis of all covered characteristics and to pro-  
2 vide guidance and notice to individuals, organizations, cor-  
3 porations, and agencies regarding their obligations under  
4 the law.

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

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

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

12 (2) in subsection (b)—

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

19 (B) by redesignating paragraph (4) as  
20 paragraph (6); and

21 (C) by inserting after paragraph (3) the  
22 following:

23 “(4) any establishment that provides a good,  
24 service, or program, including a store, shopping cen-  
25 ter, online retailer or service provider, salon, bank,

1 gas station, food bank, service or care center, shel-  
2 ter, travel agency, or funeral parlor, or establish-  
3 ment that provides health care, accounting, or legal  
4 services;

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

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

14 (c) RULE OF CONSTRUCTION.—Title II of such Act  
15 (42 U.S.C. 2000a et seq.) is amended by adding at the  
16 end the following:

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

18 “A reference in this title to an establishment—

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

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

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

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

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

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

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

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

20 **SEC. 6. FEDERAL FUNDING.**

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

1 **SEC. 7. EMPLOYMENT.**

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

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

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

10 (b) **UNLAWFUL EMPLOYMENT PRACTICES.**—Section  
11 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–  
12 2) is amended—

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

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

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

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



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

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

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

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

16 (e) EMPLOYMENT BY FEDERAL GOVERNMENT.—Sec-  
17 tion 717 of the Civil Rights Act of 1964 (42 U.S.C.  
18 2000e-16) is amended—

19 (1) in subsection (a), by striking “sex,” and in-  
20 serting “sex (including sexual orientation and gender  
21 identity),”; and

22 (2) in subsection (c), by striking “sex” and in-  
23 serting “sex (including sexual orientation and gender  
24 identity),”.

1 (f) GOVERNMENT EMPLOYEE RIGHTS ACT OF  
2 1991.—The Government Employee Rights Act of 1991  
3 (42 U.S.C. 2000e–16a et seq.) is amended—

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

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

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

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

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

20 (g) CONGRESSIONAL ACCOUNTABILITY ACT OF  
21 1995.—The Congressional Accountability Act of 1995 (2  
22 U.S.C. 1301 et seq.) is amended—

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

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

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

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

13           (h) CIVIL SERVICE REFORM ACT OF 1978.—Chapter  
14 23 of title 5, United States Code, is amended—

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

18           (2) in section 2302—

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

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

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

1 **“SEC. 2307. 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 (and reme-  
4 dial provisions of this title related to this chapter) 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, a handicapping condition, marital sta-  
11 tus, or political affiliation’.”

12 **SEC. 8. INTERVENTION.**

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

17 **SEC. 9. MISCELLANEOUS.**

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

19 (1) by redesignating sections 1101 through  
20 1104 (42 U.S.C. 2000h et seq.) and sections 1105  
21 and 1106 (42 U.S.C. 2000h–5, 2000h–6) as sections  
22 1102 through 1105 and sections 1108 and 1109, re-  
23 spectively;

24 (2) by inserting after the title heading the fol-  
25 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.”.

Passed the House of Representatives February 25,  
2021.

Attest:

*Clerk.*



117<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

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**H. R. 5**

**AN ACT**

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