

WHY WE ALL NEED THE EQUALITY ACT NOW

January 2021



Author



Partners

This report was authored by:

Movement Advancement Project

MAP's mission is to provide independent and rigorous research, insight, and communications that help speed equality and opportunity for all people. MAP works to ensure that all people have a fair chance to pursue health and happiness, earn a living, take care of the ones they love, be safe in their communities, and participate in civic life. For more information, visit www.lgbtmap.org.

Contact Information

Movement Advancement Project

1905 15th Street #1097
Boulder, CO 80306
1-844-MAP-8800
www.lgbtmap.org

MAP is very grateful to the following major funders, whose generous support makes it possible for us to do our work:

David Bohnett Foundation
David Dechman & Michel Mercure
Ford Foundation
Gill Foundation
Esmond Harmsworth
Evelyn & Walter Haas, Jr. Fund
Jim Hormel
Johnson Family Foundation
Laughing Gull Foundation
Weston Milliken
Ineke Mushovic
The Palette Fund
Mona Pittenger
Ted Snowdon Foundation
Tzedek Social Justice Fund
H. van Ameringen Foundation
Wild Geese Foundation

Recommended citation: Movement Advancement Project. January 2021. *Why We All Need the Equality Act Now*. www.lgbtmap.org/2021-equality-act

TABLE OF CONTENTS

INTRODUCTION	1
WHY THE EQUALITY ACT IS NEEDED NOW	1
Fills Critical Gaps in Public Accommodation Nondiscrimination Laws for Everyone	1
Why now?	2
Adds Nondiscrimination Protections Based on Sex to Public Accommodations and Federally Funded Programs	2
Why now?	3
Adds Explicit Nondiscrimination Protections for LGBTQ People.....	3
Why now?	5
THERE IS PUBLIC CONSENSUS THAT WE NEED TO UPDATE OUR CIVIL RIGHTS LAWS.....	5
IT'S TIME TO MODERNIZE OUR CIVIL RIGHTS LAWS.....	6
ENDNOTES	7

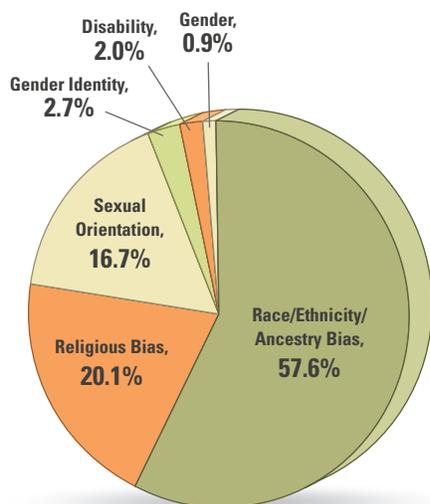


INTRODUCTION

This is a critical time for our country. The Biden administration has committed to renewing our nation's work for civil rights and to undoing much of the harm done by the Trump administration.¹ There is much work to do; the past four years have seen emboldened discrimination throughout the country. We as Black, Indigenous, and communities of color, women, religious minorities, immigrants, LGBTQ people, and those who face discrimination based on their multiple identities have experienced heightened discrimination and violence. In just a few short years, the language of white nationalism has made its way into the mainstream in new and troubling ways, and open support for hate groups has become more commonplace and, seemingly, even 'acceptable.' Incidents of reported hate crimes have reached their highest level in more than a decade, with more than 7,300 incidents reported to the Federal Bureau of Investigation (FBI) in 2019.² More than half of these hate crimes were motivated by race, ethnicity, or ancestry bias, 20.1% were religiously-motivated, and 16.7% were based on sexual orientation, as shown in *Figure 1*.³

At this clear turning point in our history, Congress has the opportunity to recommit our country and our elected officials to the hard work of securing fairness, equality, dignity, and safety for all. One of the ways it can—and must—do so is by passing the Equality

Figure 1: Of the More Than 7,100 Single-Bias Incidents reported to the FBI, Half Were Based on Race, National Origin, or Ancestry



Source: Federal Bureau of Investigation. "Uniform Crime Report, Hate Statistics, 2019." Fall 2020.

Act. While the Equality Act is often understood as a bill to ban discrimination against LGBTQ people, it includes so much more. The legislation would update our civil rights laws for the 21st century. In addition to updating our nation's civil rights laws to include explicit protections from discrimination for LGBTQ people in nearly every aspect of federal law, it would provide important new legal protections for women and expand existing protections for people of color, immigrants, and people of minority faiths in critically important and long overdue ways.

WHY THE EQUALITY ACT IS NEEDED NOW

The Equality Act modernizes our existing federal civil rights laws.⁴ It honors the hard work of the Civil Rights Movement, which won landmark legislation in 1964 prohibiting discrimination on the basis of race, color, religion, national origin, sex, and more. The Equality Act continues this legacy by updating our civil rights laws in three key ways.

Fills Critical Gaps in Public Accommodation Nondiscrimination Laws for Everyone

First, the Equality Act would build on the legacy of the Civil Rights Act by expanding existing public accommodation protections to include places people visit daily. Most people would be shocked to learn that it's currently legal under federal law to discriminate against someone—say, because of their race or sex—in many places people visit daily. In fact, the Civil Rights Act covers just four categories of places of public accommodation: hotels, inns, motels, or similar lodging; restaurants; entertainment spaces such as movie theaters and sports arenas; and any entity physically located within one of those places.⁵ As such, the 1964 law does not apply to other places of public accommodation, including retail stores; personal services such as barbershops; smaller venues for amusement such as bowling alleys; and bars, taverns, or nightclubs that do not serve food; and transportation such as taxis or ride sharing.⁶

In short, the public places and services we all access on an everyday basis are so much broader than what is currently covered by the Civil Rights Act. That's why the Equality Act updates the types of businesses and entities that are covered by federal public accommodation laws to include:



- “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.”
- Any “place or establishment that provides exhibition, entertainment, recreation, exercise, amusement, public gathering, or public display.”
- Transportation providers including “any train service, bus service, car service, taxi service, airline service, station, depot, or other place of or establishment that provides transportation service.”

Why now?

The full promise of the Civil Rights Act of 1964, with protections against discrimination in places of public accommodation for people of color, for immigrants, and for people of faith, has yet to be realized. Discrimination in public places still occurs far too often. An online survey of more than 3,000 shoppers conducted in June 2020 found that two in five personally experienced unfair treatment on the basis of their race or skin color, with 53% of Black shoppers, 36% of Latinx shoppers, and 35% of Asian shoppers reporting these experiences.⁷ These experiences included being followed around the store, ignored, made to wait, or skipped over for non-minority customers.⁸ Several studies have found that Black passengers, in particular, wait longer and are more likely to have Lyft and Uber rides canceled than white passengers.⁹ A 2017 nationally representative survey of African Americans by NPR, the Robert Wood Johnson Foundation, and the Harvard T.H. Chan School of Public Health found that half of African Americans (51%) said they’d heard someone use a slur that was

specifically about their race.¹⁰ In the same year, a survey by Pew revealed that nearly half (48%) of Muslims reported they’d experienced at least one incident of discrimination in the past year alone.¹¹

While there are state and local laws that fill some of these gaps, it is simply unacceptable that such protections depend on your zip code and aren’t available across our nation. Passing the Equality Act is vital, both to expand protections for all people against this kind of harmful discrimination and to reignite a national conversation about treating others with dignity and keeping our communities safe. This work is critical to ensure that we can all participate freely and fully in our life and communities without fear of discrimination or harassment.

Adds Nondiscrimination Protections Based on Sex to Public Accommodations and Federally Funded Programs

It is surprising for many to learn that federal law does not currently prohibit discrimination based on sex in places of public accommodation. For example, it is currently legal under federal law for car repair shops to charge women higher prices, or for public places to discriminate against people who are breastfeeding (though all states have laws permitting breastfeeding in public places). The Equality Act would update our civil rights law in this important way (in addition to expanding the definition of public accommodation). This would protect against sex discrimination in public places, including stopping pharmacies from refusing to fill prescriptions for birth control or preventing dry cleaners from charging women more than men. Additionally, because sexual harassment is a form of sex discrimination, women and others would now have new legal protections against sexual harassment in hotels, restaurants, and on trains, airplanes, and subways. Such establishments would be on notice to institute policies and systems to address sex-based harassment of customers.¹²

The Equality Act would also prohibit discrimination based on sex in federally funded programs. This means that initiatives that are supported with federal tax dollars such as food assistance, rural utility programs, weatherization assistance programs, federal contracting, disaster assistance, job training programs, and more would be prohibited from discriminating. The same changes extend to any grantees or contractors that receive federal funds.

Why now?

Adding sex protections to public accommodation law is key because discrimination against and harassment of women is pervasive. A 2017 survey found that 18% of women reported they'd been discriminated against because of their gender when going to the doctor or a health clinic.¹³ The same survey found that roughly one in ten women avoided going to a doctor or seeking health care for themselves or others in their family out of concern that they'd be discriminated against or treated poorly. The Equality Act would build upon existing critical protections, including Section 1557 of the Affordable Care Act, prohibiting sex discrimination in public accommodations and federal funded programs, including harassment or discrimination in a range of settings.

Additionally, there is research showing that women are frequently charged more for services like car repair and dry cleaning than men. A review by the Government Accountability Office found that women paid or were quoted different prices when purchasing cars or having a car repaired.¹⁴ A 2011 study found that dry cleaners typically charged 92% more for a women's shirt to be dry cleaned compared to a men's shirt. Analysis prepared for legislation in California found that women, on average, paid \$2,135 per year more than men as a result of price differences for personal care services and more.¹⁵ The Equality Act will help protect women and others from this sort of sex-based discrimination as well.

In addition to these sex protections in public accommodation, the Equality Act adds sex protections in federal programs and those programs funded by federal taxpayer dollars. This means that, regardless of sex, people would have equal access to vital federal services and programs like mortgage assistance, disaster relief, healthcare, including reproductive healthcare, and federal grant contracts. Sex discrimination by federal law enforcement and law enforcement agencies receiving federal funding would also be illegal. A 2017 survey of women found that 15% said they'd been discriminated against because of their sex when interacting with police, and one in ten of women said they'd avoided calling the police, even when in need, out of fear of being discriminated against because of their sex.¹⁶

Adds Explicit Nondiscrimination Protections for LGBTQ People

Only half of states across the country include explicit protections for LGBTQ people from housing discrimination, including being refused housing or evicted from their current home, and turned away from public places. This political landscape is especially surprising, given that the majority of people living in America, including majorities in every state, overwhelmingly support LGBTQ-inclusive nondiscrimination protections, such as those provided by the Equality Act.

Importantly, the U.S. Supreme Court recently, in June 2020, affirmed that the nation's existing civil rights laws regarding employment apply to sexual orientation and gender identity. While the Court's decision is expected to apply to other areas of life and law in the future, it remains critically important that Congress pass the Equality Act and explicitly add "sexual orientation and gender identity" to all our nation's federal civil rights laws. Doing so is necessary to make these protections explicit and to extend those protections to other important aspects of life, such as housing, health care, education, federally funded programs, and others outlined above. What's more, passing the Equality Act would immediately make these protections secure and enforceable across all areas of the government.

The Equality Act explicitly adds "sexual orientation and gender identity" to existing federal civil rights laws that prohibit sex discrimination, as well as to the expanded and new protections noted above. This means that the Equality Act would provide clear, vital—and, importantly, consistent—nationwide protections for LGBTQ people across many key areas of everyday life, including:

- Employment
- Housing
- Public places and accommodations
- Health care
- Credit
- Education
- Federal jury service
- Federally funded programs

NOW IS THE TIME FOR THE EQUALITY ACT



THE EQUALITY ACT EXPANDS AND ADDS PROTECTION FOR:



People of color, people of faith, and immigrants

IN KEY AREAS OF LIFE:

Expands places where discrimination is prohibited to include:



Stores and shops



Taxis and ride sharing



Bars and small entertainment venues

WHY NOW?

People of color, immigrants, religious minorities, and others report high rates of discrimination when shopping, going out with their families, using taxis or ride shares, and more. Without the Equality Act, federal law allows for this discrimination.



Women

Adds "sex" to laws prohibiting discrimination in:



Places of public accommodation like stores, car repair shops, and more



Federally funded programs and services like disaster assistance

Women are frequently charged more for services like dry cleaning and auto repair, and they regularly experience discrimination and harassment in public places, when seeking healthcare or prescriptions, and when seeking assistance from police and government-funded services. Without the Equality Act, federal law allows for this discrimination.



LGBTQ People

Adds "sexual orientation and gender identity" to laws prohibiting discrimination in nearly every area of life:



Employment



Housing



Credit



Education



Public Accommodation



Federally funded programs



Federal jury service

LGBTQ people report high rates of discrimination in all areas of life and aren't explicitly protected by federal law and many state laws. Without the Equality Act, federal law allows for this discrimination.

Why now?

Explicit sexual orientation and gender identity protections in federal civil rights laws are crucial. These laws govern nearly every aspect of daily life, from renting a home to dropping a child off at daycare to time spent at work. It includes going to the doctor's office, school, and more. The Equality Act will both send a strong message to all in our country that discrimination against LGBTQ people is not permissible and ensure that when such discrimination happens, there is a means of recourse.

LGBTQ people report shockingly high rates of discrimination in every aspect of daily life. In a survey by the Center for American progress, one in three LGBTQ people reported experiencing discrimination in the past year alone, with public places being where most of this discrimination occurred.¹⁷ Discrimination at work and at school jeopardizes economic security; discrimination in housing threatens safety and wellbeing; and discrimination in public places threatens the ability of LGBTQ people to go about their daily lives free from harassment or even violence. For example, the 2015 U.S. Transgender Survey found that in the past year, one-third (34%) of transgender respondents reported being discriminated against, verbally harassed, or physically attacked on public transportation, and 31% had those experiences in retail stores, restaurants, hotels, or movie theaters.¹⁸

The lack of explicit federal protections for sexual orientation and gender identity is particularly troublesome given that fewer than half of states have explicit state laws prohibiting such discrimination—meaning, for example, that it remains legal in most states to kick someone out of an apartment, deny someone healthcare, or refuse to serve someone in a restaurant simply because they are LGBTQ. More than half of LGBTQ people live in these states. LGBTQ people, as well as physicians, landlords, business owners, and more face a patchwork of local and state level protections and a shifting federal landscape under the Trump administration. Clear and explicit nondiscrimination protections are needed to ensure that LGBTQ people have a fair chance at providing for themselves and their families—and are treated fairly and equally throughout all areas of daily life. In short, not only is now the time to add these protections, but the time is long overdue.

THERE IS PUBLIC CONSENSUS THAT WE NEED TO UPDATE OUR CIVIL RIGHTS LAWS

Despite the clear growth of violence, as well as the growing visibility of hate speech and ongoing discrimination, most people in the United States are committed to the values of nondiscrimination. In fact, a majority of people in every state support federal laws prohibiting discrimination in employment, housing, and public accommodation.¹⁹ And despite inaction on the part of many state and federal legislators, majorities of Republican, Democratic, and Independent voters all support laws prohibiting discrimination based on sexual orientation and gender identity. Indeed, the U.S. House of Representatives passed the Equality Act in May 2019 with bipartisan support, though it was blocked from receiving a vote in the Senate, leaving people nationwide without these clearly needed protections for yet another year.

What's at stake with the Equality Act is broad, and it impacts the lives of every person in the country. It is about how we live our daily lives—at school, when seeking housing, when going to the bank, or eating out with friends. The Equality Act updates protections for people of color, immigrants, religious minorities, women, and LGBTQ people in all these areas. That's why it has received support and endorsement by nearly 600 advocacy organizations from across constituencies and issue areas. These supporters include leading organizations in the civil rights community, the business community, the faith community, women's rights advocates, and many other groups.

It will take action by Congress, backed by the voices of their constituents, to ensure that all people in the United States are protected from discrimination when trying to work, take care of their families and live, shop, and access transportation and federal government programs.

IT'S TIME TO MODERNIZE OUR CIVIL RIGHTS LAWS

Fairness and equal opportunity for all are named as core American values. And yet far too many people in the United States still experience discrimination in daily life because of who they are, where they came from, or the language they speak. And a growing minority of people, including some federal and state officials, have actively sought to undermine existing nondiscrimination protections.

It is time to have clear national legal protections ensuring that stores can't turn away a customer because of their race, to ensure that women can't be charged more for the same services, and to have a nation where people cannot be denied housing based on their sexual orientation or gender identity.

Now is the time to update our civil rights laws to help ensure that all people—regardless of race or ethnicity, religion, national origin, and sex, including sexual orientation or gender identity—have the ability to pursue health and happiness, take care of the ones they love, and be safe in our communities. It is time for Congress to pass the Equality Act, which would update our country's civil rights law at a time when our nation requires strong leadership in improving and enforcing our nondiscrimination laws and an explicit recommitment to greater respect and inclusion.

ENDNOTES

- ¹ Comprehensive timeline of rollbacks available from Leadership Conference on Civil & Human Rights, "[Trump Administration Civil and Human Rights Rollbacks](#)."
- ² Federal Bureau of Investigation. "[Uniform Crime Report, Hate Statistics, 2019](#)." Fall 2020.
- ³ Federal Bureau of Investigation. "[Uniform Crime Report, Hate Statistics, 2019](#)." Fall 2020.
- ⁴ H.R.5 "[The Equality Act](#)." 116th Congress.
- ⁵ U.S. Department of Justice. [Title II of the Civil Rights Act](#).
- ⁶ National Park Service, U.S. Department of the Interior. "[Civil Rights in America: Racial Desegregation of Public Accommodations](#)." Revised 2009.
- ⁷ [The Racial Bias in Retail Study](#). Commissioned by Sephora. January 2021.
- ⁸ Cassi Pittman. "[Shopping while Black: Black consumers' management of racial stigma and racial profiling in retail settings](#)." *Journal of Consumer Culture*. July 27, 2017.
- ⁹ Anne E. Brown. "[Ridehail Revolution: Ridehail Travel and Equity in Los Angeles](#)." UCLA. 2018; Yanbo Ge, Christopher R. Knittel, Don MacKenzie, and Stephen Zoepf. "[Racial and Gender Discrimination in Transportation Network Companies](#)." NBER Working Paper No. 22776. October 2017.
- ¹⁰ NPR, Robert Wood Johnson Foundation, Harvard T.H. School of Public Health. "[Discrimination in America: Experiences and views of African Americans](#)." October 2017.
- ¹¹ Pew Research Center. "[U.S. Muslims Concerned About Their Place in Society, But Continue to Believe in the American Dream](#)." July 26, 2017.
- ¹² [Testimony of Sunu P. Chandy](#). Hearing on the Equality Act (H.R.5). April 2, 2019.
- ¹³ NPR, Robert Wood Johnson Foundation, Harvard T.H. School of Public Health. "[Discrimination in America: Experiences and views of American Women](#)." December 2017.
- ¹⁴ U.S. Government Accountability Office. "[Consumer Protection: Gender-Related Price Differences for Goods and Services](#)." August 2018.
- ¹⁵ Joint Economic Committee, U.S. Congress. "[The Pink Tax: Gender-Based Pricing Hurts Women's Buying Power](#)." December 2016.
- ¹⁶ Joint Economic Committee, U.S. Congress. "[The Pink Tax: Gender-Based Pricing Hurts Women's Buying Power](#)." December 2016.
- ¹⁷ Sharita Gruberg, Lindsay Mahowald, and John Halpin. "[The State of the LGBTQ Community in 2020: A National Public Opinion Study](#)." The Center for American Progress. October 2020. Joint Economic Committee, U.S. Congress. "[The Pink Tax: Gender-Based Pricing Hurts Women's Buying Power](#)." December 2016.
- ¹⁸ Sandy E. James, Jody L. Herman, Susan Rankin, Mara Keisling, Lisa Mottet, and Ma'ayan Anafi. "[The Report of the 2015 U.S. Transgender Survey](#)." National Center for Transgender Equality. 2016.
- ¹⁹ Daniel Greenberg, Emma Beyers, Maxine Najle, Oyindamola Bola, and Robert P. Jones. "[Americans Show Broad Support for Nondiscrimination Protections](#)." March 2019. PRRI.



movement advancement project ▶

1905 15th Street #1097 • Boulder, CO 80306-1097
1-844-MAP-8800
www.lgbtmap.org