



# The Inequality of the “Equality Act”

## Why This Bill Is Unfair, Unequal, and Unjust

**T**he Equality Act (EA) would overhaul our federal civil rights framework to mandate special privileges for sexual orientation and gender identity (SOGI), expand abortion access, and gut religious liberty—leaving many to suffer the consequences, including women, children, medical professionals, and people of faith. The EA mandates an anti-life, anti-family, and anti-faith agenda upon all Americans and must be defeated.

### The Equality Act Is Radically Pro-Abortion

- Health care providers would be expressly prohibited from discriminating on the basis of sex.
- Sex discrimination would be redefined to incorporate language that courts have previously ruled includes abortion.
- This redefinition—in conjunction with the *Religious Freedom Restoration Act* (RFRA) exemption and expansion of what constitutes a public accommodation beyond physical facilities—jeopardizes long-standing federal conscience laws that protect those opposed to abortion.
  - For example, the Hyde Amendment, which prohibits taxpayer funding for abortion, would be in jeopardy.
- By means of these changes, the EA would essentially create a legislative right to abortion on demand.

## **The Equality Act Is Detrimental to Women’s Equality, Privacy, and Safety**

### **Equality**

- Contrary to its name, the Equality Act would undermine equality and real civil rights gains women have made.
  - For example, the Small Business Administration Office of Women’s Business Ownership, whose mission is to “enable and empower women entrepreneurs through advocacy, outreach, education and support,” would have to give biological men who identify as women access to its programs.
- Biological males would be allowed to compete in women’s sports. This would unfairly penalize female athletes and effectively obliterate Title IX. This is already occurring in some states.
  - For example, two biological boys have collectively won 15 women’s track titles once held by nine different girls in Connecticut. As a result, biological girls have consistently fallen below the threshold to advance in their sport, inhibiting their ability to be seen by college recruiters and obtain scholarships. Scholarships are sometimes the only avenue students have to pursue higher education, which could lead to better job opportunities and better pay.

### **Privacy and Safety**

- The late Justice Ruth Bader Ginsburg, writing many years ago about sex-based distinctions, defended privacy for men and women in separate bathrooms.
- If the Equality Act becomes law, females will no longer have privacy in public bathrooms, locker rooms, showers, or even battered women’s shelters. Similar state and local laws are already revealing the consequences of this policy:
  - A kindergarten girl was assaulted by a boy in her school bathroom.

- A rape survivor was forced to quit her job when her employer began allowing men into women’s private facilities (being seen in the shower had been part of her victimization).
- A biological man was allowed residence in a women’s shelter, and nine women have filed a sexual harassment suit against him.
- In addition to being unfair, allowing biological men to compete in women’s sports is also unsafe. It could lead to significant injuries for female athletes, particularly in high contact sports, as biological men are bigger and stronger than women on average.

## **The Equality Act Harms the Very Members of the LGBT Community It Purports to Protect**

- The Equality Act advances policies that do not align with science. It therefore harms members of the LGBT community seeking assistance in an area like healthcare, which necessarily must be based on biology and science.
  - A biological woman identifying as a man and who was listed as a man on medical records was assessed for kidney disease as a man, causing treatment missteps and nearly resulting in death.
  - A biological woman identifying as a man appeared to be a masculine, overweight man to hospital staff. They therefore had no reason to think the patient was pregnant and in labor. Sadly, the patient did not receive immediate care and delivered a stillborn baby. The doctor noted that the male classification “threw us off” from the patient’s actual medical needs.
  - A biological woman identifying as a man, who had undergone a mastectomy, developed cancer in the remaining breast tissue. The doctor was not sure how to code this patient in the medical records system.

- A biological woman identifying and appearing to be a man was diagnosed with an ovarian tumor after several steps of treatment.

## **The Equality Act Politicizes the Medical Profession to the Detriment of Patients and Practitioners**

- Under the Equality Act, doctors and others who provide legitimate hormone treatments and surgical procedures for patients with certain physical conditions would be forced to offer those treatments for individuals with gender dysphoria.
- Moral or medical opinions objecting to assisting individuals in physically altering their bodies would be rendered largely moot, despite science telling us these treatments are actually harmful.
- A 2011 Swedish study, one of the most robust on the issue, found that post-surgery individuals had a suicide completion rate 19 times higher than the general population.
  - The risk of psychiatric hospitalization was 2.8 times higher even after adjustment for prior psychiatric disease.
  - Additionally, death by neoplasm (a benign or cancerous mass) and cardiovascular disease was 2 to 2.5 times higher.
- There is evidence that puberty blockers and cross-sex hormones can cause cancer, heart disease, diabetes, blood clots, stroke, and more.
- The EA’s requirements would override a doctor’s concern about any of these points.

## **The Equality Act Could Erode Parental Rights**

- The Equality Act could trigger an erosion of parental rights.
- When an Ohio couple declined hormone treatment for their child, the Children’s Hospital of Cincinnati involved child protective services, and the parents were ultimately stripped of their parental rights. If refusing puberty blockers or cross-sex hormones to children with symptoms or

diagnosis of gender dysphoria is deemed discriminatory, cases like this one could become more commonplace.

## **The Equality Act Would Severely Erode Religious Freedom**

The Equality Act’s supporters claim that it will help eradicate discrimination in our society. But by undermining religious liberty—the freedom for all to choose their faith and live it out—the EA will eradicate not discrimination but freedom of thought, belief, and the ability to have a differing opinion free from government retribution. The EA will gut the applicability of the *Religious Freedom Restoration Act* (RFRA). In addition, it will erode the freedom of churches and houses of worship, religious schools and students, and faith-based organizations.

### **Religious Freedom Restoration Act**

- The Equality Act expressly exempts itself from RFRA, our flagship religious liberty legislation that received strong bipartisan congressional support and was signed into law by former President Bill Clinton nearly 30 years ago.
- RFRA does not dictate an outcome; it merely provides that religious claims are deserving of attention. By gutting the applicability of RFRA, the EA is placing a weight on the scale in favor of substantial governmental burdens on religion without examination.
- The importance and necessity of RFRA cannot be understated. RFRA protects religious freedom against federal government infringement even more robustly than the Constitution does:
  - RFRA requires that the government show a “compelling government interest” that is advanced in the “least restrictive” manner in order to infringe on any sincerely-held religious beliefs.

- In contrast, the First Amendment (as currently interpreted by the U.S. Supreme Court) allows the government to infringe on religious exercise in many cases if it does so through a “neutral” and “generally-applicable law.”
- If the EA is passed, individuals with religious views disfavored by the EA would not have RFRA as a tool to defend against a violation of their religious freedom rights.

## **Churches and Houses of Worship**

- Under the Equality Act, churches and houses of worship could be required to violate their beliefs regarding how they use their facilities.
- Some houses of worship could also be prevented from ensuring their clergy and employees abide by their doctrines or beliefs about marriage, sexual behavior, and the distinction between the sexes.

## **Religious Schools and Students**

- At least some religious schools could be considered a public accommodation or an employer that falls within the Equality Act’s broad reach, therefore (1) requiring them to allow biological males to participate in women’s sports and enter private spaces meant for females or (2) inhibiting their ability to hire only those who share their beliefs.
- Some religious colleges and universities could be bound in all aspects of their operation, including admissions and housing.

## **Faith-Based Organizations**

- Faith-based organizations, including those that play a vital role in the adoption and foster care system, sometimes receive federal funding to help their important work. Under the Equality Act, these organizations would be forced to either violate their beliefs or shut down, displacing the children in their care.
  - Thousands of children in Illinois were left without care when Catholic Charities was forced to shut down under a “nondiscrimination” law.