

Written Testimony of Alphonso David
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U.S. Senate Committee on the Judiciary

On The Equality Act: LGBTQ Rights are Human Rights

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Chairman Durbin, Ranking Member Grassley, and Members of the Committee:

My name is Alphonso David, and I am the President of the Human Rights Campaign, the nation's largest civil rights organization working to achieve equality for lesbian, gay, bisexual, transgender, and queer (LGBTQ) people. By inspiring and engaging all people, the Human Rights Campaign strives to end discrimination against LGBTQ people and realize a nation that achieves fundamental fairness and equality for all. It is an honor to testify here before you today on behalf of our more than three million members and supporters.

As a civil rights lawyer, as a public servant, person of faith, and now as the President of the Human Rights Campaign, it has been the privilege of my life to fight to deliver on the foundational promises of our democracy—promises yet to be fulfilled.

When I returned to the United States as a refugee with my family, I saw firsthand how the freedom this nation promised was one with costly contingencies. As a Black teenager in Baltimore, I quickly came to understand that my life was considered less important because of the color of my skin. And as a gay man, I came to understand that living my truth would cost me greatly—from acceptance in my own family to opportunities for pursuing my dreams. My life-long career and commitment to advancing civil rights is in large part formed by the gaps between the best promise of this nation and my own lived experience of how far we are from freedom for all.

Too many members of the LGBTQ community live with the real costs of inequality; from denial of basic services to fighting for sheer survival. Despite the progress we have made, discrimination against LGBTQ people is alive and well in our country, particularly for LGBTQ people who hold multiple marginalized identities. More than one in three LGBTQ Americans faced discrimination 2020, including more than three in five transgender Americans.¹

¹ Sharita Gruberg et al., *The State of the LGBTQ Community in 2020: A National Public Opinion Study*, Center for American Progress (Oct. 6, 2020), <https://www.americanprogress.org/issues/lgbtq-rights/reports/2020/10/06/491052/state-lgbtq-community-2020/>.

Discrimination against our community is not only pervasive, it has devastating consequences. There is an epidemic of violence against the transgender community—particularly Black transgender women. Pushed to the margins by racism, transphobia, sexism, and homophobia, Black trans women in this nation live daily with the threat of violence, a threat that is only heightened by transphobic attacks at every level of government. LGBTQ people, particularly LGBTQ people of color, are more likely to live in poverty, to have worse health outcomes, and to lack access to opportunities that would allow them and their families to thrive.

This must change, and right now, our nation’s leaders have the power to deliver the change that our communities need by making the Equality Act the law of the land.

Discrimination Against LGBTQ People is a Serious Problem that Must be Remedied

Types and Rates of Discrimination Faced by LGBTQ People

Studies have found that a majority of LGBTQ people routinely experience discrimination, including targeted harassment, unfavorable treatment, and violence. It is clear that the perception of the challenges faced by LGBTQ people differs from reality.² As it stands, nearly half of all LGBTQ people lack basic, guaranteed protections from discrimination across key areas of life, including education, housing, credit, public accommodations, and jury service. All LGBTQ people lack guaranteed protections from discrimination in federally funded programs.

Having access to credit is critical for financial survival in today’s credit-based economy. Open lines of credit allow people to purchase homes, secure loans, and pay for college education. A lack of explicit prohibitions of discrimination on the basis of sexual orientation or gender identity mean that LGBTQ people are disproportionately more likely to encounter unfair and predatory lending practices. Recent data shows that same-sex borrowers are regularly subject to higher interest rates and are more likely to be turned down for mortgage loans.³

LGBTQ people also face significant discrimination in housing. Data from the U.S. Department of Housing and Urban Development found that same-sex couples experienced less favorable treatment than heterosexual couples when participating in the online rental housing market.⁴ Transgender people experience housing discrimination even more frequently. Nearly one in four

² Alex Vandermaas-Peeler et al., *Weddings Cakes, Same-Sex Marriage, and the Future of LGBT Rights in America*, Public Religion Research Institute (Aug. 2, 2018), <https://www.prii.org/research/wedding-cakes-same-sex-lgbt-marriage>.

³ Jason Richardson and Karen Shakira Kali, *Same-Sex Couples and Mortgage Lending*, National Community Reinvestment Center (Jun. 22, 2020), <https://ncrc.org/same-sex-couples-and-mortgage-lending/>.

⁴ U.S. Dep’t of Hous. and Urban Dev., *An Estimate of Housing Discrimination Against Same-Sex Couples* (2013).

transgender people have reported being refused a home or apartment because of their gender identity or expression.⁵ Tonya and Rachel Smith, a married same-sex couple from Colorado, experienced this discrimination. Rachel is also transgender. In 2015, the couple were looking for a new home for their family. They found the perfect duplex in the community of Gold Hill. However, only a few hours after touring the property the landlord emailed, informing them that they could not rent the unit because of their “unique relationship.”⁶

LGBTQ people also confront discrimination in education. Although schools should have an obligation to provide safe and affirming learning environments for all students, an overwhelming majority of LGBTQ students report experiencing harassment and assault because of their sexual orientation and/or gender identity.⁷ Additionally, most LGBTQ students encountered discriminatory school policies, such as those that prevented them from wearing the “wrong” clothing for their gender, or from attending a school dance with a member of the same gender. The hostile climate created by pervasive anti-LGBTQ attitudes and policies has led nearly one-third of LGBTQ students to consider dropping out of school.

LGBTQ people are also especially vulnerable while trying to access public spaces and services and federally funded programs. Homeless LGBTQ youth have reported being mistreated or turned away from homeless shelters because of their sexual orientation and/or gender identity.⁸ According to the National Transgender Discrimination Survey, roughly one in five transgender people had been denied equal treatment in a hotel or restaurant.⁹ Denial of services can result in devastating experiences. Jack Zawadski lost his husband Robert after 52 years of being together, only to have the funeral home whom they had prearranged services with turn away Robert’s body because they found out he was gay. Jack said, “Bob was my life, and we had always felt so welcome in this community. And then, at a moment of such personal pain and loss, to have someone do what they did to me, to us, to Bob, I just couldn’t believe it. No one should be put through what we were put through.”¹⁰

⁵ James S. E., Herman et al., *The Report of the 2015 U.S. Transgender Survey*, Washington, DC: National Center for Transgender Equality, Nat’l Ctr. for Transgender Equality (2016).

⁶ Karen Morfitt, *Boulder Couple Claims Discrimination In Apartment Search*, CBS Denver (Jan. 14, 2016, 10:08 PM), <https://denver.cbslocal.com/2016/01/14/boulder-couple-claims-discrimination-in-apartment-search/>.

⁷ Joseph G. Kosciw, *The 2019 National School Climate Survey*, GLSEN, at 28 (2019), <https://www.glsen.org/sites/default/files/2020-11/NSCS19-111820.pdf>.

⁸ Sarah McBride, *We the People: LGBT Americans and the Public Square*, Ctr for Amer. Progress (Mar. 10, 2018), <https://cdn.americanprogress.org/wp-content/uploads/2015/04/NonDisc-PubAccomm-4.10.pdf>.

⁹ Jamie M. Grant et al., *Injustice at Every Turn: A Report of the National Transgender Survey*, Nat’l Ctr, for Transgender Equality, at 5 (2011), https://www.transequality.org/sites/default/files/docs/resources/NTDS_Report.pdf.

¹⁰ Mary Emily O’Hara, *Gay Man Sues Funeral Home That Refused his 86-Year-Old Husband’s Body*, ABC News (May 2, 2017), <https://www.nbcnews.com/feature/nbc-out/gay-man-sues-funeral-home-refused-his-82-year-old-n753856>.

Data on discrimination complaints show that discrimination against marginalized groups regularly occurs, even in states where discriminatory practices are prohibited. Rates of discrimination however, are likely much higher in states without protections. Controlling for population, complaints based on sexual orientation and gender identity were comparable to those filed because of sex and race. A 2011 study conducted by the Williams Institute found that in states with nondiscrimination protections for lesbian, gay, and bisexual workers, complaint filing rates for sexual orientation discrimination were slightly lower than, but similar to, complaints made by other protected classes including sex discrimination complaints by female workers and race discrimination complaints.¹¹

An analysis of complaints filed in housing and public accommodations follow a similar pattern. Each year, four complaints alleging sexual orientation and gender identity discrimination in public accommodations are filed for every 100,000 LGBTQ adults. In comparison, there are three complaints of race discrimination and one complaint of sex discrimination filed for every 100,000 adults of color and women, respectively.¹² Housing discrimination complaints show similar averages.¹³

The Effects of Discrimination are Pervasive, and at Times, Life Threatening

Structural inequality continues to take a massive toll on the LGBTQ community. There is a clear connection between anti-LGBTQ discrimination and negative mental, physical, and economic outcomes. For those who are targeted as a consequence of their sexual orientation and/or gender identity, the effects of discrimination are pervasive, and at times, life threatening.

Exposure to psychological stressors, such as stigma and discrimination, places a significant burden on the physical and mental well-being of LGBTQ people. As a result, LGBTQ adults are more likely to experience mental health or substance use challenges. According to the Substance Abuse and Mental Health Services Administration's National Survey on Drug Use and Health (NSDUH), a staggering one in three LGBTQ adults experienced some type of mental, behavioral, or emotional disorder in 2015, compared with only one in five heterosexual adults.¹⁴ The 2015

¹¹ Christy Mallory, *Evidence of Discrimination in Public Accommodations Based on Sexual Orientation and Gender Orientation*, Williams Institute (Feb. 2016), <https://williamsinstitute.law.ucla.edu/publications/lgbt-public-accomm-discrimination/>.

¹² *Id.*

¹³ Christy Mallory, *Evidence of Housing Discrimination Based on Sexual Orientation and Gender Orientation*, Williams Institute (Feb. 2016), <https://williamsinstitute.law.ucla.edu/publications/lgbt-housing-discrimination-us/>.

¹⁴ Human Rights Campaign, *Mental Health and the LGBTQ Community* (2017), https://suicidepreventionlifeline.org/wp-content/uploads/2017/07/LGBTQ_MentalHealth_OnePager.pdf citing Grace Medley, Rachel N. Lipari & Jonaki Bose, *Sexual Orientation and Estimates of Adult Substance Use and Mental Health: Results from the 2015 National Survey on Drug Use and Health*, National Survey on Drug Use and Health (2016).

U.S. Transgender Survey found that over 40 percent of transgender respondents had attempted suicide, considerably higher than the five percent of the U.S. population who say the same.

LGBTQ youth are especially vulnerable to discrimination at school, where many report experiencing social isolation and rejection.¹⁵ This was the case for Ash Whitaker, a transgender teen who was prohibited from using the boys' bathroom at his high school. Ash experienced anxiety and depression after school staff members began aggressively monitoring his bathroom usage and threatening him with disciplinary action for refusing to use the girl's restroom.¹⁶ He also ended up dehydrated because he could not use the bathroom, which exacerbated an underlying medical condition. Sadly, Ash's experience is not an anomaly. LGBTQ youth regularly encounter hostile learning environments as the result of targeted harassment and discrimination, leaving devastating impacts on their mental and physical well-being. Compared to their non-LGBTQ peers, LGBTQ youth report much higher rates of depression, anxiety, alcohol and drug use, and lower self-esteem.¹⁷ These statistics are alarming, but unsurprising.

Additionally, the economic impact of discrimination is acutely felt by the LGBTQ community, most notably in states that do not have laws prohibiting discrimination on the basis of sexual orientation and/or gender identity. LGB employees who fear being outed at work have less positive job and career attitudes, received fewer promotions, and were more likely to report symptoms of stress.¹⁸ A staggering 40 percent of transgender employees aren't open at work over concerns about their personal safety. These fears of discriminatory treatment are well-founded, as studies over the last decade show disparities in treatment between LGBTQ employees and non-LGBTQ peers, including significant pay gaps.¹⁹

As a result of these economic disparities, LGBTQ people are disproportionately more likely to face homelessness, poverty, and food insecurity.

States Offer a Patchwork of Protections and Many have Advanced Attacks on LGBTQ People

A Patchwork of State Level Nondiscrimination Laws

¹⁵ Human Rights Campaign, *2018 LGBTQ Youth Report* (2018), <https://assets2.hrc.org/files/assets/resources/2018-YouthReport-NoVid.pdf>.

¹⁶ Mark Joseph Stern, *A Trans Teen Explains Why He Took His School to Court (and Won)*, Slate (June 13, 2017), <https://slate.com/human-interest/2017/06/ash-whitaker-discusses-transgender-lawsuit-and-7th-circuit-victory.html>.

¹⁷ Human Rights Campaign, *2018 LGBTQ Youth Report* (2018), <https://assets2.hrc.org/files/assets/resources/2018-YouthReport-NoVid.pdf>.

¹⁸ Brad Sears, *Documented Evidence of Employment Discrimination & Its Effects on LGBT People*, Williams Institute (Jul. 2016), <https://williamsinstitute.law.ucla.edu/publications/employ-discrim-effect-lgbt-people/>.

¹⁹ *Id.*

By enacting LGBTQ inclusive nondiscrimination laws and policies, many states have bettered the lives of millions and provided hope and inspiration for the urgent work ahead to advance equality for all. For example, in 2020, the Virginia Values Act made Virginia the first Southern state to enact comprehensive nondiscrimination protections for LGBTQ people, and added all-new statewide protections for all protected characteristics.²⁰ But despite significant steps forward, LGBTQ people lack guaranteed basic legal protections in too many places across the country. Twenty-two states and the District of Columbia have statutory employment nondiscrimination protections for LGBTQ people, and enforcement authorities in six states have extended the application of the states' employment nondiscrimination law to LGBTQ people.²¹ A similar number of states have protections in housing and places of public accommodation.²² However, the patchwork nature of current laws leaves millions of people subject to uncertainty and potential discrimination that impacts their safety, their families, and their day-to-day lives. It also disrupts travel and business relocations as LGBTQ people are forced to navigate legal protections as they contemplate vacations, school climate, business travel, and relocations. Major businesses have cited the lack of protections as an impediment to their operations.²³

Attacks on LGBTQ Equality by States

Troublingly, in recent years, many states have pursued legislation that actively discriminates against LGBTQ people. Since 2015, more than one thousand anti-LGBTQ bills have been filed in state legislatures.²⁴ These bills have tried—and in some cases, succeeded—to prohibit or peel away legal protections for LGBTQ people who are parents, married couples, transgender people, and people seeking health care or receiving government services. Even as our country faces both a pandemic and an economic crisis, some legislatures prioritize pushing legislation targeting the LGBTQ community in an attempt to stop or reverse the gains that the LGBTQ community has made in securing basic rights. This year has been record-setting, with more legislation targeting transgender people filed than ever before.²⁵

Targeting of Transgender People

About one third of the anti-LGBTQ bills filed over the last six years specifically target the transgender community. In 2016, North Carolina passed into law HB2, legislation that mandated

²⁰ Va. Code Ann. 39 § 2.2-3900 (2020).

²¹ Human Rights Campaign, State Maps, <https://www.hrc.org/resources/state-maps>.

²² *Id.*

²³ Human Rights Campaign, *Corporate Equality Index 2021*, at 5, Human Rights Campaign (2021), <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/CEI-2021-revised-030121.pdf?mtime=20210304182627&focal=none>.

²⁴ Human Rights Campaign, *Equality from State to State & State Equality Index Archives*, Human Rights Campaign, <https://www.hrc.org/resources/equality-from-state-to-state>.

²⁵ Wyatt Ronan, *BREAKING: 2021 Becomes Record Year for Anti-Trans Legislation*, Human Rights Campaign (Mar. 13, 2021), <https://www.hrc.org/press-releases/breaking-2021-becomes-record-year-for-anti-transgender-legislation>.

discrimination against transgender people in public restrooms.²⁶ The backlash was immediate and the law was later modified to remove the provision mandating discrimination.²⁷ However, efforts to restrict bathroom access were not limited to North Carolina. Other states, like Texas, considered similar legislation.²⁸ In the last few years, the newest iteration of that sentiment is manifesting in a wave of legislation that targets transgender youth.²⁹ In 2020, 32 bills preventing transgender youth from participating in sports with their peers were introduced, one of which passed into law; 28 bills were introduced that would prevent transgender youth from accessing medically-necessary, often lifesaving, best practice, gender affirming health care.³⁰ That trend in discriminatory legislation has spilled over into this year. To date, 39 bills targeting transgender youth in sports and 29 bills targeting access to medical care for transgender youth have been introduced. Mississippi's governor signed into law legislation eliminating the ability of transgender girls to participate in athletics.³¹

These efforts do not address actual problems but rather demonize transgender youth and push them to hide their true selves, even at the risk of their wellbeing. In fact, legislators across the country have openly admitted they are unaware of any instances in which transgender student athletes have excelled to the detriment of others in their state, including in states where transgender athletes have been permitted to play sports consistent with their gender identity for many years.³² Sports associations have managed to ensure a fair playing field for all students, including transgender students, and legislative intervention is neither necessary nor useful.³³ The push for this type of legislation arose because anti-LGBTQ extremists are spreading misinformation about transgender people, particularly transgender youth, and are taking advantage of people who care about equality for women by pitting them against transgender athletes for the extremists' own political ends.

Denial of Services

²⁶ Public Facilities Privacy & Security Act, H.R. 2, 151th Leg., 2nd Spec. Sess. (N.C. 2016).

²⁷ Reset of S.L. 2016-3, H.R. 142, N.C. 152nd Leg, Reg. Sess. (N.C. 2017).

²⁸ Human Rights Campaign, *2017 State Equality Index*, Human Rights Campaign (2017), <https://www.hrc.org/resources/2017-state-equality-index-view-your-states-scorecard>.

²⁹ Human Rights Campaign, *2020 State Equality Index*, Human Rights Campaign (2020), <https://www.hrc.org/resources/state-equality-index>.

³⁰ Human Rights Campaign, *2020 State Equality Index* (2020); Fairness in Women's Sports Act, H.B. 500, 56th Leg. Spec. Sess. 2 (Id. 2020).

³¹ S.B. 2536, 2021 Leg., Reg. Sess. (Miss. 2021), <http://billstatus.ls.state.ms.us/2021/pdf/history/SB/SB2536.xml>; H.B. 1217, 96th Leg. Sess. (S.D. 2021), <https://sdlegislature.gov/Session/Bill/12299>.

³² David Crary & Lindsay Whitehurst, *Lawmakers can't cite local examples of trans girls in sports*, Associated Press, March 3, 2021, <https://apnews.com/article/lawmakers-unable-to-cite-local-trans-girls-sports-914a982545e943ecc1e265e8c41042e7>.

³³ Pat Griffin & Helen Carroll, *NCAA Inclusion of Transgender Student-Athletes* (2011) https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf.

State laws harming LGBTQ people have also come in the form of hundreds of state bills filed since 2015 that would allow the government, government contractors, and providers of mental and medical health care to refuse to provide services to people of whom they disapprove.³⁴ While these bills often are so broad in effect that they would license discrimination against many people, the clear purpose of the bills is to deny services to LGBTQ people.³⁵

The most egregious bill to have passed into law is Mississippi's HB 1523, passed in 2016, which allows for denial of a broad range of services based upon the beliefs that "marriage is...the union of one man and one woman" and that the words man and woman "refer to an individual's immutable biological sex as objectively determined by anatomy and genetics at time of birth."³⁶ Under this law, almost any individual or organization, including the state government, can refuse to serve LGBTQ people, single mothers, unwed couples, and others. The consequences are harmful indeed: for example, a taxpayer funded organization could refuse to provide emergency shelter to same-sex couple, or to a person they believed to be transgender. The law also allows for discrimination against transgender people in the provision of facilities like restrooms.

While less widespread, bills that would grant licenses to discriminate to government contractors providing child welfare services have been introduced in more than ten states in recent years — these bills would allow taxpayer-funded child welfare agencies to discriminate against LGBTQ prospective foster or adoptive parents, LGBTQ youth, or both.³⁷ Several states have passed laws that would prevent public schools from withholding benefits to student groups who exclude

³⁴ Human Rights Campaign, *2015 State Equality Index*, Human Rights Campaign (2015), https://assets2.hrc.org/files/assets/resources/SEI-2015-FullReport.pdf?_ga=2.197488297.704588638.1615751790-1007347431.1615751790; Human Rights Campaign, *2016 State Equality Index*, Human Rights Campaign (2016), https://assets2.hrc.org/files/assets/resources/SEI-2016-Report-FINAL.pdf?_ga=2.197488297.704588638.1615751790-1007347431.1615751790; Human Rights Campaign, *2017 State Equality Index*, Human Rights Campaign (2017), https://assets2.hrc.org/files/assets/resources/HRC-2017-report-FINAL-2.pdf?_ga=2.197488297.704588638.1615751790-1007347431.1615751790; Human Rights Campaign, *2018 State Equality Index*, Human Rights Campaign (2018), https://assets2.hrc.org/files/assets/resources/SEI-2018-Report.pdf?_ga=2.197488297.704588638.1615751790-1007347431.1615751790; Human Rights Campaign, *2019 State Equality Index*, Human Rights Campaign (2019), <https://issuu.com/humanrightscampaign/docs/hrc-sei-2019-report>.

³⁵ See, e.g., H.B. 3859, 85th Leg. Sess. (Tex. 2017), (regarding adoption), <https://capitol.texas.gov/tlodocs/85R/billtext/pdf/HB03859H.pdf#navpanes=0>; H.B. 19-1140, 2019 Reg. Sess. (Colo. 2019), <http://leg.colorado.gov/bills/hb19-1140>; H.B. 1523, Miss. St. Leg., Reg. Sess. (Miss. 2016), <http://billstatus.ls.state.ms.us/documents/2016/html/HB/1500-1599/HB1523SG.htm>; S.B. 101, 119th Gen. Assemb., Reg. Sess. (Ind. 2015) <https://openstates.org/in/bills/2015/SB101/#billtext>.

³⁶ H.B. 1523, Miss. St. Leg., Reg. Sess. (Miss. 2016), <http://billstatus.ls.state.ms.us/documents/2016/html/HB/1500-1599/HB1523SG.htm>.

³⁷ Human Rights Campaign, *Disregarding the Best Interest of the Child: Why Creating Licenses to Discriminate for Government Contractors Hurts Children in the Child Welfare System*, Human Rights Campaign (2020), <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/Disregarding-the-Best-Interest-of-the-Child-FINAL.pdf?mtime=20201102165913&focal=none>.

LGBTQ students from joining.³⁸ Each of these prohibit states from being able to prevent discrimination in the use of taxpayer-funded services.

Attacks on Marriage Equality

In the nearly six years since the Supreme Court declared marriage equality to be the law of the land in *Obergefell v. Hodges*, attacks on marriage for same-sex couples have continued. Though not representing the views of the majority, who support marriage equality by 67 percent, some state legislators continue to signal their objections through legislation.³⁹ Since 2015, more than 100 bills have been filed that seek to defy, nullify, or peel back the legal benefits of marriage. Some of these include: changes to who may conduct marriages and the circumstances under which they may refuse to do so;⁴⁰ exemptions of wedding-related services from public accommodation nondiscrimination laws;⁴¹ attempts to limit privileges of marriage;⁴² efforts to nullify the *Obergefell v. Hodges* decision, including labeling marriages between same-sex

³⁸ H.B. 1087, 94th Leg. Assemb., Reg. Sess. (S.D. 2019), <https://sdlegislature.gov/Session/Bill/9646>; S.B. 274, 88th Gen. Assemb. (Iowa 2019), <https://www.legis.iowa.gov/legislation/BillBook?ba=SF274&ga=88>; S.B. 156, 92nd Gen. Assemb., Reg. Sess. (Ark. 2019), <https://www.arkleg.state.ar.us/Bills/Detail?ddBienniumSession=2019%2F2019R&measureno=SB156>.

³⁹ Justin McCarthy, *U.S. Support for Same-Sex Marriage Matches Record High*, Gallup, June 1, 2020, <https://news.gallup.com/poll/311672/support-sex-marriage-matches-record-high.aspx>.

⁴⁰ H.B. 1763, 99th Gen. Assemb., Second Reg. Sess. (Mo. 2018), <https://house.mo.gov/BillContent.aspx?bill=HB1763&year=2018&code=R>; H.B. 2795, 85th Leg. (Tex. 2017), <https://capitol.texas.gov/tlodocs/85R/billtext/pdf/HB02795I.pdf#navpanes=0>.

⁴¹ S.B. 197, Okla. St. Leg., Reg. Sess. (Okla. 2018), <http://www.oklegislature.gov/BillInfo.aspx?Bill=SB197&Session=1800>; H.B. 15-1161, 70th Gen. Assemb., First Reg. Sess. (Colo. 2015), http://www.leg.state.co.us/CLICS/CLICS2015A/csl.nsf/fsbillcont3/8FFEB381201C5E687257DB10065EB25?Open&file=1161_01.pdf; H.B. 1879, 90th Gen. Assemb., Reg. Sess. (Ark. 2015), <https://www.arkleg.state.ar.us/Bills/Detail?ddBienniumSession=2015%2F2015R&measureno=hb1879>; H.B. 2876, 85th Leg., Reg. Sess. (Tex. 2017), <https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=85R&Bill=HB2876>.

⁴² H.B. 1215, S.D. Leg. (S.D. 2020) <https://sdlegislature.gov/Session/Bill/11676>; H.B. 2410, Tenn. Gen. Assemb., Reg. Sess. (Tenn. 2020), <https://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=HB2410&ga=111>; H.B. 20-1272, 73rd Gen. Assemb., First Reg. Sess. (Colo. 2020), <http://leg.colorado.gov/bills/hb20-1272>; S.B. 555, 98th Gen. Assemb., First Reg. Sess. (Mo. 2020), <http://www.senate.mo.gov/15info/pdf-bill/intro/SB555.pdf>; S.B. 669, 55th Leg., First Sess. (Okla. 2015), http://webserver1.lsb.state.ok.us/cf_pdf/2015-16%20INT/SB/SB669%20INT.PDF.

couples “parody marriages”;⁴³ and even overhauls of existing marriage law to prevent everyone from marrying in order to deny same-sex couples the ability to marry.⁴⁴

The Equality Act Earns Widespread Support

Currently, 5.6 percent of U.S. adults identify as LGBTQ, up by more than one percentage point from the previous 2017 update.⁴⁵ Of those, more than half identify as bisexual. The increase can be attributed in part to younger generations, who are more likely to identify as members of the LGBTQ community. In fact, one in six adults in Generation Z considers themselves LGBTQ, more than any previous generation. The increase is also likely a result of shifting attitudes towards the LGBTQ community; LGBTQ acceptance has grown significantly in the last fifty years, both globally and here at home. Greater acceptance allows people to feel safer coming out as an LGBTQ person.

Today, the overwhelming majority of the public already agrees that it is time to pass the Equality Act. Well over two thirds of Americans support these protections, including 94 percent of Democrats, 85 percent of Independents, and 68 percent of Republicans.⁴⁶ These protections are supported by a majority of adults in all 50 states, and by solid majorities across all age groups.⁴⁷

Our nation’s top employers have endorsed the Equality Act. The Human Rights Campaign’s Business Coalition for the Equality Act is made up of 386 major companies, operating in all 50 states, with headquarters in 33 states. They generate a combined \$6.4 trillion in revenue and

⁴³ H.B. 1369, Tenn. Gen. Assemb., Reg. Sess. (Tenn. 2019), <https://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=HB1369&ga=111>; H.B. 780, N.C. Gen. Assemb., (N.C. 2017), <https://www.ncleg.gov/BillLookup/2017/H780>. Parody marriages: H.B. 2320, Leg. Sess. (Kan. 2020), http://www.kslegislature.org/li_2020/b2019_20/measures/hb2320/; H.B. 4949, S.C. Leg. (S.C. 2018), <https://www.scstatehouse.gov/billsearch.php?billnumbers=4949&session=122&summary=B>; H.B. 65, N.C. Gen. Assemb. (N.C. 2019), <https://www.ncleg.gov/BillLookup/2019/H65>; H.B. 2321, Kan. Leg. Sess. (Kan. 2019), http://www.kslegislature.org/li_2020/b2019_20/measures/hb2321/; H.B. 0167, Wyo. Leg. (Wyo. 2018), <https://wyoleg.gov/2018/Digest/HB0167.pdf>.

⁴⁴ H.B. 0233, Tenn. Gen. Assemb., Reg. Sess. (Tenn. 2021), <https://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=HB0233&ga=112>; H.B. 2173, 100th Gen. Assemb., Second Reg. Sess. (Mo. 2020), <https://house.mo.gov/BillContent.aspx?bill=HB2173&year=2020&code=R%20>.

⁴⁵ Jeffery M. Jones, *LGBT Identification Rises to 5.6% In Latest US Estimate*, Gallup (Feb. 24, 2021), <https://news.gallup.com/poll/329708/lgbt-identification-rises-latest-estimate.aspx>.

⁴⁶ *Americans Are Broadly Supportive of a Variety of LGBTQ Rights*, PRRI, Oct. 30, 2020, <https://www.pri.org/spotlight/americans-are-broadly-supportive-of-a-variety-of-lgbtq-rights/>.

⁴⁷ Ian Huff, *Half of U.S. States Have Enacted Nondiscrimination Protections for LGBT Residents - Will Others Follow?*, PRRI, June 1, 2020, <https://www.pri.org/spotlight/half-of-u-s-states-have-enacted-nondiscrimination-protections-for-lgbt-residents-will-others-follow/>.

employ more than 13.4 million people in the United States.⁴⁸ In addition, major trade associations that represent the employers of tens of millions of Americans—including the U.S. Chamber of Commerce, National Restaurant Association, and the National Association of Manufacturers—have endorsed the Equality Act. The current patchwork of state level protections leaves not only workers vulnerable, but leaves these companies vulnerable as well. A national standard for LGBTQ protections ensures that these companies can better support a growing and diversified workforce.

People of faith across the political spectrum also support the Equality Act, including 59 percent of white evangelical Protestants, 81 percent of white mainline Protestants, 86 percent of Black Protestants, 80 percent of Hispanic Protestants, 83 percent of white Catholics, 87 percent of Hispanic Catholics, 88 percent of non-Christian religious people, and 92 percent of people who are religiously unaffiliated.⁴⁹ People of faith believe in the dignity and worth of every individual, including LGBTQ people, and their faith calls them to love and care for their neighbors. That is why dozens of faith groups have endorsed the Equality Act, including the Episcopal Church, Central Conference of American Rabbis, African American Ministers in Action, Evangelical Lutheran Church in America, Hindu American Foundation, Muslims for Progressive Values, More Light Presbyterians, and DignityUSA.⁵⁰

More than 630 organizations representing civil rights, women’s rights, health care, education, labor, and child welfare have endorsed the Equality Act, including the Leadership Conference on Civil and Human Rights, the National Women’s Law Center, the American Academy of Pediatrics, the National Alliance to End Sexual Violence, NAACP, National Association of Secondary School Principals, UnidosUS, American Medical Association, and the Child Welfare League of America.⁵¹

Clarification and Expansion of Law to Cover More Incidents of Race and Religion Discrimination

The Equality Act is often referred to as providing protections for sexual orientation, gender identity, and sex. Less noted, but just as critical, are the important protections for race and religion. By modernizing federal civil rights law, the Equality Act promises to also set a critical baseline for legal protections for race and religion across the country.

⁴⁸ Human Rights Campaign, *Business Coalition for the Equality Act*, Human Rights Campaign, <https://www.hrc.org/resources/business-coalition-for-equality>.

⁴⁹ *Americans Are Broadly Supportive of a Variety of LGBTQ Rights*, PRRI, Oct. 30, 2020, <https://www.prii.org/spotlight/americans-are-broadly-supportive-of-a-variety-of-lgbtq-rights/>.

⁵⁰ *631 Organizations Endorsing the Equality Act*, Human Rights Campaign, (2021) <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/Organizations-Endorsing-HR-5-2-24-21.pdf?mtime=20210224152908&focal=none>.

⁵¹ *Id.*

Expansion of the Scope of Public Accommodations

Title II of the Civil Rights Act of 1964 (Title II) contains a narrow definition of public accommodation, that in part addresses what were the most visible areas of race discrimination in the 1960—hotels, lunch counters, and pools. The narrow scope was insufficient to tackle race discrimination then, and it continues to fall short of our country’s current needs. Expanding the scope of public accommodations will discourage discrimination and provide recourse when it happens.

People of color continue to face persistent discrimination on a daily basis in a range of settings including stores, salons, and in accessing transportation including car services and taxis. A recent study of U.S. shoppers found that 53 percent of Black shoppers experience unfair treatment related to race.⁵² The study also found that 36 percent of Latinx shoppers and 35 percent of Asian shoppers also experience unfair treatment related to race.⁵³ Whether denied service or experiencing unfair treatment or harassment, discrimination impedes individuals from fully participating in public spaces.

The Equality Act adds to Title II a range of providers of goods and services similar to the Americans with Disabilities Act and state laws around the nation.⁵⁴ Any place that a member of the general public could reasonably expect to go and receive goods or services will be considered a place of public accommodation. Notably, retail establishments, legal service providers, salons, transportation services, food banks, financial services, and medical providers would all be covered entities.

Updating the law will ensure that no one is denied the ability to fully participate in society just because of who they are.

Misperception Discrimination

The Equality Act clarifies that discrimination is still actionable even if the entity engaging in discrimination targeted a person based upon the entity’s misperception of who they are. Someone who is fired because their boss believes they are LGBTQ, or Muslim, or Black should be able to

⁵² *The Racial Bias in Retail Study*, Sephora (2020), [https://www.sephora.com/contentimages/belong/january2021/Sephora_RacialBias_eBook_DES_12-23-20_V12%20\(1\).pdf](https://www.sephora.com/contentimages/belong/january2021/Sephora_RacialBias_eBook_DES_12-23-20_V12%20(1).pdf).

⁵³ *Id.*

⁵⁴ Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 (2016). *See also*, Minn. Stat. § 363A.11 (1967), <https://www.revisor.mn.gov/statutes/cite/363A.11>; Mich. Comp. Laws Serv. § 37.2101 (1977), [http://www.legislature.mi.gov/\(S\(eg44wivzq0bajb1yxa5ldivs\)\)/mileg.aspx?page=getObject&objectName=mcl-453-1976-3](http://www.legislature.mi.gov/(S(eg44wivzq0bajb1yxa5ldivs))/mileg.aspx?page=getObject&objectName=mcl-453-1976-3); Ohio Rev. Code Ann. § 4112 <http://codes.ohio.gov/orc/4112>; Ark. Code Ann. § 16-123-101, <https://law.justia.com/codes/arkansas/2010/title-16/subtitle-7/chapter-123/subchapter-1/>.

sue even if they are not in fact LGBTQ, or Muslim, or Black because being fired has real economic consequences. This ought to be common sense, but some courts have declined to allow a person to pursue claims when this situation happens.

Take for example the experience of Nathaniel Burrage, a delivery driver from Ohio who was targeted by his supervisor for being Mexican.⁵⁵ His supervisor referred to him as “cheap Mexican labor” and encouraged other employees to insult him with epithets which escalated to office supplies being thrown at him. Even after taking a lower paying position to escape the harassment, he continued to encounter harassment from his former supervisor. Nathaniel sued for race discrimination under Title VII. Surprisingly, a federal court determined that Nathaniel was ineligible for recourse because he was not in fact Latino, even though his supervisor believed him to be Latino. The court declared that “Title VII protects only those who are actually in a protected class.”⁵⁶ The Equality Act would create a uniform standard across the country confirming the ability of people to pursue claims of discrimination when they have suffered the harms of discrimination even though the discriminator incorrectly assumed information about their identity.

Addressing Misinformation About the Equality Act

Animus Against Transgender People is Harmful Public Policy

Transgender people are a part of the rich tapestry that forms our nation. Though terminology has changed over time, the people we know today as transgender have always existed. Some cultures embrace transgender people, such as the indigenous American tribes who celebrate the people they know as two-spirit. Far too many, however, reject transgender people. Our transgender neighbors, family, and friends simply want to be recognized for who they are. The Equality Act would support them.

The Equality Act ensures that transgender people who need medical care will be able to receive the care they need in a nondiscriminatory manner. It does not dictate what services a doctor’s office or health clinic must provide but rather ensures that the medical services provided to all other patients are also provided to transgender people. It also affirms that transgender people are entitled to a harassment free experience.

Women’s and girls’ sports teams were created to ensure that women and girls have equal opportunity to play athletics. The Equality Act maintains protections for all women and girls, including transgender women and girls, by providing for equal athletic opportunities. Educational institutions would not be required to allow men or boys to participate on women’s

⁵⁵ Burrage v. FedEx Freight, Inc., 2012 WL 1068794 (N.D. Ohio Mar. 29, 2012).

⁵⁶ *Id.*

and girls' teams. Across the country, states and school districts have permitted transgender students to participate in athletics consistent with their gender identity for many years. The National Collegiate Athletic Association and the International Olympic Committee each permit transgender athletes to play. Despite permissive policies, a transgender woman has never qualified to join an Olympic team. Inclusion of transgender athletes is supported by organizations representing women and girls including the National Women's Law Center, the Women's Sports Foundation, the American Association of University Women, and Women Leaders in College Sports.⁵⁷ More than 500 collegiate athletes have spoken out against laws that prohibit transgender women from participating in women's athletics.⁵⁸

Houses of Worship Can Choose to Be Limited Places of Public Accommodation or Exempt from Public Accommodations Law

Laws regulating places of public accommodation have a long history in the United States dating back to the Civil Rights Bill of 1875.⁵⁹ The Civil Rights Act of 1964 and many state laws prohibit discrimination in places of public accommodation.⁶⁰ In select circumstances, houses of worship and religious organizations have chosen to operate places of public accommodation in a limited capacity by opening up certain programs or services to the general public.

Federal and state public accommodations laws only apply to entities that open themselves up to the general public and only for the purposes that they have opened up to the general public. Title II makes clear that entities that are in fact private membership organizations are exempt from public accommodations law.⁶¹ Similarly, the Supreme Court of the United States has distinguished between places that are in fact open to the public and private entities entitled to First Amendment expressive association protections by examining criteria such as size, selectivity, and seclusion.⁶² By limiting programs and services to members of the faith, both

⁵⁷ Press Release, Statement of Women's Rights and Gender Justice Organizations in Support of Full and Equal Access to Participation in Athletics for Transgender People (Apr. 1, 2019), <https://nwlc.org/wp-content/uploads/2019/04/Womens-Groups-Sign-on-Letter-Trans-Sports-4.1.19.pdf>.

⁵⁸ Julie Kliegman, *Nearly 550 College Athletes Demand NCAA Pull Championships From States With Anti-Trans Sports Legislation*, Sports Illustrated, Mar. 10, 2021, <https://www.si.com/college/2021/03/10/ncaa-petition-anti-trans-legislation>.

⁵⁹ Civil Rights Act of 1875, ch. 114, 18 Stat. 335 (1875); *Heart of Atlanta Motel v. United States*, 379 U.S. 241, 85 S. Ct. 348 (1964) (finding that public accommodations law was constitutional).

⁶⁰ 42 U.S.C. § 2000a (1988); *see also* Minn. Stat. § 363A.11 (1967), <https://www.revisor.mn.gov/statutes/cite/363A.11>; Mich. Comp. Laws Serv. § 37.2101 (1977), [http://www.legislature.mi.gov/\(S\(eg44wivzq0bajb1yxa5ldivs\)\)/mileg.aspx?page=getObject&objectName=mcl-453-1976-3](http://www.legislature.mi.gov/(S(eg44wivzq0bajb1yxa5ldivs))/mileg.aspx?page=getObject&objectName=mcl-453-1976-3); Ohio Rev. Code Ann. § 4112 <http://codes.ohio.gov/orc/4112>; Ark. Code Ann. § 16-123-101, <https://law.justia.com/codes/arkansas/2010/title-16/subtitle-7/chapter-123/subchapter-1/>.

⁶¹ Americans with Disabilities Act of 1990, 42 U.S.C.S. § 12187 (exempting private clubs).

⁶² *Roberts v. United States Jaycees*, 468 U.S. 609, 468 (1984), (finding the Jaycees were deemed to be a place of public accommodation because they were nationwide with large chapters, sex was the primary criteria for membership, and nonmembers routinely participate in a substantial portion of activities), <https://supreme.justia.com/cases/federal/us/468/609/#tab-opinion-1955715>.

houses of worship and religious organizations can exclude themselves from public accommodations law.

To the extent that a religious entity opens programs or services to the general public, only those programs or services are public accommodations, and then only for the purposes offered. For example, under current law, a restaurant that opens its doors to the public on weekends only and rents a small room for receptions but not weddings cannot be made to open during the week nor can it be made to host a wedding. Similarly, a restaurant that offers services to the general public is required to offer those same services under the same conditions regardless of race or religion. Further, a religious community center that operates a cafe open to the general public on weekdays must not discriminate on the basis of race or religion. That does not allow a person to demand services that are not offered to all other patrons. The Equality Act, consistent with many state public accommodations laws covers places that provide goods, services, and spaces to the general public.⁶³

The Religious Freedom Restoration Act is Not Eliminated and the Carve-Out is Limited to Civil Rights Law

The Religious Freedom Restoration Act (RFRA) was enacted by Congress in response to a Supreme Court decision that trampled upon the ability of a religious minority to practice their faith.⁶⁴ At the time that RFRA was passed, testimony focused on the needs of religious minorities—individuals who were under or unrepresented in Congress and thus who might be subject to laws or regulations that did not take into account their religious practices.⁶⁵ Congress did not contemplate that RFRA would be used to undermine civil rights laws and expressly dismissed application to Title VII of the Civil Rights Act of 1964.⁶⁶ Moreover, Congress has a compelling interest in eradicating discrimination.⁶⁷

⁶³ Equality Act of 2021, H.R. 5, 117th Cong. § 3 (2021). *See, e.g.*, Mich. Comp. Laws Serv. § 37.2101 (1977), [http://www.legislature.mi.gov/\(S\(eg44wivzq0bajb1yxa5ldivs\)\)/mileg.aspx?page=getObject&objectName=mcl-453-1976-3](http://www.legislature.mi.gov/(S(eg44wivzq0bajb1yxa5ldivs))/mileg.aspx?page=getObject&objectName=mcl-453-1976-3); Ohio Rev. Code Ann. § 4112, <http://codes.ohio.gov/orc/4112>; Ark. Code Ann. § 16-123-101, <https://law.justia.com/codes/arkansas/2010/title-16/subtitle-7/chapter-123/subchapter-1/>; Minn. Stat. § 363A.11 (1967), <https://www.revisor.mn.gov/statutes/cite/363A.11>.

⁶⁴ Religious Freedom Restoration Act, 42 U.S.C.A. § 2000bb; *Employment Division Department of Human Resources of Oregon v. Smith*, 496 U.S. 913 (1990).

⁶⁵ Robin S. Maril and Sarah Warbelow, *Finding an End to Federally Sanctioned Discrimination: A Call to Rescind the 2007 OLC World Vision Memo*, 24 *Amer. Univ. J. of Gender, Soc. Pol’y & the L.* 445 (2016).

⁶⁶ *See* Sen. Rep. No. 111, 103d Cong., 1st Sess. (1993) at 12; HR. Rep. No. 103-88, at 9 (1993) (“[n]othing in this bill shall be construed as affecting Title VII of the Civil Rights Act of 1964.”).

⁶⁷ *EEOC v. Mississippi Coll.*, 626 F.2d 477, 489 (5th Cir. 1980); *see also, e.g.*, *Board of Dirs. of Rotary Int’l v. Rotary Club of Duarte*, 481 U.S. 537, 549 (1987) (recognizing “the State’s compelling interest in eliminating discrimination”); *cf. Burwell*, 573 U.S. at 733 (race: “[t]he Government has a compelling interest in providing an equal opportunity to participate in the workforce”); *Roberts v. U.S. Jaycees*, 468 U.S. 609, 623 (1984) (sex: State has “compelling interest in eradicating discrimination”).

Concerningly, RFRA has been used as a defense to violating civil rights laws in recent years. Aimee Stephens, an experienced funeral services director, worked for a Michigan funeral home for more than six years. When she informed her employer that she was a transgender woman, she was fired from her job, leaving her financially insecure and without health insurance. Upon being sued by the EEOC on behalf of Aimee, the funeral home claimed it had a right to disregard Title VII citing RFRA because the owner believed that it was wrong to be transgender.⁶⁸ The district court accepted the RFRA claim before it was overturned by the 6th Circuit.⁶⁹

The Equality Act affirms both the original Congressional intent in passing RFRA and that Congress has a compelling interest in eradicating discrimination by limiting the application of RFRA to civil rights law.⁷⁰ Congress foresaw the possibility that it might want to limit application of RFRA in the future by including in the text of the statute that “Federal statutory law adopted after November 16, 1993, is subject to [RFRA] unless such law explicitly excludes such application by reference to this chapter.”⁷¹ Limiting application of RFRA does not equate with eliminating RFRA.⁷² The Equality Act does not repeal RFRA but rather preserves its original intent. Individuals would still be able to bring RFRA claims against the government with regards to other laws and policies that burden religious exercise. For example, Kawaljeet Tagore, who successfully sued the federal government under RFRA for terminating her employment when she carried an article of her faith that resembles a dull knife into her government workplace, would still be able to bring a claim under RFRA post passage of the Equality Act.⁷³ Similarly, a youth who wears a head covering such as a yarmulke, patka, or hijab for religious reasons would be able to bring a claim against a federal program that adopted a policy requiring students to not wear anything on their heads.

Single-Sex Programs and Facilities Remain Permissible

The addition of sex to Title VI of the Civil Rights Act of 1964 (Title VI) does not eliminate the ability of federally funded programs to maintain single-sex programs or facilities. Civil rights law simply prohibit discrimination. Programs that take sex into account for sound pedagogical or programmatic reasons designed promote opportunities for women and girls support the eradication of discrimination. Title VI has been informed by other federal laws including Title VII, Title IX of the Education Amendments of 1972 (Title IX), and the Fair Housing Act as well as the Equal Protection Clause of the 14th Amendment.⁷⁴ Any amendment to Title VI would

⁶⁸ Equal Emp’t Opportunity Comm’n v. R.G. & G.R. Harris Funeral Homes, 884 F.3d 560 (6th Cir. 2018).

⁶⁹ *Id.*

⁷⁰ 165 Cong. Rec. H. 3921 § 9 (2019)

⁷¹ 42 U.S.C. § 2000bb-3 (1990).

⁷² Equality Act 165 Cong. Rec. H. 3921 § 9 (2019).

⁷³ Tagore v. U.S., 2014 WL 2880008 (2014).

⁷⁴ *See generally* Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265, 287 (1978) (looking to Equal Protection Clause for scope of Title VI’s protection against race discrimination); U.S. Department of Justice, Title VI Legal

similarly be informed by the same laws and constitutional standards. Supreme Court rulings reinforce that programs taking sex into account are not per se forms of sex discrimination. Specifically, the Court has determined that single-sex educational programs, differential calculation of benefits, and policies that promoted employment opportunities can be permissible.⁷⁵ In addition, laws that contain a blanket prohibition on sex discrimination without providing for single-sex programming have been applied to permit such programming when it advances to the goals of the program and does not perpetuate discrimination. For example, funding under Community Services Block Grant,⁷⁶ which contains a blanket prohibition on sex discrimination, has been used for programs that support young mothers experiencing homelessness because the programs further the goal of eliminating and reducing poverty.

Numerous federal laws that prohibit discrimination based upon sex are silent with respect to sex-specific facilities. Neither Title IX nor Title VII provide for sex-specific restrooms, yet separate men's and women's restrooms are standard in schools and workplaces across the country. The Equality Act neither requires nor would result in the elimination of such spaces. Rather, the Equality Act simply ensures that transgender people can use facilities consistent with their gender identity without being kicked out or harassed.

Conclusion

As the late civil rights giant Representative John Lewis said when the Equality Act was introduced in 2019, “It is a must that we do what is fair, what is right, and what is just. We need the [Equality Act] to set all of our people free.”

The Equality Act is fair, it is just, and it is the right legislation to move our democracy forward. For too long, LGBTQ people have lived under the shadow of discrimination, relying on a patchwork of protections to ensure that they can safely build careers and families, or even go about their daily lives without the threat of violence.

Because we have been denied these foundational rights, not only are our communities harmed—but our entire nation. After all, LGBTQ people are in every part of this country: in every small town and major city, every farm community and native territory. We are veterans, nurses, teachers, parents, and artists. We are your colleagues. And all we are asking is for the same protections under the law that should be guaranteed to every single person in this nation.

Manual at <https://www.justice.gov/crt/fcs/T6manual> (relying, for example, on Title VII race and sex discrimination cases, Title IX cases, and Fair Housing Act cases in describing the reach of Title VI's protections).

⁷⁵ United States v. Virginia (VMI), 518 U.S. 515 (1996); Califano v. Webster, 430 U.S. 313 (1977); California Fed. Sav. & Loan Assn. v. Guerra, 479 U.S. 272 (1987).

⁷⁶ 42 U.S.C. § 9918(c)(1) (1998).

The promise of our democracy is as yet unfulfilled, but with the Equality Act, we have the opportunity to move our nation that much closer to that promise. And by doing so, we can deliver equality not in the abstract—but in the lived experiences of millions of Americans, and for generations to come.