



## US EQUALITY ACT: GENDER IDENTITY IMPACT SUMMARY

### **Making “gender identity” a protected characteristic under federal law would erase the protected category of sex.**

The [Equality Act](#), introduced in the US House of Representatives as H.R. 2282 in 2017, and likely to be reintroduced, includes gender identity rules that have received little public focus regarding their adverse impact on sex stereotyping bans, or the **danger they pose to women and children**.

In several places in this bill, it directs the term “sex” in federal civil rights law to be replaced with the term, “sex, sexual orientation, gender identity.” While sexual orientation does not alter the legal category of sex, the bill’s authors made clear that gender identity is to take precedence over and replace sex as a protected category. The bill doesn’t mention individuals with clinically diagnosed gender dysphoria, or undertaking surgical or hormonal transition, thus making clear that **self-declared gender identity would be sufficient** to claim protected legal status.

From the bill summary: “Employers must recognize individuals in accordance with their gender identity if sex is a bona fide occupational qualification that is reasonably necessary to the normal operation of that particular business or enterprise.”

### **Women and girls would be harmed by the Equality Act.**

Under current civil rights law employers may hire and assign work on the basis of sex only when it’s a bona fide occupational qualification. These are some jobs and assignments this change will affect, **taking away the right** of Americans to insist that only someone of the same sex be able to:

- Perform security pat downs or strip searches
- Supervise locker rooms or shared **showers**
- Handle **intimate care** for hospital and long-term care patients
- Chaperone a doctor or medical assistant who is providing such care
- Perform intimate **medical examinations**
- Supervise drug tests
- Supervise **children** on overnight trips

Also from the summary, “The bill prohibits an individual from being denied access to a shared facility, including a restroom, a locker room, and a dressing room, that is in accordance with the individual’s gender identity.” This means that American women will no longer be able to expect any single-sex facilities when using or being required to stay in:

- Shared hospital rooms or wards
- Locker rooms and public or group showers
- Multi-stall bathrooms
- Jails, prisons, or **juvenile detention** facilities
- Homeless shelters
- Overnight drug rehabilitation centers
- Domestic **violence or rape crisis** shelters

Women sharing prison showers, emergency shelters, changing rooms, and long-term care facilities with strangers shouldn't be put in the position of wondering if they can complain about a naked male in their presence, or if that complaint would be a violation of his civil rights.

No concept so poorly defined as "gender identity" should be passed into federal law as a protected characteristic, especially not when it would erase the protected category of sex.

### **Women's sports and scholarships would be at risk**

This bill will end sports programs and scholarships set aside for women and girls. All such programs **will have to admit men and boys** who identify themselves as women or girls. Such programs will no longer meet their intended purpose of protecting the rights of women and girls by redressing historical inequality of opportunity.

### **What is Gender? Anything Except Sex.**

Because the term gender identity has been defined in the bill as, "gender-related identity, appearance, mannerisms, or characteristics, regardless of the individual's designated sex at birth," it redefines the protected characteristic of sex as everything **except** sex.

"Gender-related identity" has **no definition**. It likely refers to a claim of feeling that one is of a different sex, or no sex, regardless of one's physical sex. Physical sex is clear for 99.98 percent of people, and all intersex people also have a sex. Rules and policies based on this poor wording and muddled thinking will create **judicial chaos**, and will not protect the rights of women and children, or anyone else the bill seeks to protect.

Discrimination against people on the basis of appearance, mannerisms, and the oddly undefined "characteristics," as related or unrelated to sex, should already be prohibited under existing laws that prohibit discrimination on the basis of sex stereotypes. This definition seems to define **sex stereotypes** as a protected characteristic, thereby erasing legal protections women may have against discriminatory sex stereotyping. Indeed, lawyers and judges are being directed to disregard sex, making it **impossible to define the category of sex** that commonly has the stereotype attached to it.

The authors of this bill **can't define either gender or gender identity** outside of sex stereotypes, yet they suggest that any person can claim a gender identity. This gender identity, still undefined, will override their legal sex in all those cases that the law previously allowed sex to be recognized as a bona fide consideration.

This bill tragically attempts to prohibit sex discrimination by forbidding the law to see sex. A law, and courts, that cannot see sex, also cannot address sex discrimination or protect the **bodily privacy rights and dignity** of Americans in those circumstances where sex matters very much.