

Concerns regarding the Equality Act

What Is the Equality Act?

“The Equality Act would amend the Civil Rights Act of 1964 to include the entire array of relationships, and behaviors, and identities, known as LGBTQ, and to put those identities alongside, for example, race and gender as protected classes against whom there could be no discrimination in employment, in education, in public funding.”

–Albert Mohler, “‘The Determination Will Have to Be Made’— The Equality Act Threat According to Its Own Lead Sponsor” (The Briefing)

<https://albertmohler.com/2021/03/17/briefing-3-17-21>

“But let’s just remind ourselves what the Equality Act is. Samantha Schmidt writing for the Washington post described it this way, ‘The Equality Act would amend existing civil rights laws, such as the Civil Rights Act in 1964, and the fair housing act to explicitly ban LGBTQ discrimination in the workforce, housing, education, credit, jury service, and other areas of American life.’ Now those other areas of American life are, need we say this, massively expansive.”

–Albert Mohler, “House Democrats Introduce the Equality Act, Celebrated by Biden Administration: The Greatest Threat to Religious Liberty in American Public Life in Decades” (The Briefing)

<https://albertmohler.com/2021/02/22/briefing-2-22-21>

“Now, here’s what’s so important, this bill amends the civil rights act to explicitly include categories driven by the LGBTQ activist community in the civil rights act, and thus obligatory across the entire United States, a part of the law of the United States. The historic consequence of the legislation, was acknowledged by the Speaker of the House who said, ‘The Civil Rights Act is a sacred pillar of freedom in our country, it is not amended lightly’” And indeed, it is not amended lightly, and this is no light amendment.”

–Albert Mohler, “U.S. House of Representatives Passes the Equality Act: The Battle Between Religious Liberty and the Newly-Invented Rights of the Sexual Revolution Now Moves to the Senate” (The Briefing)

<https://albertmohler.com/2021/02/26/briefing-2-26-21>

“The Equality Act would amend two landmark civil-rights laws—the Civil Rights Act of 1964 and the Fair Housing Act—to change the definition of “sex.” Instead of referring to biological men and women, the redefined word would also cover sexual orientation and gender identity for the purposes of employment, housing, public accommodations, jury service, education, and federal programs.”

–Joe Carter, “The FAQs: What You Should Know About the Pro-LGBTQ Equality Act” (The Gospel Coalition) <https://www.thegospelcoalition.org/article/the-faqs-what-you-should-know-about-the-pro-lgbtq-equality-act/>

[Christianity Today]: How does the Equality Act differ from existing legislation regarding sexual orientation and gender identity?

[Shirley Mullen]: First, it raises the protection of the LGBTQ community to the federal level. This affects federal funds and would be a national mandate; right now, they are negotiated at the state level.

The most significant part of the Equality Act is actually what's not in it, which is the protection for religious freedoms that has always been an understood part of the American Constitution. It removes the traditional religious freedom protection provisions that have always been part of the Constitutional discussion. This would be the first major piece of legislation that excludes explicitly protection for religious freedom.

It would remove the potential for dialogue to continue between the rights of the LGBTQ community and the traditional rights of religious freedom. [...]"

—"The Equality Act Through the Eyes of a Christian College President" (Christianity Today)

<https://www.christianitytoday.com/ct/podcasts/quick-to-listen/equality-act-lgbtq-religious-liberty-houghton-podcast.html>

What are the implications?

Business

"Faith-based schools and businesses could be forced to violate their beliefs regarding homosexual activity and LGBTQ behavior or face fines, censure, or worse."

—Jim Denison, "The Equality Act: What Christians need to know" (Denison Forum)

<https://www.denisonforum.org/resources/the-equality-act-what-christians-need-to-know/>

Education

"The short answer is that religious schools would be heavily regulated with respect to sexual orientation and gender identity [...] They would have left an array of constitutional defenses, most of which are undeveloped and uncertain at best."

—Douglas Laycock, as quoted in "A Liberal Law Professor Explains Why the Equality Act Would 'Crush' Religious Dissenters" by John McCormack (The National Review)

<https://www.nationalreview.com/2019/05/law-professor-explains-why-the-equality-act-would-crush-religious-dissenters/>

"Schools would still have the ministerial exception, which is constitutional and beyond Congress's power to repeal. It should protect them with respect to teachers teaching a religion class, or leading chapel services, but courts have generally held that other teachers are not ministers for purposes of the exception,"

—Douglas Laycock, as quoted in "A Liberal Law Professor Explains Why the Equality Act Would 'Crush' Religious Dissenters" by John McCormack (The National Review)

<https://www.nationalreview.com/2019/05/law-professor-explains-why-the-equality-act-would-crush-religious-dissenters/>

"Educational institutions (including the administration, staff, faculty, teachers, and such) would legally have to honor a transgender student's and/or employees desired pronouns and enforce anti-bullying policies (that might be too subjective or too stringent). And while anti-bullying policies/laws are good and needed, there are those who are curious as to how bullying will be interpreted. Would a vocalized difference of opinion on sexuality be considered bullying? Will 'micro-aggressions' (like forgetting a person's preferred pronouns) be seen as 'macro-aggressions'?"

–Caleb Kaltenbach, *How Religious Organizations Can Understand the Equality Act and Discern Next Steps*

<https://www.messygracegroup.org/equality-act-document>

"Since the *Equality Act* amends *Title VII* and *Title IX*, students at religiously affiliated schools might be denied state and federal aid if the school's doctrine/values states that marriage is between a man and a woman. Additionally, even if religious schools choose not to take government funding, it's conceivable that eventually those same schools would also lose their accreditation (which, like federal funding, is an extension of the government through CHEA)."

–Caleb Kaltenbach, *How Religious Organizations Can Understand the Equality Act and Discern Next Steps*

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"And so, if you have an honor code, the Equality Act would pass, and you have an honor code that, or a student life code that, holds to traditional morality standards on marriage and sexuality, and you did not change your standards after the Equality Act was passed, as written, you would actually potentially lose your federal funding--that is, all your pell grants, your guaranteed student loans. It's really billions of dollars."

–Shirley V. Hoogstraand Darrell, *The Equality Act and Religious Freedom* (Dallas Theological Seminary)

https://www.youtube.com/watch?v=J_HfG9QI_pM

Healthcare

"As of now, medical providers, hospitals, and care centers have protection under conscience laws when it comes to abortions. The *Equality Act* very well could compromise the integrity of those conscience laws"

–Caleb Kaltenbach, *How Religious Organizations Can Understand the Equality Act and Discern Next Steps*

<https://www.messygracegroup.org/equality-act-document>

"Faith-based hospitals and insurers could be forced to provide gender-transition therapies that violate their religious beliefs."

–Jim Denison, "The Equality Act: What Christians need to know" (Denison Forum)

<https://www.denisonforum.org/resources/the-equality-act-what-christians-need-to-know/>

Facilities

"The other thing the Equality Act would do is, under Title VIII, the Equality Act does not protect religious housing standards, so, of course, our schools have standards for men and for women. They have separate institutions. They allow for more privacy. We have no alcohol or drugs. That sort of thing. But it would- the Title VIII protections would be undercut."

–Shirley V. Hoogstraand Darrell, *The Equality Act and Religious Freedom* (Dallas Theological Seminary)

https://www.youtube.com/watch?v=J_HfG9QI_pM

Human Relations

"If the Equality Act passes, it will impact and complicate employee processes in your organization. It could also eventually complicate some of your other processes (like how someone becomes a member in your organization)."

–Caleb Kaltenbach, *How Religious Organizations Can Understand the Equality Act and Discern Next Steps*

<https://www.messygracegroup.org/equality-act-document>

"And then, of course, employment lawsuits because of religious hiring [...] in Title VII, the Equality Act allows lawsuits based on religious hiring and a religious standard. So we all know that Christian colleges and universities and other organizations hire individuals that fit with their religious standards. And those things will all be affected, but a major way."

–Shirley V. Hoogstraand Darrell, *The Equality Act and Religious Freedom* (Dallas Theological Seminary)

https://www.youtube.com/watch?v=J_HfG9QI_pM

Gender Separation

"The Act would dismantle sex-specific facilities, sports, and other spaces. As a result, biological females would be forced to compete in sports with biological males and for athletic scholarships. Sexual assaults on girls in bathrooms and showers could escalate."

–Jim Denison, "The Equality Act: What Christians need to know" (Denison Forum)

<https://www.denisonforum.org/resources/the-equality-act-what-christians-need-to-know/>

"[...] the *Equality Act* makes it illegal to deny transgender individuals the right to compete on sports teams that correspond with their sense of gender identity. The substantial concern is that transgender women will have overwhelming advantages if allowed to compete on sports teams that were formed for competition between biological women."

–Caleb Kaltenbach, *How Religious Organizations Can Understand the Equality Act and Discern Next Steps*

<https://www.messygracegroup.org/equality-act-document>

“The *Equality Act* would prohibit organizations from stopping transgender men and transgender women from using restrooms, locker rooms, and dressing rooms that aligned with their sense of gender identity.”

–Caleb Kaltenbach, *How Religious Organizations Can Understand the Equality Act and Discern Next Steps*

<https://www.messygracegroup.org/equality-act-document>

“All of this and more could open the door for action against churches whose children/student ministries wouldn’t allow transgender students to use gender-corresponding bathrooms or stay in gender-corresponding cabins during retreats (like winter and summer retreats). [...]”

–Caleb Kaltenbach, *How Religious Organizations Can Understand the Equality Act and Discern Next Steps*

<https://www.messygracegroup.org/equality-act-document>

“**[National Review:]** Would the Equality Act require almost all religious and public schools to give transgender students the right to compete on the sports teams of their preference and full access to bathrooms, showers, locker-rooms of their preference?”

[Douglas Laycock:] Probably, although this would be a matter of judicial interpretation.”

–“A Liberal Law Professor Explains Why the Equality Act Would ‘Crush’ Religious Dissenters”

by John McCormack (The National Review) <https://www.nationalreview.com/2019/05/law-professor-explains-why-the-equality-act-would-crush-religious-dissenters/>

“**[National Review:]** Would prison inmates be granted the right to be jailed according to their gender identity?”

[Douglas Laycock:] Probably, but again this would be a matter of judicial interpretation.”

–“A Liberal Law Professor Explains Why the Equality Act Would ‘Crush’ Religious Dissenters”

by John McCormack (The National Review) <https://www.nationalreview.com/2019/05/law-professor-explains-why-the-equality-act-would-crush-religious-dissenters/>

Marriage

“Page 3 of the bill goes out of its way to refer to the belief that marriage should be between a man and a woman as a ‘sex stereotype.’”

–Caleb Kaltenbach, *How Religious Organizations Can Understand the Equality Act and Discern Next Steps*

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“[...] In other words, if a church rents out their facilities for weddings, then the facilities might also need to be prepared to rent out their facilities both same-sex couples and opposite-sex couples alike.”

–Caleb Kaltenbach, *How Religious Organizations Can Understand the Equality Act and Discern Next Steps*

<https://www.messygracegroup.org/equality-act-document>

“Churches that rent their facilities to the public could be forced to rent them for same-sex marriages and other LGBTQ events.”

–Jim Denison, "The Equality Act: What Christians need to know" (Denison Forum)

<https://www.denisonforum.org/resources/the-equality-act-what-christians-need-to-know/>

Parenting

“Children could seek to change their gender without parental knowledge or consent.”

–Jim Denison, "The Equality Act: What Christians need to know" (Denison Forum)

<https://www.denisonforum.org/resources/the-equality-act-what-christians-need-to-know/>

“Faith-based adoption and foster care agencies could be forced to place children with same-sex couples or lose their licenses.”

–Jim Denison, "The Equality Act: What Christians need to know" (Denison Forum)

<https://www.denisonforum.org/resources/the-equality-act-what-christians-need-to-know/>

Would religious institutions be impacted?

“The *Equality Act* defines *public accommodation* as ‘including restaurants, senior centers, stores, places of or establishments that provide entertainment, health care facilities, shelters, government offices, youth service providers including adoption and foster care providers, and transportation.’ As a result, the definition of public accommodations could be interpreted to include churches and thereby, making it illegal for both non-profit and for-profit businesses to be misaligned in practice with government regulations regarding sexual orientation and gender identity.”

–Caleb Kaltenbach, *How Religious Organizations Can Understand the Equality Act and Discern Next Steps*

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“How might the *Equality Act*’s change to *shared areas* and *public accommodations* impact churches? Currently, houses of worship that offer services to the public like food pantries, biblical counseling ministries, homeless shelters, domestic violence shelters, and other such ministries are not seen as *public accommodations*. Under the *Equality Act*, there’s a chance these types of services offered by and operated by churches would be viewed as public accommodations (especially if such service/outreach ministries receive federal funding—and possibly even if they don’t receive federal funding).”

–Caleb Kaltenbach, *How Religious Organizations Can Understand the Equality Act and Discern Next Steps*

<https://www.messygracegroup.org/equality-act-document>

“Similarly, churches that rent out their facilities (or even allow their facilities to be used free of charge) for weddings, funerals, special events, and so on could be viewed as *public accommodations*.”

–Caleb Kaltenbach, *How Religious Organizations Can Understand the Equality Act and Discern Next Steps*

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“[...] if the Equality Act is passed, there is a very, very good chance that when churches do things like food pantries on their own, or they rent out their facilities to anyone in the community, when they end up running showers for homeless people, you name it--when churches end up opening up their facilities, or renting their facilities to people in the public, the Equality Act says, well, now, those are public accommodations. You are held accountable to be able to- for discrimination. You absolutely have to allow people to use shared areas, whether they are locker rooms, bathrooms, dressing rooms, that kind of thing. So that's another aspect, where it makes churches into public accommodations, and it makes churches very, very easy to sue.”

–Caleb Kaltenbach, “The Equality Act with Caleb Kaltenbach” (Think Biblically)

<https://www.biola.edu/blogs/think-biblically/2021/bonus-equality-act>

What about religious freedoms?

“The bill says explicitly: ‘The Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb et seq.) shall not provide a claim concerning, or a defense to a claim under, a covered title, or provide a basis for challenging the application or enforcement of a covered title.’”

–Joe Carter, “The FAQs: What You Should Know About the Pro-LGBTQ Equality Act” (The Gospel Coalition) <https://www.thegospelcoalition.org/article/the-faqs-what-you-should-know-about-the-pro-lgbtq-equality-act/>

“You still might object by asking, ‘How does the Equality Act complicate or prohibit religious freedom and expression?’ While there are many ways, one primary way is that extremist supporters of the Equality Act reject any form of disagreement. That, in and of itself, is not only a threat to religious freedom, but to all First Amendment freedoms.”

–Caleb Kaltenbach, *How Religious Organizations Can Understand the Equality Act and Discern Next Steps*

<https://www.messygracegroup.org/equality-act-document>

“And as you're thinking about the religious liberty dimension, just recognize this bill, the bill in the form that was passed yesterday by the House of Representatives, has no significant religious liberty protections at all. Basically, none.” –Albert Mohler, “U.S. House of Representatives Passes the Equality Act: The Battle Between Religious Liberty and the Newly-Invented Rights of the Sexual Revolution Now Moves to the Senate” (The Briefing)

<https://albertmohler.com/2021/02/26/briefing-2-26-21>

"So I think most Christians who value religious liberty would agree that the Equality Act is one of the most devastating bills to come into Congress, in terms of trying to strip out the religious exemptions that have been part, really, of our society since the beginning of the nation [...]" -- Shirley V. Hoogstraand Darrell, The Equality Act and Religious Freedom (Dallas Theological Seminary)

https://www.youtube.com/watch?v=J_HfG9QI_pM

"It also eliminates what's called the Religious Freedom Restoration Act [of 1993] [...] So the Equality Act is looking to advance LGBT civil rights, but to minimize or eliminate the current kinds of religious protections that exist in law."

—Shirley V. Hoogstraand Darrell, The Equality Act and Religious Freedom (Dallas Theological Seminary)

https://www.youtube.com/watch?v=J_HfG9QI_pM

"It goes very far to stamp out religious exemptions [...] It regulates religious non-profits. And then it says that [the Religious Freedom Restoration Act] does not apply to any claim under the Equality Act. This would be the first time Congress has limited the reach of RFRA. This is not a good-faith attempt to reconcile competing interests. It is an attempt by one side to grab all the disputed territory and to crush the other side."

—Douglas Laycock, as quoted in "A Liberal Law Professor Explains Why the Equality Act Would 'Crush' Religious Dissenters" by John McCormack (The National Review)

<https://www.nationalreview.com/2019/05/law-professor-explains-why-the-equality-act-would-crush-religious-dissenters/>

What alternatives are there?

"The solution the CCCU is proposing: Fairness for All, federal legislation that would protect religious liberties for institutions while at the same time offering certain civil rights to LGBT people. The idea came from Mormon-dominated Utah, which was hailed in 2015 for passing compromise bills banning forms of LGBT discrimination but also codifying rights for religious expression."

—Sarah Eekhoff Zylstra, "New 'Fairness for All' Proposal Seeks Compromise Between Religious Liberty and Gay Rights" (The Gospel Coalition)

<https://www.thegospelcoalition.org/article/fairness-for-all-compromise-religious-liberty-gay-rights/>

"The ERLC is opposed to the [Fairness for All] proposal, for the same reasons it didn't like the Utah compromise, spokeswoman Elizabeth Bristow said.

'The bill is well intentioned,' Andrew Walker and Russell Moore wrote of the Utah legislation.

'But this bill leaves wholly unprotected private, for-profit business owners who want to run their business according to their faith.'"

—Sarah Eekhoff Zylstra, "New 'Fairness for All' Proposal Seeks Compromise Between Religious Liberty and Gay Rights" (The Gospel Coalition)

<https://www.thegospelcoalition.org/article/fairness-for-all-compromise-religious-liberty-gay-rights/>

“David Dockery, president of Trinity International University, was hesitant to support the proposal yet. ‘I have concerns about the Fairness for All proposal,’ he said. ‘But I think we should all look for ways to work together for the best future for our shared work in Christian higher education.’”

–Sarah Eekhoff Zylstra, "New 'Fairness for All' Proposal Seeks Compromise Between Religious Liberty and Gay Rights" (The Gospel Coalition)

<https://www.thegospelcoalition.org/article/fairness-for-all-compromise-religious-liberty-gay-rights/>

Will the Equality Act pass?

“A lot of people think that it is brand new, when they first hear about it. It's not. [...] It's been in front of Congress, like, every other year; sometimes, every three years. [...] I still don't think it's going to pass. But eventually, I think it will pass. And you never know: pieces of it can find its way into other legislation that is passed.”

–Caleb Kaltenbach, “The Equality Act with Caleb Kaltenbach” (Think Biblically)

<https://www.biola.edu/blogs/think-biblically/2021/bonus-equality-act>