The Heritage Foundation

ISSUE BRIEF

No. 4943 | MARCH 25, 2019

H.R. 5 Is No Act of Equality

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The proposed Equality Act (H.R. 5) turns individuals' beliefs about their sexual orientation and gender identity (SOGI) into protected classes under the 1964 Civil Rights Act and the 1968 Fair Housing Act.[1] The bill creates obvious liberty, equality, privacy, and safety concerns.

H.R. 5 would empower the federal government to impose punishments on citizens who dissent from SOGI ideology, including medical professionals, parents, women and girls, businesses, and charities. The bill would violate their rights to freedom of conscience, religion, and speech. The bill would also take away the authority of local communities to determine who is allowed in single-sex facilities and whether biological men and boys are allowed to join women's and girls' sports teams.

What H.R. 5 Would Do

Section 3(4) of the Equality Act expands the definition of "public accommodations" under Title II of the Civil Rights Act to "any establishment that provides a good, service, or program, including a store, shopping center, online retailer or service provider, salon, bank, gas station, food bank, service or care center, shelter, travel agency, or funeral parlor, or establishment that provides health care, accounting, or legal services." Under H.R. 5:

- **Medicine will be politicized.** Doctors nationwide will not be allowed to treat gender dysphoria according to their own best judgment, and even a referral to another doctor could be a violation of H.R. 5. Transgender advocates recommend puberty blockers for children at age 11, cross-sex hormones at 16, and "sex-reassignment" surgery at 18. Side effects include sterility, loss of bone density, cognitive decline, and increased risk of cancer. Under state SOGI laws, activists have sued hospitals in California and New Jersey for discrimination—because the hospitals' doctors declined to remove the reproductive organs of healthy patients. SOGI laws would pressure medical professionals to practice such "medicine" regardless of any scientific or conscience-based objections.

- **Politicization of medicine will increase pressure on parents to permit experimental uses of hormones on their children to treat gender dysphoria.** Transgender activists and trans-affirming doctors accuse parents of child abuse for declining "off-label" uses of puberty-blocking drugs and cross-sex hormones. In Ohio, these charges led a court to terminate the parental rights of a 17-year-old girl. According to the American Psychiatric Association, up to 98 percent of boys and up to 88 percent of girls who experience gender dysphoria will naturally resolve their dysphoria as they mature.[2] If medicine is politicized, parents will be unable to find therapeutic support for their gender dysphoric children that does not involve automatic affirmation and medical intervention.

This paper, in its entirety, can be found at
http://report.heritage.org/ib4943

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- **Professional counselors could be compelled to affirm same-sex marriage and transgender ideology in their work.** Section 2(7) of the bill labels talk therapy to address gender dysphoria as a form of "discrimination."

- **Creative professionals who serve all customers, but who understand that humans are born male or female, and who believe that marriage means a union between one man and one woman, could be compelled to use their artistic gifts to create custom goods and services for events that violate their consciences,** such as sex-change celebrations and same-sex marriages.

In Alaska, a man sought admittance to a shelter for battered women sued the shelter under a local SOGI ordinance.[3]

Section 4 of the bill adds SOGI rules to Title III of the Civil Rights Act on "public facilities," and would create a nationwide transgender bathroom policy—giving people blanket permission to enter bathrooms of the opposite sex, or making all facilities unisex. The danger lies not with men who genuinely identify as female and live accordingly, but with male sexual predators who will abuse the rule as an open invitation for easy access to women and girls.

Section 5 adds SOGI rules to the Civil Rights Act's Title V on "desegregation of public education." It could pressure K–12 schools and publicly funded colleges and universities to teach SOGI curricula. Federal courts could require SOGI curricula the same way they ordered schools to remedy—real—racial discrimination by requiring a black history curriculum.

Section 6 adds SOGI rules to the Civil Rights Act's Title VI on "federal assisted programs." Biological males who identify as females could claim discrimination on the basis of gender identity if they are not allowed to compete against female athletes in sports that receive federal funds (such as K–12 sports programs, as well as in public colleges and universities).

Health programs or activities that receive federal financial assistance administered by the Department of Health and Human Services could be required to follow the transgender medical mandate. This would affect all state Medicaid programs, all private insurers that receive any type of federal financial assistance, all federally facilitated and state-based insurance exchanges, and any hospital, health clinic, physician's practice, community health center, nursing facility, residential or community-based treatment facility, or other entity.

Faith-based adoption and foster care agencies that place children only with married opposite-sex couples could be shuttered. Some faith-based agencies have already closed after policies were issued that mandated they abandon their religious beliefs.[4] Section 2(19) criticizes these beliefs.

Section 7 would add SOGI rules to the Civil Rights Act's Title VII on "equal employment opportunity." Employees could sue their employers if the offered health insurance does not cover "sex-reassignment." Companies like Hobby Lobby and religious charities like the Little Sisters of the Poor would have direct conflicts of conscience without protection from the Religious Freedom Restoration Act—which, per Section 9 of the proposed bill cannot be raised as a defense.

Both employees and employers could be compelled to use "preferred pronouns" according to gender identity. Meaning, people would be forced by law to refer to a man as "she" or a woman as "he," or a person as "they" or "ze" or "fae"—or anything else someone desires.[5] An individual could claim a hostile work environment if he or she is referred to as "he" or "she."

1. H.R. 5–Equality Act, 116th Congress, 2019, https://www.congress.gov/bill/116th-congress/house-bill/5 (accessed March 22, 2019).
2. See American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders*, 5th ed., 2013, https://www.psychiatry.org/psychiatrists/practice/dsm (accessed March 22, 2019), and American College of Pediatricians, "Gender Ideology Harms Children," September 2017, https://www.acpeds.org/the-college-speaks/position-statements/gender-ideology-harms-children (accessed March 22, 2019).
3. News release, "Women's Shelter to Court: End Anchorage's Attack on Hurting Women," Alliance Defending Freedom, November 1, 2018, https://adflegal.org/detailspages/press-release-details/women-s-shelter-to-court-end-anchorage-s-attack-on-hurting-women?_ga=2.136076536.85316576.1553284301-827029637.1550785279 (accessed March 22, 2019).
4. Stephen T. Watson and Harold McNeil, "Catholic Charities Ending Foster, Adoption Programs over Same-Sex Marriage Rule," *The Buffalo News*, August 24, 2018, https://buffalonews.com/2018/08/23/catholic-charities-ending-foster-care-adoption-program-over-states-same-sex-marriage-rule/ (accessed March 22, 2019), and Emilie Kao, "ACLU Threatens to Stamp Out Diversity by Shuttering Faith-Based Adoption Agencies," The Daily Signal, October 31, 2017, https://www.dailysignal.com/2017/10/31/aclu-threatens-to-stamp-out-diversity-by-shuttering-faith-based-adoption-agencies/.
5. See, for instance, University of Wisconsin Lesbian, Gay, Bisexual, Transgender Resource Center, "Gender Pronouns," https://uwm.edu/lgbtrc/support/gender-pronouns/ (accessed March 22, 2019).

Religious organizations could be forced to hire and retain individuals unwilling to comply with standards of conduct consistent with the organizations' missions.

Section 9 adds SOGI rules to the Civil Rights Act's Title XI, which imposes penalties for criminal contempt of up to six months imprisonment, or up to $1,000 in fines, for violations of Titles II, III, IV, V, VI, or VII.

Conclusion

By empowering the federal government to force radical new definitions of marriage and biological sex on all Americans, H.R. 5 would undermine liberty, equality, privacy, and safety. The Equality Act guarantees anything but equality.

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