

What is the Equality Act, and what are its implications?

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WASHINGTON (RNS)—The Democratic-controlled U.S. House of Representatives on Feb. 25 passed a sweeping LGBTQ rights bill called the Equality Act.

Republicans for the most part objected, with some of them now advocating for a rival bill called Fairness for All, introduced by Rep. Chris Stewart of Utah on Friday with 20 Republican co-sponsors.

Both bills would ban discrimination based on gender identity and sexual orientation. But Fairness for All would also carve out exemptions for faith-based organizations, some of which played a big role in drafting it.

The Equality Act in its current form probably has no chance in the Senate, given it will need 10 Senate Republican votes in order to beat back a GOP filibuster.

The Fairness for All bill probably has no chance in the House, given the Democratic majority there.

But there could be a way forward if the Senate combines provisions of both bills. Such a compromise may win the signature of President Biden, who said LGBTQ protections are one of his top legislative priorities for the first 100 days of his presidency.

Here are some of the issues at stake.

What is the Equality Act?

Basically, it would add sexual orientation and gender identity to the list of personal characteristics protected by federal civil rights law.

Twenty-nine states have no protections for LGBTQ people. That means people can be fired from their jobs for being LGBTQ, and landlords can refuse to rent or sell to them. They can also be denied services in a restaurant or bakery.

The Equality Act not only would ban discrimination, but also would deny federal funding to groups that discriminate against LGBTQ individuals. It would accomplish that by expanding the 1964 Civil Rights Act, which already bans discrimination on the basis of race, color, religion, sex and national origin.

The bill also would expand the types of public spaces that would not be able to discriminate against LGBTQ people to include shopping malls, sports arenas and online retailers. Right now, nondiscrimination rules cover mostly restaurants, amusement parks and hotels.

Who opposes it?

The bill is strongly opposed by many religious groups on multiple fronts. Some say houses of worship, like churches and synagogues, must be explicitly excluded from the public accommodations list, otherwise religious groups that oppose same-sex marriage might be forced to offer their fellowship halls to LGBTQ wedding ceremonies, for example. Others believe the First Amendment provides ample protection for churches.

Many groups are offering dire predictions of what might happen if the Equality Act becomes law. They say it would halt free and reduced-cost lunch programs for children who attend religious schools and threaten

federal security grants for Orthodox Jewish synagogues because they oppose same-sex marriage.

Students at religious colleges that view marriage as exclusively between a man and a woman would no longer be eligible for federal student loans and grants. About 70 percent of students at schools affiliated with the Council of Christian Colleges and Universities receive Pell grants and federal research grants.

The schools themselves may no longer be able to screen faculty hires for those who agree with the school's views on marriage and human sexuality.

The bill would also limit people's ability to defend themselves against discrimination claims by overriding the Religious Freedom Restoration Act, the 1993 law that protects the religious exercise of individuals and institutions. That means a bakery would no longer be able to deny its wedding cake services to a same-sex couple by using the RFRA defense, for example.

Some groups also worry it would blur gender lines in women's sports, allowing transgender individuals who identify as female to play in women's leagues.

Russell Moore, president of the Southern Baptist Ethics & Religious Liberty Commission, said the Equality Act "is poorly named because, among other negative effects, it would punish faith-based charities for their core religious beliefs," [Baptist Press reported](#).

"Every human being ought to be treated with dignity, but government policy must continue to respect differences of belief," Moore said.

The bill "would have harmful consequences, and it should not be passed into law," Moore said. "Congress would make the situation worse in this country with this legislation, both in terms of religious freedom and in

terms of finding ways for Americans who disagree to work together for the common good.”

What’s the Fairness for All bill?

This bill would also provide broad protections for LGBTQ people while also protecting religious institutions that uphold traditional beliefs about marriage and sexuality.

It is modeled on the “Utah Compromise,” a 2015 state law that strengthened religious freedom and protected LGBTQ people from discrimination.

Fairness for All has been championed by the Council for Christian Colleges and Universities, the Seventh-day Adventist Church, the Church of Jesus Christ of Latter-day Saints and the National Association of Evangelicals, which hasn’t formally endorsed it but was consulted in its drafting.

“Our coalition has always had a problem-solving mindset,” said Shirley Hoogstra, CCCU president. “We believe LGBTQ people should be treated with equity and equality in the U.S. We have Supreme Court cases that have set that up. And we know religious organizations play an important role in society and that nobody should coerce the other.”

The bill would still face stiff headwinds from other religious groups that oppose the idea of adding sexual orientation and gender identity as protected classes. The Southern Baptist Convention and the U.S. Conference of Catholic Bishops, for example, likely will oppose Fairness for All or any bill extending LGBTQ protections, based on previous statements.

Is a compromise possible?

Many centrists think so. Both bills have been introduced before and have failed. But there might be a way forward if the Senate is able to combine the major features of the Equality Act with the exemptions called for in the Fairness for All bill.

The Senate needs 10 Republican senators to pass a revised bill. Republican Senators Susan Collins of Maine, Rob Portman of Ohio and Lisa Murkowski of Alaska have been supportive of LGBTQ-plus rights before. Sen. Mitt Romney of Utah would likely be, too, especially since the Utah Compromise has been successful so far in that state.

Champions of a compromise point also point out that Americans broadly support LGBTQ protections. More than 8 in 10 Americans favor laws that would protect LGBTQ people against discrimination in jobs, public accommodations and housing, according to a 2020 PRRI American Values Survey.

With additional reporting by Tom Strobe at Baptist Press.