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(Original Signature of Member)

117TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To prohibit discrimination on the basis of sex, sexual orientation, and gender identity; and to protect the free exercise of religion.

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

Mr. STEWART introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To prohibit discrimination on the basis of sex, sexual orientation, and gender identity; and to protect the free exercise of religion.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fairness for All Act”.

1 **SEC. 2. PROHIBITION AGAINST DISCRIMINATION OR SEG-**  
2 **REGATION IN PLACES OF PUBLIC ACCOMMO-**  
3 **DATION.**

4 Section 201 of the Civil Rights Act of 1964 (42  
5 U.S.C. 2000a) is amended—

6 (1) in subsection (a), by inserting “sex, sexual  
7 orientation, gender identity,” before “or national ori-  
8 gin”;

9 (2) in subsection (b)—

10 (A) in paragraph (3), by striking “and” at  
11 the end;

12 (B) by redesignating paragraph (4) as  
13 paragraph (10);

14 (C) by inserting after paragraph (3) the  
15 following:

16 “(4) any place of exercise, recreation, or amusement,  
17 except religious camps or religious retreat centers unless  
18 such camps or retreat centers discriminate because of  
19 race, color, or national origin;

20 “(5) any provider of financial services, including  
21 banks, credit unions, mortgage houses, brokers, and finan-  
22 cial planners;

23 “(6) for the purpose of classifications enumerated in  
24 subsection (a) and not described by section 1557 of the  
25 Patient Protection and Affordable Care Act (42 U.S.C.  
26 18116(a))—

1           “(A) any provider of medical services. It shall  
2 not constitute a violation of this title to provide a  
3 service, treatment, therapy, procedure, or drug on  
4 the same medical terms or criteria applicable to indi-  
5 viduals needing that service, treatment, therapy, pro-  
6 cedure or drug, without regard to protected class  
7 status;

8           “(B) any provider of mental health care, except  
9 that this section shall not apply when the primary  
10 objective is to assist a person in entering or sus-  
11 taining a marriage, so long as the provider coordi-  
12 nates a referral of the client to another qualified  
13 mental health care provider who will provide the  
14 needed service and the client is not in imminent dan-  
15 ger of harming self or others;

16           “(C) nothing in subparagraph (B) shall apply  
17 to a priest, pastor, rabbi, imam, or minister of any  
18 faith while acting substantially in a ministerial ca-  
19 pacity; and

20           “(D) a provider of medical services covered by  
21 subparagraph (A) or a provider of mental health  
22 care covered by subparagraph (B) may make evi-  
23 dence-based medical determinations and may refer  
24 patients when necessary for a patient’s best interests  
25 and welfare, including professional expertise;

1 “(7) any place of or provider of transportation serv-  
2 ices;

3 “(8) any provider of funeral services or burial plots,  
4 except those that primarily limit their services or facilities  
5 to those of a particular religion, unless such provider dis-  
6 criminate because of race, color, or national origin;

7 “(9) any store, shopping center, or online retailer or  
8 provider of online services that has 15 or more employees  
9 for each working day in each of 20 or more calendar weeks  
10 in the current or preceding calendar year. This employee  
11 threshold shall not apply to a claim of discrimination be-  
12 cause of race, color, or national origin or to a place of  
13 public accommodation covered under paragraphs (1)  
14 through (8);” and

15 (D) by inserting after paragraph (10) the  
16 following:

17 “(11)(A) The provisions of this title shall not  
18 apply to—

19 “(i) any building or collection of buildings  
20 that is used primarily as a denominational  
21 headquarters, church administrative office, or  
22 church conference center;

23 “(ii) a place of worship, such as a church,  
24 synagogue, mosque, chapel, and its appurtenant  
25 properties used primarily for religious purposes;

1           “(iii) a religious educational institution  
2           and its appurtenant properties used primarily  
3           for religious purposes;

4           “(iv) in connection with a religious celebra-  
5           tion or exercise: a facility that is supervised by  
6           a priest, pastor, rabbi, imam, or minister of any  
7           faith, or religious certifying body, and that is  
8           principally engaged in providing food and bev-  
9           erages in compliance with religious dietary re-  
10          quirements; or

11          “(v) any online operations or activities of  
12          an organization exempt under this section.

13          “(B) The following shall not be a place of pub-  
14          lic accommodation, even if used for a commercial  
15          purpose, except within the area and during the time  
16          that the property or facility is open to the public;  
17          operated primarily for a commercial purpose; and  
18          not primarily related to the inculcation, promotion,  
19          or expression of religion—

20                 “(i) other appurtenant properties or facili-  
21                 ties owned or operated by a church, by another  
22                 house of worship, or by a religious educational  
23                 institution; or

24                 “(ii) a property owned or operated pri-  
25                 marily for noncommercial purposes by a non-

1 profit religious corporation that holds itself out  
2 to the public as substantially religious, has as  
3 its stated purpose in its organic documents that  
4 it is religious, and is substantially religious in  
5 its current operations.

6 “(12) Provided that equivalent treatment, serv-  
7 ices, facilities, and benefits are made available and  
8 without prejudicing rights or protections based on  
9 any other protected class status—

10 “(A) nothing in this title that refers to  
11 ‘sex’ shall be construed to prevent a fitness cen-  
12 ter, spa, or similar place, whose services or fa-  
13 cilities are intended for the exclusive use of per-  
14 sons of the same sex, from providing the use of  
15 those services or facilities exclusively to persons  
16 of that sex or prohibit a place of public accom-  
17 modation from temporarily restricting access to  
18 a fitness center, spa, pool, or similar place, ac-  
19 cording to sex; and

20 “(B) a place of public accommodation shall  
21 reasonably accommodate a patron who requests  
22 greater privacy within a facility intended for the  
23 exclusive use of persons of the same sex.

24 “(13) Nothing in this title shall be construed to  
25 require or prohibit any person, or public or private

1       entity, to provide or pay for any benefit or service,  
2       including the use of facilities, related to an abortion.  
3       Nothing in this title shall be construed to permit a  
4       penalty to be imposed on any person or any indi-  
5       vidual because such person or individual is seeking  
6       or has received any benefit or service related to a  
7       legal abortion.”; and

8               (3) by adding at the end of subsection (e) the  
9       following:

10      “(f) DEFINITIONS.—For purposes of this title:

11              “(1) The term ‘gender identity’ means the gen-  
12       der-related identity, appearance, mannerisms, or  
13       other gender-related characteristics of an individual,  
14       without regard to the individual’s designated sex at  
15       birth. A person’s gender identity can be shown by  
16       providing evidence, including medical history, care or  
17       treatment of the gender identity, consistent and uni-  
18       form assertion of the gender identity, or other evi-  
19       dence that the gender identity is sincerely held, part  
20       of a person’s core identity, and not being asserted  
21       for an improper purpose.

22              “(2) The term ‘sexual orientation’ means homo-  
23       sexuality, heterosexuality, or bisexuality.

24              “(3) The term ‘online retailer or provider of on-  
25       line services’ means a webpage by a commercial

1 business not enumerated in paragraph (11) that in-  
2 vites the general public to purchase a good or service  
3 by use of a credit card or similar payment device  
4 over the internet. It does not mean a webpage that  
5 gives information about a good or service, including  
6 quality, price, or availability, but does not permit  
7 such purchase directly from the webpage.

8 “(4) The terms ‘religion’ and ‘religious’ include  
9 all aspects of religious belief, observance, and prac-  
10 tice, whether or not compelled by, or central to, a  
11 system of religion.

12 “(5) The term ‘religious corporation, associa-  
13 tion, educational institution, or society’ includes—

14 “(A) a church, synagogue, mosque, temple,  
15 or other house of worship;

16 “(B) a nonprofit corporation, association,  
17 educational institution, society, or other non-  
18 profit entity that is, in whole or in substantial  
19 part, owned, supported, controlled, or managed  
20 by a particular religion or by a particular  
21 church, denomination, convention, or associa-  
22 tion of churches or other houses of worship; or

23 “(C) a nonprofit corporation, association,  
24 educational institution, society, or other non-  
25 profit entity that holds itself out to the public



1 as substantially religious, has as its stated pur-  
2 pose in its organic documents that it is reli-  
3 gious, and is substantially religious in its cur-  
4 rent operations.

5 “(g) ADDITIONAL FACILITIES NOT REQUIRED.—  
6 Nothing in this title shall be construed to require the con-  
7 struction of new or additional facilities.”

8 **SEC. 3. PROHIBITION ON DISCRIMINATION IN FEDERALLY**  
9 **FUNDED PROGRAMS.**

10 The Civil Rights Act of 1964 (42 U.S.C. 2000d) is  
11 amended—

12 (1) in section 601, by inserting “sex, sexual ori-  
13 entation, gender identity,” before “or national ori-  
14 gin.”;

15 (2) in section 606, by striking “For the pur-  
16 poses of this title” and inserting “Subject to section  
17 607, for the purposes of this title”; and

18 (3) by adding at the end the following:

19 **“SEC. 607. PROGRAM OR ACTIVITY AND PROGRAM DEFINED**  
20 **FOR PURPOSES OF RELIGIOUS ENTITIES AS**  
21 **APPLIED TO SEX, SEXUAL ORIENTATION, OR**  
22 **GENDER IDENTITY.**

23 “For the purposes of this title, as applied to sex, sex-  
24 ual orientation, and gender identity, for any religious cor-  
25 poration, association, educational institution, or society,

1 the term ‘program or activity’ and the term ‘program’ are  
2 limited to any specific program or activity, or part thereof,  
3 that receives Federal financial assistance. Any penalty or  
4 loss of Federal financial assistance assessed against such  
5 a religious entity shall be limited to the program or activ-  
6 ity or program, or part thereof, that is determined to have  
7 violated section 601.

8 **“SEC. 608. SAFEGUARDS FOR RELIGIOUS ORGANIZATIONS**  
9 **RECEIVING ASSISTANCE.**

10 “(a) IN GENERAL.—An otherwise qualified religious  
11 provider shall be eligible to receive Federal financial as-  
12 sistance for a particular service without regard to the pro-  
13 vider’s religious views or teachings, notwithstanding sec-  
14 tion 2000d. Subject to this title, a religious organization  
15 that applies for, or participates in, a program or activity  
16 receiving Federal financial assistance shall retain its inde-  
17 pendence and may continue to carry out its mission, in-  
18 cluding the definition, development, and expression of its  
19 religious beliefs.

20 “(b) SPECIFIC SAFEGUARDS.—Nothing in this title  
21 prohibits a religious organization receiving Federal finan-  
22 cial assistance from using space in its buildings and other  
23 facilities to conduct its program or activities where there  
24 is religious art, icons, messages, scriptures, or other sym-  
25 bols. Additionally, the organization retains authority over

1 its internal governance and thus may have religious words  
2 in the organization’s name, select members of its gov-  
3 erning board based on religious criteria, and have religious  
4 references in its mission statement and other governing  
5 documents.

6 “(c) EDUCATIONAL AND CHILDCARE INSTITU-  
7 TIONS.—A religious educational institution or daycare  
8 center may enforce with reasonable consistency written re-  
9 ligious standards in its admission criteria, educational pro-  
10 grams, student retention policies, or residential life policy,  
11 unless those standards are based on race, color, or na-  
12 tional origin or would exclude or remove a student solely  
13 because of a prohibited classification under section 601  
14 with respect to that student’s parent or legal guardian.

15 “(d) MARRIAGE AND FAMILY EDUCATION,  
16 STRENGTHENING, AND COUNSELING PROGRAMS.—For  
17 purposes of sexual orientation and gender identity, a reli-  
18 gious corporation, association, educational institution, or  
19 society receiving Federal financial assistance shall be  
20 deemed in compliance with section 601 notwithstanding  
21 the content of any marriage or family education, strength-  
22 ening, or counseling programming, provided that the re-  
23 cipient does not exclude beneficiaries on the basis of sexual  
24 orientation or gender identity.

1           “(1) REFERRAL OBLIGATION.—If a beneficiary  
2 or prospective beneficiary objects to the religious  
3 character of the recipient, the recipient will under-  
4 take reasonable efforts as described in subsection  
5 (d)(2) to identify and refer the beneficiary to an al-  
6 ternative provider to which the beneficiary has no  
7 objection; however, the recipient is not obligated to  
8 guarantee that in every instance an alternative pro-  
9 vider will be available.

10           “(2) AGENCY RESPONSIBILITIES.—Each agency  
11 responsible for administering or supporting a social  
12 service program with Federal financial assistance  
13 shall establish policies and procedures designed to  
14 ensure that—

15           “(A) appropriate and timely referrals are  
16 made to an alternative provider;

17           “(B) all referrals are made in a manner  
18 consistent with all applicable privacy laws and  
19 regulations;

20           “(C) the recipient subject to subsection  
21 (d)(1) notifies the agency of any referral;

22           “(D) such recipient has established a proc-  
23 ess for determining whether the beneficiary has  
24 contacted the alternative provider; and

1           “(E) each beneficiary of a marriage or  
2 family education, strengthening, or counseling  
3 program that receives Federal financial assist-  
4 ance receives written notice of the protections  
5 set forth in this section prior to enrolling in or  
6 receiving services from such program.

7           “(3) RECIPIENT’S RESPONSIBILITIES.—The re-  
8 ferral obligation of the recipient under section (d)(2)  
9 shall be satisfied by the recipient if it—

10           “(A) makes appropriate and timely refer-  
11 rals to an alternative provider;

12           “(B) refers in a manner consistent with all  
13 applicable privacy laws and regulations;

14           “(C) notifies the agency of the referral;

15           “(D) has established a process for deter-  
16 mining whether the beneficiary has contacted  
17 the alternative provider; and

18           “(E) can demonstrate that each bene-  
19 fiary of a social service program received writ-  
20 ten notice of the protections set forth in this  
21 section prior to enrolling in or receiving services  
22 from such program.

1 **“SEC. 609. SPECIALIZED FEDERAL FINANCIAL ASSISTANCE**  
2 **TO AN ENTIRE ENTITY.**

3 “(a) Any religious corporation, association, edu-  
4 cational institution, or society that is otherwise eligible for  
5 Federal financial assistance that is awarded to entities to  
6 support the safety or infrastructure of the entity cannot  
7 be excluded from assistance because of its religious beliefs  
8 or practices. Such assistance includes Federal financial as-  
9 sistance for historic preservation, disaster recovery, or fa-  
10 cilities security. The religious corporation, association,  
11 educational institution, or society shall be deemed in com-  
12 pliance with section 601, provided that funds used for pro-  
13 curement from a third-party vendor must be used in a  
14 manner that complies with section 601.

15 “(b) For the purposes of this subsection, a religious  
16 educational institution or daycare center that receives  
17 funds under the Richard B. Russell National School  
18 Lunch Act shall not be deemed a recipient of Federal fi-  
19 nancial assistance.

20 **“SEC. 610. FEDERAL FINANCIAL ASSISTANCE FOR ADOPTI-**  
21 **ON AND FOSTER CARE.**

22 “(a) CONGRESSIONAL FINDINGS AND DECLARATION  
23 OF POLICY.—The Congress hereby finds and declares the  
24 following:

25 “(1) At-risk children deserve a safe and caring  
26 family, and reducing the number of vulnerable chil-

1       dren without a permanent home is in the Federal in-  
2       terest.

3           “(2) There is a national deficit in the number  
4       of adoptive and foster parents and the private agen-  
5       cies qualified to serve these children. Federal and  
6       State governments should cooperate to encourage  
7       new agencies to join the effort to serve the needs of  
8       vulnerable children, alongside private agencies that  
9       have already been doing that crucial work for dec-  
10      ades, including agencies whose commitment to serve  
11      arises from profound religious convictions.

12          “(3) By providing safe and welcoming homes to  
13      vulnerable children, adoptive and foster care parents  
14      serve the best interests of children and contribute to  
15      the common good of our communities in ways that  
16      are irreplaceable. Such parents should be empowered  
17      to adopt children based on their merits as parents,  
18      without being thwarted by discriminatory obstacles.

19          “(4) By finding safe and welcoming homes for  
20      vulnerable children, religious and other providers of  
21      adoption and foster care services, facilitate connec-  
22      tions between good parents and vulnerable children.  
23      In doing so, such providers also contribute to the  
24      common good of our communities in ways that are  
25      irreplaceable.

1           “(5) The indirect funding program created by  
2 this section is intended to be a permanent and fully  
3 funded program that links vulnerable children to  
4 good parents in order to serve the best interests of  
5 children. This indirect funding program will do so by  
6 ensuring that diverse adoption and foster-care pro-  
7 viders, including religious providers, will continue to  
8 receive Federal financial assistance.

9           “(6) Therefore, it is the policy of the Federal  
10 Government to protect the best interests of at-risk  
11 children by establishing minimum Federal standards  
12 that guarantee the equal treatment of qualified fam-  
13 ilies seeking to offer foster care or adoption and an  
14 equal respect for the diversity of private agencies,  
15 including religious agencies, that provide adoption  
16 and foster care services. This section shall be con-  
17 strued in a manner consistent with these findings  
18 and declaration of policy.

19           “(b) NONDISCRIMINATION REQUIREMENTS.—Fed-  
20 eral financial assistance for adoption, foster care, or re-  
21 lated services is subject to section 601, unless otherwise  
22 provided in this section. Any entity that receives Federal  
23 financial assistance to perform adoption or foster care  
24 placements or related services, or that contracts with an  
25 entity that receives Federal financial assistance for those



1 services, except for a private agency when participating  
2 in the indirect funding program as described under sub-  
3 section (c)(2)(B) or (d)(1), may not in the course of per-  
4 forming an adoption, foster care, or related service dis-  
5 criminate against a prospective parent or a child because  
6 of race, color, national origin, sex, sexual orientation, or  
7 gender identity.

8           “(1) An entity unlawfully discriminates against  
9 a prospective parent by—

10                   “(A) denying to any qualified person equal  
11 access to or equal treatment during the adop-  
12 tion or foster care evaluation and placement  
13 process because of the race, color, national ori-  
14 gin, sex, sexual orientation or gender identity of  
15 the qualified prospective adoptive or foster par-  
16 ent or of the child involved;

17                   “(B) delaying or denying the placement of  
18 a child for adoption or into foster care because  
19 of the race, color, national origin, sex, sexual  
20 orientation, or gender identity of the qualified  
21 prospective adoptive or foster parent, or of the  
22 child involved;

23                   “(C) requiring different or additional  
24 screenings, processes, or procedures for adop-  
25 tive or foster care placement because of the

1 race, color, national origin, sex, sexual orienta-  
2 tion, or gender identity of the qualified prospec-  
3 tive adoptive or foster parent, or of the child in-  
4 volved;

5 “(D) requiring a qualified prospective fos-  
6 ter parent to subscribe to subparagraph (D) or  
7 (E) of section (b)(2); or

8 “(E) excluding a qualified prospective  
9 adoptive or foster parent because of the par-  
10 ent’s religion.

11 “(2) An entity unlawfully discriminates against  
12 a child by—

13 “(A) denying to any qualified person equal  
14 access to or equal treatment during the adop-  
15 tion or foster care evaluation and placement  
16 process because of the race, color, national ori-  
17 gin, sex, sexual orientation, or gender identity  
18 of the qualified prospective adoptive or foster  
19 parent, or of the child involved;

20 “(B) delaying or denying the placement of  
21 a child for adoption or into foster care because  
22 of the race, color, national origin, sex, sexual  
23 orientation, or gender identity of the qualified  
24 prospective adoptive or foster parent, or of the  
25 child involved;

1           “(C) requiring different or additional  
2 screenings, processes, or procedures for adop-  
3 tive or foster care placement because of the  
4 race, color, national origin, sex, sexual orienta-  
5 tion, or gender identity of the qualified prospec-  
6 tive adoptive or foster parent, or of the child in-  
7 volved;

8           “(D) treating a child in the legal custody  
9 of the State inconsistently with the child’s gen-  
10 der identity, as demonstrated by the child’s  
11 medical history, care or treatment of the child’s  
12 gender identity, consistent and uniform asser-  
13 tion of the gender identity, or other evidence  
14 that the gender identity is sincerely held, is  
15 part of the child’s core identity, and is not  
16 being asserted for an improper purpose; or

17           “(E) subjecting any child in the legal cus-  
18 tody of the State to any practice or treatment  
19 that seeks to change the child’s sexual orienta-  
20 tion or gender identity. It shall be lawful for a  
21 professional counselor licensed by the State to  
22 assist a minor, without regard to sexual ori-  
23 entation or gender identity, to prevent or ad-  
24 dress unlawful conduct or unsafe sexual prac-  
25 tices.

1           “(c) INDIRECT FUNDING OF ADOPTION AND FOSTER  
2 CARE SERVICES.—

3           “(1) ESTABLISHMENT OF INDIRECT FUNDING  
4 PROGRAM.—The Department of Health and Human  
5 Services, the Social Security Administration, the De-  
6 partment of State, and any other agency authorized  
7 by Federal law to administer Federal financial as-  
8 sistance for the support of adoption and foster care  
9 services shall issue final rules within two years of  
10 the enactment of this Act to create an indirect fund-  
11 ing program that delivers Federal financial assist-  
12 ance to eligible prospective parents for the purpose  
13 of obtaining such services through a qualified private  
14 agency that they select.

15           “(A) This indirect funding program will  
16 entitle a qualified State resident to receive a  
17 certificate to assist with the costs of a personal  
18 assessment, background check, home study, en-  
19 dorsement, certification of a person’s eligibility  
20 to act as the guardian of a child in foster care  
21 or as the parent of a child available for adop-  
22 tion, and placement of a child with an eligible  
23 individual or family.

24           “(B) A substantial proportion of appro-  
25 priated Federal financial assistance for adop-

1           tion or foster care services, including assistance  
2           available under part B and part E of title IV  
3           of the Social Security Act, shall be allocated to  
4           fund the indirect funding program through the  
5           issuance of a certificate to eligible prospective  
6           parents.

7           “(C) Each certificate shall be worth an  
8           amount to be determined through agency rule-  
9           making, but in no event less than \$3,000 as in-  
10          dexed to the Consumer Price Index as of Janu-  
11          ary 1, 2019.

12          “(D) Participation in this indirect funding  
13          program may not be delayed or denied because  
14          of a State resident’s race, color, national origin,  
15          religion, sex, sexual orientation, or gender iden-  
16          tity.

17          “(E) The responsible Federal agencies  
18          shall establish policies and procedures designed  
19          to ensure that where a referral is required by  
20          this section—

21                  “(i) an appropriate and timely referral  
22                  is made to an alternative provider;

23                  “(ii) all referrals are made in a man-  
24                  ner consistent with applicable privacy laws  
25                  and regulations;

1 “(iii) the provider of adoption and fos-  
2 ter care placement or related services noti-  
3 fies the agency of any referral; and

4 “(iv) each applicant for and recipient  
5 of adoption or foster care placement or re-  
6 lated services from a provider that receives  
7 Federal financial assistance will receive  
8 written notice from the provider of the pro-  
9 tections set forth in this section when ap-  
10 plying for or receiving such services.

11 “(2) IMPLEMENTATION OF INDIRECT FUNDING  
12 PROGRAM.—

13 “(A) APPROVED STATE PLAN.—To be eli-  
14 gible for Federal financial assistance for adop-  
15 tion or foster care services under part B or part  
16 E of title IV of the Social Security Act, a State  
17 must develop a written plan approved by the  
18 Secretary of the Department of Health and  
19 Human Services providing that—

20 “(i) the State has established rules,  
21 policies, and procedures within 6 months  
22 after issuance of final rules under sub-  
23 section (c)(1) that ensures the State’s full  
24 participation in the indirect funding pro-  
25 gram by making available to each qualified

1 State resident on request a certificate as  
2 prescribed by subsection (c)(1), to be used  
3 solely for the services enumerated in sub-  
4 section (c)(1). This certificate may com-  
5 mingle funding from Federal and State  
6 sources, and such commingled revenues  
7 shall be deemed Federal financial assist-  
8 ance;

9 “(ii) the State uses its best efforts to  
10 increase the number of private organiza-  
11 tions within each catchment area that are  
12 qualified to provide foster care and adop-  
13 tion services, including organizations will-  
14 ing to serve all qualified prospective par-  
15 ents;

16 “(iii) the State publishes and main-  
17 tains a current list of licensed adoption  
18 and foster care providers with offices in  
19 the State, by catchment area, which list  
20 will identify providers that serve all appli-  
21 cants, as well as those that serve particular  
22 communities and those that provide par-  
23 ticular services;

24 “(iv) the State performs a prompt and  
25 cost-free eligibility assessment for every

1 prospective parent who applies for a cer-  
2 tificate, informs every eligible prospective  
3 parent of the licensed adoption and foster  
4 care providers in the participant’s  
5 catchment area, and may provide addi-  
6 tional information to facilitate the prospec-  
7 tive parent’s selection of a provider;

8 “(v) any State resident eligible to act  
9 as a foster parent or adoptive parent has  
10 an equal opportunity to obtain adoption or  
11 foster care related services from a provider  
12 who accepts the certificate described in  
13 section (c)(1); and

14 “(vi) when a qualified individual seek-  
15 ing adoption or foster care placement or  
16 related services is unable to obtain such  
17 services from a particular provider—

18 “(I) there is at least one other  
19 willing and qualified provider of such  
20 service in the same or adjacent  
21 catchment area that will serve all  
22 qualified individuals;

23 “(II) the provider gives an appro-  
24 priate and timely referral to at least  
25 one alternative provider;



1                   “(III) each referral is made in a  
2                   manner consistent with applicable pri-  
3                   vacy laws and regulations; and

4                   “(IV) the provider of adoption  
5                   and foster care placement or related  
6                   services notifies the State of any re-  
7                   ferral that is issued.

8                   “(B) PROTECTIONS FOR PRIVATE AGEN-  
9                   CIES.—No State or local government may—

10                   “(i) deny any licensed provider of  
11                   adoption or foster care placement or re-  
12                   lated services the opportunity to partici-  
13                   pate in the certificate program prescribed  
14                   by subsection (c)(1);

15                   “(ii) deny any licensed provider of  
16                   adoption or foster care placement or re-  
17                   lated services reasonable payment for serv-  
18                   ices actually rendered in reliance on a cer-  
19                   tificate;

20                   “(iii) require a provider of adoption or  
21                   foster care placement or related services to  
22                   perform such services in a particular in-  
23                   stance as a condition of participating in  
24                   the certificate program prescribed by sub-  
25                   section (c)(1), unless such service is re-

1           required by Federal law or imposed pursuant  
2           to an agreement between the provider and  
3           the State that compensates the provider  
4           for such service exclusively with State reve-  
5           nues; and

6                   “(iv) withhold, suspend, or terminate  
7                   contracts, cooperative agreements, grants,  
8                   or other financial assistance when a pro-  
9                   vider of adoption or foster care placement  
10                  or related services takes any action per-  
11                  mitted under this title.

12                  “(3) AUTHORITY TO WITHHOLD FUNDS.—If a  
13                  State fails to participate in the indirect funding pro-  
14                  gram, develop an appropriate State plan, or to com-  
15                  ply with this section in any other respect, the Sec-  
16                  retary shall, after appropriate notice and failure to  
17                  comply, withhold payment to the State of amounts  
18                  otherwise payable under part B or E of title IV of  
19                  the Social Security Act (42 U.S.C. 621 et seq., 670  
20                  et seq.), to the extent that the Secretary deems the  
21                  withholding necessary to induce compliance. A State  
22                  may elect not to comply with its duties under this  
23                  section on condition that it declines Federal financial  
24                  assistance for adoption and foster care.

1 “(d) PRIVATE RECIPIENTS OF FEDERAL FINANCIAL  
2 ASSISTANCE.—

3 “(1) PROTECTION FOR DIVERSE PROVIDERS.—

4 A private organization that is eligible to receive Fed-  
5 eral financial assistance through the certificate pro-  
6 gram prescribed by subsection (c)(1) for providing  
7 any adoption or foster care placement or related  
8 services may—

9 “(A) decline to accept a certificate without  
10 being obligated to perform a particular service,  
11 despite receiving certificates to perform other  
12 covered adoption or foster care services, so long  
13 as the provider gives a referral to the certificate  
14 holder consistent with section (c)(2)(A)(vi)(II)–  
15 (IV); or

16 “(B) after accepting a certificate, facilitate  
17 a mutually voluntary referral that does not un-  
18 reasonably delay or disrupt the adoption or fos-  
19 ter care evaluation and placement process.

20 “(2) MISREPRESENTATION.—After accepting a  
21 certificate, a provider of adoption or foster care serv-  
22 ices may terminate its relationship with a prospec-  
23 tive parent who makes a material misrepresentation  
24 of a fact that the prospective parent knew or should  
25 have known that the agency specifically requested.

1       Such agency shall provide a referral consistent with  
2       subsection (c)(2)(A)(vi)(II)–(IV) and shall not lose  
3       its right under subsection (c)(2)(B)(ii) to reasonable  
4       payment for services actually performed.

5           “(3) PROTECTION FOR CUSTODIAL PARENTS.—

6       A private organization that has received Federal fi-  
7       nancial assistance through the certificate program  
8       prescribed by subsection (c)(1) shall not discriminate  
9       against the custodial parent of a child in foster care  
10      because of the custodial parent’s race, color, national  
11      origin, religion, sex, sexual orientation, or gender  
12      identity with respect to the monitoring of a parent  
13      whom the provider has previously endorsed or with  
14      whom the provider has placed a child.

15          “(e) MISCELLANEOUS.—

16           “(1) CUSTODY OF CHILD IN FOSTER CARE.—

17      For purposes of this section, a child in foster care  
18      shall be deemed to be in the legal custody of the  
19      State.

20           “(2) RULE OF CONSTRUCTION.—Nothing in

21      this section shall be construed to prohibit an entity  
22      receiving Federal financial assistance for adoption,  
23      foster care, or related services from making an indi-  
24      vidualized placement assessment in the best interest  
25      of the child’s health, safety, and welfare.

1           “(3) EFFECTIVE DATES.—

2                   “(A) IN GENERAL.—Except as described in  
3 subsection (e)(1)(B), the protections under sub-  
4 section (b) shall become effective on the date of  
5 enactment.

6                   “(B) RELIGIOUS PROVIDER EXEMPTION.—

7                           “(i) Section (b)(1) shall come into ef-  
8 fect with respect to a religious adoption or  
9 foster care provider 12 months after the  
10 State where the provider operates has im-  
11 plemented the certificate program as de-  
12 scribed in section (c)(2)(A).

13                           “(ii) If the certificate program is not  
14 substantially funded as required by sub-  
15 section (c), the protections described by  
16 subsection (b)(1) shall become unenforce-  
17 able as to a religious adoption or foster  
18 care provider until funding is provided or  
19 restored.

20                           “(iii) For purposes of this section, ‘re-  
21 ligious adoption or foster care provider’  
22 means a licensed or accredited nonprofit  
23 provider of adoption or foster care services  
24 that—

1                   “(I) is in whole or substantial  
2                   part, owned, supported, controlled, or  
3                   managed by a particular religion or by  
4                   a particular church, denomination,  
5                   convention, or association of churches  
6                   or other houses of worship; or

7                   “(II) holds itself out to the public  
8                   as substantially religious, has as its  
9                   stated purpose in its organic docu-  
10                  ments that it is religious, and is sub-  
11                  stantially religious in its current oper-  
12                  ations.

13                  “(4) PRIVATE RIGHTS OF ACTION.—

14                  “(A) Nothing in this section shall be con-  
15                  strued to authorize a right of action against a  
16                  private organization for the exercise of rights  
17                  provided under subsection (d)(1).

18                  “(B) A private right of action may be  
19                  brought by a private organization under section  
20                  1107.

21                  “(5) SUPPLANTING PROHIBITED.—Any Federal  
22                  funds received under this section shall be used to  
23                  supplement, not supplant, non-Federal funds that  
24                  would otherwise be available for activities funded  
25                  under this subchapter.

1           “(6) EFFECT ON FEDERAL LAWS RESPECTING  
2 RACIAL DISCRIMINATION.—Nothing in this section  
3 shall be construed to alter, affect, or supersede any  
4 Federal law that addresses discrimination because of  
5 race, color, or national origin by any State or private  
6 organization that receives Federal financial assist-  
7 ance for adoption or foster care placement or related  
8 services.

9           “(7) APPLICATION TO STATES WITH WAIV-  
10 ERS.—For any State that, on the date of enactment  
11 of this Act, has in effect a waiver approved under  
12 section 1130 of the Social Security Act (42 U.S.C.  
13 1320a–9), the amendments to this title shall not  
14 apply to that State before the expiration of the wai-  
15 ver (determined without regard to any extensions), to  
16 the extent that an amendment is inconsistent with  
17 the terms of the waiver.

18           “(8) EFFECT ON STATE LAWS.—Nothing in  
19 this section shall be construed to supersede a State  
20 or local law, policy, or contract addressing the legal  
21 conditions of receiving Government funding for  
22 adoption or foster care services, provided that the  
23 State or local law does not directly conflict with this  
24 section.

1 **“SEC. 611. SEX-SPECIFIC SEGREGATION OR PROGRAMS.**

2 “(a) If sex segregation or sex-specific programming  
3 is necessary to the essential operation of a program or  
4 activity, nothing in this title shall prevent any such pro-  
5 gram or activity from considering an individual’s sex, pro-  
6 vided that where appropriate to accomplish the purpose  
7 of the program or activity, individuals are treated in ac-  
8 cordance with their gender identity.

9 “(b) An educational institution receiving Federal fi-  
10 nancial assistance shall reasonably accommodate a student  
11 who requests greater privacy with respect to the use of  
12 a facility designated for the exclusive use of persons of  
13 the same sex, provided that the accommodation does not  
14 exclude any student from such a facility to which the stu-  
15 dent has a right of access or otherwise prejudice any right  
16 or privilege protected under this title.

17 “(c) Nothing in this title shall be construed to alter  
18 or affect the Violence Against Women Act of 1994.

19 **“SEC. 612. NEUTRALITY WITH RESPECT TO ABORTION.**

20 “Nothing in this title shall be construed to require  
21 or prohibit any person, or public or private entity, to pro-  
22 vide or pay for any benefit or service, including the use  
23 of facilities, related to an abortion. Nothing in this title  
24 shall be construed to permit a penalty to be imposed on  
25 any person or any individual because such person or indi-



1 vidual is seeking or has received any benefit or service re-  
2 lated to a legal abortion.

3 **“SEC. 613. NO EFFECT ON TITLE IX.**

4 “Nothing contained in this title shall be construed to  
5 alter or affect title IX of the Education Amendments of  
6 1972 ( 20 U.S.C. 1681 et seq.). Any claim that a person  
7 has been excluded because of sex from participation in,  
8 or denied the benefits of, or subjected to discrimination  
9 with respect to any education program or activity that re-  
10 ceives Federal financial assistance shall be governed by  
11 title IX and not this title.

12 **“SEC. 614. ADDITIONAL DEFINITIONS.**

13 “For purposes of this title:

14 “(1) The term ‘gender identity’ means the gen-  
15 der-related identity, appearance, mannerisms, or  
16 other gender-related characteristics of an individual,  
17 without regard to the individual’s designated sex at  
18 birth. A person’s gender identity can be shown by  
19 providing evidence, including medical history, care or  
20 treatment of the gender identity, consistent and uni-  
21 form assertion of the gender identity, or other evi-  
22 dence that the gender identity is sincerely held, part  
23 of a person’s core identity, and not being asserted  
24 for an improper purpose.

1           “(2) The terms ‘religion’ and ‘religious’ include  
2 all aspects of religious belief, observance, and prac-  
3 tice, whether or not compelled by, or central to, a  
4 system of religion.

5           “(3) The term ‘religious corporation, associa-  
6 tion, educational institution, or society’ includes—

7                   “(A) a church, synagogue, mosque, temple,  
8 or other house of worship;

9                   “(B) a nonprofit corporation, association,  
10 educational institution, society, or other non-  
11 profit entity that is, in whole or substantial  
12 part, owned, supported, controlled, or managed  
13 by a particular religion or by a particular  
14 church, denomination, convention, or associa-  
15 tion of churches or other houses of worship; or

16                   “(C) a nonprofit corporation, association,  
17 educational institution, society, or other non-  
18 profit entity that holds itself out to the public  
19 as substantially religious, has as its stated pur-  
20 pose in its organic documents that it is reli-  
21 gious, and is substantially religious in its cur-  
22 rent operations.

23           “(4) The term ‘religious educational institution’  
24 includes any preschool, primary, secondary or post-  
25 secondary educational institution that is—

1           “(A) in whole or in substantial part,  
2 owned, supported, controlled, or managed by a  
3 particular religion or by a particular church, de-  
4 nomination, convention, or association of  
5 churches or other houses of worship; or

6           “(B) a nonprofit corporation organized for  
7 educational purposes that holds itself out to the  
8 public as substantially religious, has as its stat-  
9 ed purpose in its organic documents that it is  
10 religious, and is substantially religious in its  
11 current operations.

12           “(5) The term ‘sexual orientation’ means homo-  
13 sexuality, heterosexuality, or bisexuality.”.

14 **SEC. 4. EMPLOYMENT DISCRIMINATION PROHIBITED.**

15           (a) DEFINITIONS.—Section 701 of the Civil Rights  
16 Act of 1964 (42 U.S.C. 2000e) is amended—

17           (1) in subsection (j) by inserting “(1)” after  
18 “(j)”;

19           (2) in subsection (j)(1) by inserting “, after ini-  
20 tiating and engaging in an affirmative and bona fide  
21 effort,” after “unable”;

22           (3) in subsection (j)(1) by striking “an employ-  
23 ee’s” and all that follows through “religious” and in-  
24 serting “an employee’s religious”;

1           (4) by adding at the end of subsection (j)(1)  
2           the following:

3           “(2)(A) In this subsection, the term ‘employee’  
4           includes an employee (as defined in subsection (f)),  
5           or a prospective employee, who, with or without rea-  
6           sonable accommodation, is qualified to perform the  
7           essential functions of the employment position that  
8           such individual holds or desires.

9           “(B) In this paragraph, the term ‘perform the  
10          essential functions’ includes carrying out the core re-  
11          quirements of an employment position and does not  
12          include carrying out practices relating to clothing,  
13          practices relating to taking time off, or other prac-  
14          tices that may have a temporary or tangential im-  
15          pact on the ability to perform job functions, if any  
16          of the practices described in this subparagraph re-  
17          strict the ability to wear religious clothing, to take  
18          time off for a holy day, or to participate in a reli-  
19          gious observance or practice.

20          “(3) In this subsection, the term ‘undue hard-  
21          ship’ means an accommodation requiring significant  
22          difficulty or expense.

23                  “(A) For purposes of determining whether  
24                  an accommodation requires significant difficulty

1 or expense, factors to be considered in making  
2 the determination shall include—

3 “(i) the identifiable cost of the accom-  
4 modation, including the costs of loss of  
5 productivity and of retraining or hiring  
6 employees or transferring employees from  
7 one facility to another;

8 “(ii) the overall financial resources  
9 and size of the employer involved, relative  
10 to the number of its employees;

11 “(iii) for an employer with multiple  
12 facilities, the geographic separateness or  
13 administrative or fiscal relationship of the  
14 facilities; and

15 “(iv) whether the accommodation will  
16 obstruct the employer from providing its  
17 customers or clients the full and equal en-  
18 joyment of the goods, services, facilities,  
19 privileges, advantages, and accommoda-  
20 tions offered.

21 “(B) An employer shall not be required to  
22 provide an accommodation that will result in  
23 the violation of Federal or State law nor result  
24 in liability for a hostile work environment.”;  
25 and

1           (5) by inserting after subsection (n) the fol-  
2           lowing:

3           “(o)(1) The term ‘gender identity’ means the gender-  
4 related identity, appearance, mannerisms, or other gender-  
5 related characteristics of an individual, without regard to  
6 the individual’s designated sex at birth. A person’s gender  
7 identity can be shown by providing evidence, including  
8 medical history, care or treatment of the gender identity,  
9 consistent and uniform assertion of the gender identity,  
10 or other evidence that the gender identity is sincerely held,  
11 part of a person’s core identity, and not being asserted  
12 for an improper purpose.

13           “(2) The term ‘sexual orientation’ means homosex-  
14 uality, heterosexuality, or bisexuality.

15           “(3) The terms ‘religion’ and ‘religious’ include all  
16 aspects of religious belief, observance, and practice, wheth-  
17 er or not compelled by, or central to, a system of religion.

18           “(4) The term ‘religious corporation, association,  
19 educational institution, or society’ includes—

20           “(A) a church, synagogue, mosque, temple, or  
21 other house of worship;

22           “(B) a nonprofit corporation, association, edu-  
23 cational institution, society, or other nonprofit entity  
24 that is, in whole or substantial part, owned, sup-  
25 ported, controlled, or managed by a particular reli-

1       gion or by a particular church, denomination, con-  
2       vention, or association of churches or other houses  
3       of worship; or

4               “(C) a nonprofit corporation, association, edu-  
5       cational institution, society, or other nonprofit entity  
6       that holds itself out to the public as substantially re-  
7       ligious, has as its stated purpose in its organic docu-  
8       ments that it is religious, and is substantially reli-  
9       gious in its current operations.”.

10       (b) EXEMPTION.—Section 702(a) of the Civil Rights  
11 Act of 1964 (42 U.S.C. 2000e–1(a)) is amended—

12               (1) by inserting “(1)” after “(a)”;

13               (2) by striking “State, or” and inserting the  
14 following:

15 “State.

16       “(2)(A) This title shall not apply”; and

17               (3) by adding at the end of paragraph (2) the  
18 following:

19               “(B) EXEMPT ORGANIZATIONS.—With respect  
20 to claims of employment discrimination because of  
21 sexual orientation or gender identity, nothing in this  
22 subchapter shall apply to the following:

23               “(i) a church or its integrated auxiliaries,  
24       a convention or association of churches, or a re-  
25       ligious order, as described in section

1           6033(a)(3)(A)(i) and section 6033(a)(3)(A)(iii)  
2           of the Internal Revenue Code of 1986;

3           “(ii) a religious organization described in  
4           sections 501(c)(3) and 509(a)(1), (2), or (3)  
5           that is covered by an Internal Revenue Service  
6           group exemption letter issued to a church or a  
7           convention or association of churches;

8           “(iii) a religious educational institution  
9           that is eligible for exemption under section  
10          703(e)(2) of this subchapter;

11          “(iv) a religious corporation, association,  
12          or society under section 702(a) of this sub-  
13          chapter that is eligible for tax-exempt status  
14          under section 501(c)(3) of the Internal Revenue  
15          Code of 1986 and that employs only individuals  
16          of the employer’s religion, unless the employee  
17          demonstrates that the employer has not applied  
18          with reasonable consistency its religious stand-  
19          ard cited as the reason for the adverse employ-  
20          ment action; or

21          “(v) any association exclusively composed  
22          of employers exempt under subparagraphs  
23          (2)(B)(i)-(iv).

24          “(C) A claim under this subchapter  
25          against an employer described by section



1           702(a)(2)(B) for discrimination because of sex  
2           shall not include claims of discrimination be-  
3           cause of sexual orientation or gender identity.  
4           This provision shall not otherwise affect claims  
5           of sex discrimination, and nothing in this provi-  
6           sion shall prevent a person, regardless of sexual  
7           orientation or gender identity, from bringing a  
8           claim of sex discrimination.

9           “(D) No religious corporation, association,  
10          or society otherwise eligible under section  
11          (2)(B)(iv) of this section shall be ineligible be-  
12          cause of nonrecognition under section 501(c)(3)  
13          of the Internal Revenue Code, unless such tax  
14          treatment is consistent with section  
15          501(c)(3)(B) of that Code.

16          “(E) No employer whose primary purpose  
17          and activity is to deliver medical services shall  
18          be eligible for the exemptions under section  
19          702(a)(2)(B).

20          “(F) Nothing in this section shall prejudice  
21          rights and defenses available under sections  
22          702(a) and 703(e)(2).”.

23          (c) UNLAWFUL EMPLOYMENT PRACTICES.—Section  
24          703 of such Act (42 U.S.C. 2000e–2) is amended—

1           (1) except in subsection (e), by inserting “sex-  
2           ual orientation, gender identity,” immediately before  
3           “or national origin” each place it appears;

4           (2) in subsection (e)(1), by striking “enter-  
5           prise,” and inserting “enterprise, if an individual is  
6           recognized as qualified in accordance with gender  
7           identity when sex is a bona fide occupational quali-  
8           fication,”;

9           (3) in the heading of subsection (m), by strik-  
10          ing “SEX,” and inserting “SEX, SEXUAL ORIENTA-  
11          TION, GENDER IDENTITY,”; and

12          (4) by adding at the end the following:

13          “(o)(1) In this section:

14                 “(A) The term ‘employee’ has the meaning  
15                 given the term in section 701(j)(2).

16                 “(B) The term ‘leave of general usage’ means  
17                 leave provided under the policy or program of an  
18                 employer, under which—

19                         “(i) an employee may take leave by adjust-  
20                         ing or altering the work schedule or assignment  
21                         of the employee according to criteria deter-  
22                         mined by the employer; and

23                         “(ii) the employee may determine the pur-  
24                         pose for which the leave is to be utilized.

1           “(2) For purposes of determining whether an em-  
2 ployer has committed an unlawful employment practice  
3 under this title by failing to provide a reasonable accom-  
4 modation to the religious observance or practice of an em-  
5 ployee, for an accommodation to be considered to be rea-  
6 sonable, the accommodation shall remove the conflict be-  
7 tween employment requirements and the religious observ-  
8 ance or practice of the employee.

9           “(3) An employer shall be considered to commit such  
10 a practice by failing to provide such a reasonable accom-  
11 modation for an employee if the employer refuses to per-  
12 mit the employee to utilize leave of general usage to re-  
13 move such a conflict solely because the leave will be used  
14 to accommodate the religious observance or practice of the  
15 employee.”.

16           (d) OTHER UNLAWFUL EMPLOYMENT PRACTICES.—  
17 Section 704(b) of the Civil Rights Act of 1964 (42 U.S.C.  
18 2000e-3) is amended—

19           (1) in subsection (b) by inserting “sexual ori-  
20 entation, gender identity,” before “national origin”  
21 each place it appears;

22           (2) in subsection (b) by striking “employment.”  
23 and inserting “employment, if an individual is recog-  
24 nized as qualified in accordance with gender identity

1 when sex is a bona fide occupational qualification.”;  
2 and

3 (3) by inserting after subsection (b) the fol-  
4 lowing:

5 “(c) PROHIBITED SANCTIONS FOR CERTAIN EM-  
6 PLOYEE SPEECH.—

7 “(1) An employee may express the employee’s  
8 religious, political, or moral beliefs in the workplace  
9 in a reasonable, nondisruptive, and nonharassing  
10 way on equal terms with similar types of expression  
11 of beliefs allowed by the employer in the workplace,  
12 unless the expression is in direct and substantial  
13 conflict with the essential business-related interests  
14 of the employer.

15 “(2) An employer may not discharge, demote,  
16 terminate, or refuse to hire any person, or retaliate  
17 against, harass, or discriminate in matters of com-  
18 pensation or in terms, privileges, and conditions of  
19 employment against any person otherwise qualified  
20 for employment, for lawful expression or expressive  
21 activity outside of the workplace regarding the per-  
22 son’s beliefs that—

23 “(A) marriage is or should be recognized  
24 as a union of one man and one woman, or one

1 woman and one woman, or one man and one  
2 man; or

3 “(B) sexual activity should or should not  
4 be reserved for spouses within a marriage.

5 The employee’s expression is not protected under  
6 subsection (c)(2) if it directly and materially im-  
7 pedes the employee’s performance of an essential job  
8 function.

9 “(3) Paragraphs (1) and (2) shall not apply to  
10 a nonprofit organization that operates to express or  
11 advocate particular viewpoints, or to an employer  
12 that is a religious corporation, association, edu-  
13 cational institution, or society covered by section  
14 701(o)(4).”.

15 (e) CLAIMS.—Section 706(g)(2)(A) of the Civil  
16 Rights Act of 1964 (42 U.S.C. 2000e–5(g)(2)(A)) is  
17 amended by striking “sex,” and inserting “sex, sexual ori-  
18 entation, gender identity,”.

19 (f) EMPLOYMENT BY FEDERAL GOVERNMENT.—Sec-  
20 tion 717 of the Civil Rights Act of 1964 (42 U.S.C.  
21 2000e–16) is amended—

22 (1) in subsection (a), by striking “sex,” and in-  
23 serting “sex, sexual orientation, gender identity,”;  
24 and

1           (2) in subsection (c), by striking “sex” and in-  
2           serting “sex, sexual orientation, gender identity,”.

3           (g) GOVERNMENT EMPLOYEE RIGHTS ACT OF  
4 1991.—The Government Employee Rights Act of 1991  
5 (title III of Public Law 102–166; 42 U.S.C. 2000e–16 et  
6 seq.) is amended—

7           (1) in section 301(b), by striking “sex,” and in-  
8           serting “sex, sexual orientation, gender identity,”;  
9           and

10           (2) in section 302(a)(1), by striking “sex,” and  
11           inserting “sex, sexual orientation, gender identity,”.

12           (h) ADDITIONAL FACILITIES NOT REQUIRED.—The  
13 Civil Rights Act of 1964 (42 U.S.C. 2000e–18) is amend-  
14 ed by adding at the end the following:

15           “SEC. 719. ‘Nothing in this subchapter shall be con-  
16           strued to require the construction of new or additional fa-  
17           cilities.’”.

18           (i) PRIVACY IN SEX-DESIGNATED FACILITIES.—The  
19 Civil Rights Act of 1964 (42 U.S.C. 2000e–19), as amend-  
20 ed by subsection (h), is amended by adding at the end  
21 the following:

22           “SEC. 720. If equivalent facilities and benefits are  
23           made available and without regard to a prohibited classi-  
24           fication under this subchapter, an employer shall reason-  
25           ably accommodate an employee who requests greater pri-

1 vacy within a facility intended for the exclusive use of per-  
2 sons of the same sex.”.

3 (j) INTERVENTION.—Section 902 of the Civil Rights  
4 Act of 1964 (42 U.S.C. 2000h–2) is amended by inserting  
5 “sexual orientation, gender identity,” before “or national  
6 origin,”.

7 (k) CONGRESSIONAL ACCOUNTABILITY ACT OF  
8 1995.—Section 201(a)(1) of the Congressional Account-  
9 ability Act of 1995 (2 U.S.C. 1311(a)(1)) is amended by  
10 inserting “sexual orientation, gender identity,” before “or  
11 national origin,”.

12 (l) TITLE 5, UNITED STATES CODE.—Chapter 23 of  
13 title 5, United States Code, is amended—

14 (1) in section 2301(b)(2), by striking “sex,”  
15 and inserting “sex, sexual orientation, gender iden-  
16 tity,”; and

17 (2) in section 2302—

18 (A) in subsection (b)(1)(A), by inserting  
19 “sexual orientation, gender identity,” before “or  
20 national origin,”; and

21 (B) in subsection (d)(1), by inserting “sex-  
22 ual orientation, gender identity,” before “or na-  
23 tional origin,”.

24 **SEC. 5. HOUSING DISCRIMINATION PROHIBITED.**

25 (a) IN GENERAL.—

1           (1) Section 804 of the Fair Housing Act (42  
2 U.S.C. 3604) is amended by inserting “sexual ori-  
3 entation, gender identity,” after “sex” each place  
4 that term appears.

5           (2) Section 805 of the Fair Housing Act (42  
6 U.S.C. 3605) is amended by inserting “sexual ori-  
7 entation, gender identity,” after “sex” each place  
8 that term appears.

9           (3) Section 806 of the Fair Housing Act (42  
10 U.S.C. 3606) is amended by inserting “sexual ori-  
11 entation, gender identity,” after “sex” each place  
12 that term appears.

13           (4) Section 807 of the Fair Housing Act (42  
14 U.S.C. 3607) is amended by inserting “or to persons  
15 who adhere to its religion” immediately after the  
16 phrase “persons of the same religion” and “or ad-  
17 herence to such beliefs, observances, tenets, or prac-  
18 tices” immediately before “or from giving preference  
19 to such persons.”

20           (5) Section 808 of the Fair Housing Act (42  
21 U.S.C. 3608) is amended by inserting “sexual ori-  
22 entation, gender identity,” after “sex” each place  
23 that term appears.

24           (b) PREVENTION OF INTIMIDATION.—Section 901 of  
25 the Civil Rights Act of 1968 (42 U.S.C. 3631) is amended



1 by inserting “sexual orientation, gender identity,” after  
2 “sex,” each place that term appears.

3 (c) DEFINITIONS.—Section 802 of the Fair Housing  
4 Act (42 U.S.C. 3602) is amended by adding at the end  
5 the following:

6 “(p) ‘Sexual orientation’ means homosexuality, het-  
7 erosexuality, or bisexuality.

8 “(q) ‘Gender identity’ means the gender-related iden-  
9 tity, appearance, mannerisms, or other gender-related  
10 characteristics of an individual, without regard to the indi-  
11 vidual’s designated sex at birth. A person’s gender identity  
12 can be shown by providing evidence, including medical his-  
13 tory, care or treatment of the gender identity, consistent  
14 and uniform assertion of the gender identity, or other evi-  
15 dence that the gender identity is sincerely held, part of  
16 a person’s core identity, and not being asserted for an im-  
17 proper purpose.

18 “(r) ‘Operates’ includes the rental or occupancy of  
19 dwellings through a lease or contract with the dwelling’s  
20 actual owner or primary operator.

21 “(s) ‘Religion’ has the same meaning as section 701  
22 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

23 “(t) ‘Religious organization, association, or society’  
24 has the same meaning as section 701 of the Civil Rights  
25 Act of 1964 (42 U.S.C. 2000e).”.

1 **SEC. 6. OTHER NONDISCRIMINATION REQUIREMENTS.**

2 (a) MARRIAGE RECOGNITION.—

3 (1) Section 7 of title 1, United States Code, is  
4 amended to read as follows:

5 **“§ 7. Marriage**

6 “(a) For the purposes of any Federal law in which  
7 marital status is a factor, an individual shall be considered  
8 married if that individual’s marriage is valid in the State  
9 where the marriage was entered into or, in the case of  
10 a marriage entered into outside any State, if the marriage  
11 is valid in the place where entered into and the marriage  
12 could have been entered into in a State.

13 “(b) In this section, the term ‘State’ means a State,  
14 the District of Columbia, the Commonwealth of Puerto  
15 Rico, or any other territory or possession of the United  
16 States.”; and

17 (2) Section 1738C of title 28, United States  
18 Code, is repealed, and the table of sections at the be-  
19 ginning of chapter 115 of title 28, United States  
20 Code, is amended by striking the item relating to  
21 that section.

22 (b) DESEGREGATION OF PUBLIC FACILITIES.—Sec-  
23 tion 301(a) of the Civil Rights Act of 1964 (42 U.S.C.  
24 2000b(a)) is amended by inserting “sex, sexual orienta-  
25 tion, gender identity,” before “or national origin”.

1 (c) DISCRIMINATION IN FEDERAL JURY SERVICE  
2 PROHIBITED.—Chapter 121 of title 28, United States  
3 Code, is amended—

4 (1) in section 1862, by inserting “sexual ori-  
5 entation, gender identity,” after “sex,” each place  
6 that term appears;

7 (2) in section 1867, by inserting “sexual ori-  
8 entation, gender identity,” after “sex,” each place  
9 that term appears; and

10 (3) in section 1869 by adding at the end the  
11 following:

12 “(l) The term ‘sexual orientation’ means homosex-  
13 uality, heterosexuality, or bisexuality.

14 “(m) The term ‘gender identity’ means the gender-  
15 related identity, appearance, mannerisms, or other gender-  
16 related characteristics of an individual, without regard to  
17 the individual’s designated sex at birth. A person’s gender  
18 identity can be shown by providing evidence, including  
19 medical history, care or treatment of the gender identity,  
20 consistent and uniform assertion of the gender identity,  
21 or other evidence that the gender identity is sincerely held,  
22 part of a person’s core identity, and not being asserted  
23 for an improper purpose.”.

1 (d) DISCRIMINATION IN CREDIT PROHIBITED.—The  
2 Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.)  
3 is amended—

4 (1) in section 701(a)(1) by striking “or” after  
5 “sex” and inserting “, sexual orientation, gender  
6 identity,” after “sex”;

7 (2) in section 702—

8 (A) by redesignating subsections (f) and  
9 (g) as subsections (g) and (i), respectively;

10 (B) by inserting after subsection (e) the  
11 following:

12 “(f) The term ‘gender identity’ means the gender-re-  
13 lated identity, appearance, mannerisms, or other gender-  
14 related characteristics of an individual, without regard to  
15 the individual’s designated sex at birth. A person’s gender  
16 identity can be shown by providing evidence, including  
17 medical history, care or treatment of the gender identity,  
18 consistent and uniform assertion of the gender identity,  
19 or other evidence that the gender identity is sincerely held,  
20 part of a person’s core identity, and not being asserted  
21 for an improper purpose.”; and

22 (C) by inserting after subsection (g), as so  
23 redesignated, the following:

24 “(h) The term ‘sexual orientation’ means homosex-  
25 uality, heterosexuality, or bisexuality.”; and

1           (3) in section 705, by inserting “, sexual ori-  
2           entation, gender identity,” after “sex”.

3           (e) DISCRIMINATION IN REFUGEE RESETTLEMENT  
4 PROHIBITED.—Section 412(a)(5) of the Immigration and  
5 Nationality Act (8 U.S.C. 1522(a)(5)) is amended by in-  
6 serting “sexual orientation, gender identity,” after “sex,”.

7           (f) SAFE SCHOOLS.—Title IV of the Elementary and  
8 Secondary Education Act of 1965 (20 U.S.C. 7101 et  
9 seq.) is amended by adding at the end the following:

10           **“PART G—SAFE SCHOOLS IMPROVEMENT**

11           **“SEC. 4701. PURPOSE.**

12           “The purpose of this part is to address the problem  
13 of bullying and harassment conduct of students in public  
14 elementary schools and secondary schools.

15           **“SEC. 4702. ANTI-BULLYING POLICIES.**

16           “(a) BULLYING.—In this part, the term ‘bullying’ in-  
17 cludes cyber-bullying through electronic communications  
18 that take place away from school or a school-sponsored  
19 or school-related event, but only if the cyber-bullying in-  
20 fringes on the rights of the student at school as set forth  
21 in subparagraph (A) or (B) of subsection (b)(1).

22           “(b) POLICIES.—A State that receives a grant under  
23 this title shall require all local educational agencies in the  
24 State with authority to administer public elementary and  
25 secondary schools to carry out the following:

1           “(1) Establish policies that prevent and prohibit  
2           conduct, including bullying and harassment—

3                   “(A) that is sufficiently severe, persistent,  
4                   or pervasive that a reasonable person would ex-  
5                   pect such bullying or harassment to limit a stu-  
6                   dent’s ability to participate in, or benefit from,  
7                   a program or activity of a public school or local  
8                   educational agency; or

9                   “(B) that is sufficiently severe, persistent,  
10                  or pervasive that a reasonable person would ex-  
11                  pect such bullying or harassment to create a  
12                  hostile or abusive educational environment, ad-  
13                  versely affecting a student’s education, at a  
14                  program or activity of a public school or local  
15                  educational agency, including acts of verbal,  
16                  nonverbal, or physical aggression or intima-  
17                  tion.

18           “(2) The policies required under paragraph (1)  
19           shall include a prohibition of bullying or harassment  
20           conduct based on—

21                   “(A) a student’s actual or perceived race,  
22                   color, national origin, religion, disability, sex,  
23                   sexual orientation, or gender identity;

24                   “(B) the actual or perceived race, color,  
25                   national origin, religion, disability, sex, sexual

1 orientation, or gender identity of a person with  
2 whom a student associates or has associated; or

3 “(C) any other distinguishing characteris-  
4 tics that may be defined by the State or local  
5 educational agency, including being homeless or  
6 the child or ward of a member of the Armed  
7 Forces.

8 “(3) Provide—

9 “(A) annual notice to students, parents,  
10 and educational professionals describing the full  
11 range of the local educational agency’s policies  
12 required under paragraph (1) and shall include  
13 an affirmative statement of the protections for  
14 free speech, assembly, and expression under the  
15 First Amendment and any other applicable law;  
16 and

17 “(B) grievance procedures for students or  
18 parents to register complaints regarding the  
19 prohibited conduct contained in such local edu-  
20 cational agency’s discipline policies, including—

21 “(i) the name of the local educational  
22 agency officials who are designated as re-  
23 sponsible for receiving such complaints;  
24 and

1                   “(ii) timelines that the local edu-  
2                   cational agency will establish in the resolu-  
3                   tion of such complaints.

4                   “(4) Collect annual incidence and frequency of  
5                   incidents data about the conduct prohibited by the  
6                   policies described in paragraph (1) at the school  
7                   building level that are accurate and complete and  
8                   publicly report such data at the school level and  
9                   local educational agency level. The local educational  
10                  agency shall ensure that victims or persons respon-  
11                  sible for such conduct are not identifiable.

12                  “(5) Encourage positive and preventative ap-  
13                  proaches to school discipline that minimize students’  
14                  removal from instruction and ensure that students,  
15                  including students described in paragraph (2), are  
16                  not subject to disproportionate punishment.

17 **“SEC. 4703. STATE REPORTS.**

18                  “The chief executive officer of a State that receives  
19 a grant under this title, in cooperation with the State edu-  
20 cational agency, shall submit a biennial report to the Sec-  
21 retary—

22                  “(1) on the information reported by local edu-  
23                  cational agencies in the State pursuant to section  
24                  4702(b)(4); and



1           “(2) describing the State’s plans for supporting  
2           local educational agency efforts to address the con-  
3           duct prohibited by the policies described in section  
4           4702(b)(1).

5   **“SEC. 4704. EVALUATION.**

6           “(a) BIENNIAL EVALUATION.—The Secretary shall  
7           conduct an independent biennial evaluation of programs  
8           and policies to combat bullying and harassment in elemen-  
9           tary schools and secondary schools, including implementa-  
10          tion of the requirements described in section 4702, includ-  
11          ing whether such requirements have appreciably reduced  
12          the level of the prohibited conduct and have conducted ef-  
13          fective parent involvement and programs that train cov-  
14          ered school employees how to identify and stop bullying  
15          and harassment, as those terms are defined in section  
16          4702.

17          “(b) DATA COLLECTION.—The Commissioner for  
18          Education Statistics shall collect data from States, that  
19          are subject to independent review, to determine the inci-  
20          dence and frequency of conduct prohibited by the policies  
21          described in section 4702.

22          “(c) BIENNIAL REPORT.—Not later than January 1  
23          of the first calendar year that begins after the effective  
24          date of this section and every 2 years thereafter, the Sec-  
25          retary shall submit to the President and Congress a report

1 on the findings of the evaluation conducted under sub-  
2 section (a) together with the data collected under sub-  
3 section (b) and data submitted by the States under section  
4 4703.

5 **“SEC. 4705. EFFECT ON OTHER LAWS.**

6       “(a) FEDERAL AND STATE NONDISCRIMINATION  
7 LAWS.—Nothing in this part shall be construed to invali-  
8 date or limit rights, remedies, procedures, or legal stand-  
9 ards available to victims of discrimination under any other  
10 Federal law or law of a State or political subdivision of  
11 a State, including title VI of the Civil Rights Act of 1964  
12 (42 U.S.C. 2000d et seq.), title IX of the Education  
13 Amendments of 1972 (20 U.S.C. 1681 et seq.), section  
14 504 or 505 of the Rehabilitation Act of 1973 (29 U.S.C.  
15 794, 794a), or the Americans with Disabilities Act of 1990  
16 (42 U.S.C. 12101 et seq.). The obligations imposed by this  
17 part are in addition to those imposed by title VI of the  
18 Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title  
19 IX of the Education Amendments of 1972 (20 U.S.C.  
20 1681 et seq.), section 504 of the Rehabilitation Act of  
21 1973 (29 U.S.C. 794), and the Americans with Disabil-  
22 ities Act of 1990 (42 U.S.C. 12101 et seq.).

23       “(b) FREE SPEECH AND EXPRESSION.—Nothing in  
24 this part shall be construed to deny any student a right  
25 of free speech, assembly, or expression protected under the

1 Constitution or any other Federal law, or to permit unlaw-  
2 ful viewpoint discrimination. No policy established under  
3 this part may prevent or punish a student’s expression of  
4 religious, political, or philosophical beliefs in the classroom  
5 or at school activities when such expression takes place  
6 on equal terms with similar expressions of belief allowed  
7 by the school in the same setting, unless such expression  
8 consists of bullying or harassment as defined in section  
9 4702(b)(1).

10 **“SEC. 4706. RULE OF CONSTRUCTION.**

11 “Nothing in this part shall be construed to prohibit  
12 a State or local entity from enacting any law with respect  
13 to the prevention of bullying or harassment of students  
14 that is not inconsistent with this part.”.

15 **SEC. 7. PROHIBITION ON RETALIATION AND UNEQUAL**  
16 **TREATMENT.**

17 Title XI of the Civil Rights Act of 1964 (42 U.S.C.  
18 2000h et seq.) is amended by adding at the end the fol-  
19 lowing:

20 **“SEC. 1107. NONRETALIATION.**

21 “(a) IN GENERAL.—

22 “(1) No government shall take any adverse ac-  
23 tion because of—

24 “(A) the existence or invocation of any ex-  
25 emption, defense, or remedy under this Act; or

1           “(B) the existence or invocation of any  
2           protection from discrimination under this Act.

3           “(2) Nothing in this subsection shall be con-  
4           strued to invalidate or supersede a law without evi-  
5           dence that it was enacted, enforced, or administered  
6           for reasons prohibited by paragraph (1).

7           “(b) PROHIBITION ON CERTAIN GOVERNMENT AC-  
8           TIONS.—

9           “(1) PERSONS PROTECTED FROM DISCRIMINA-  
10          TION.—No government shall take any adverse action  
11          that, as applied, conflicts with any protection from  
12          discrimination under this Act.

13          “(2) CERTAIN RELIGIOUS PROPERTIES AND RE-  
14          LIGIOUS EMPLOYERS.—

15                 “(A) No government shall take any ad-  
16                 verse action that, as applied, is inconsistent  
17                 with the exemptions under section 201(b)(11).

18                 “(B) No government shall take any ad-  
19                 verse action that, as applied, abridges the ex-  
20                 emptions provided under section 702(a)(2)(B).

21                 “(C) Nothing in this subsection shall be  
22                 construed to invalidate any other law that oth-  
23                 erwise applies to a religious property exempt  
24                 under section 201(b)(11) or a religious em-  
25                 ployer exempt under section 702(a)(2)(B).

1           “(3) ADOPTION AND FOSTER CARE FUNDING,  
2           LICENSURE, AND CERTIFICATION.—No State shall  
3           enforce a law with respect to a particular contract,  
4           cooperative agreement, grant, guarantee, or benefit  
5           if that law, as applied, abridges any right or benefit  
6           under section 610, unless the State demonstrates  
7           that the contract, cooperative agreement, grant,  
8           guarantee, or benefit is solely funded by revenues of  
9           a State or political subdivision thereof. A State or  
10          its political subdivision may commingle its revenues  
11          with Federal financial assistance for the purpose of  
12          providing financial aid to adoption agencies; such  
13          commingled revenues shall be deemed Federal finan-  
14          cial assistance. No government may deny, withhold,  
15          or suspend the license or certification of a religiously  
16          affiliated adoption or foster care agency because of  
17          its religious teachings or practices, provided that the  
18          agency complies with generally applicable health and  
19          safety standards.

20          “(c) RELIGIOUS EDUCATIONAL INSTITUTIONS.—

21                 “(1) NO ADVERSE ACTION FOR RELIGIOUS MIS-  
22                 SION.—No government shall take any adverse action  
23                 against a religious educational institution, its fac-  
24                 ulty, students, or graduates because of its religious  
25                 mission.

1           “(2) ACCREDITATION.—No accrediting agency  
2 shall take an adverse action against a religious edu-  
3 cational institution for noncompliance with an ac-  
4 creditation standard that would require the institu-  
5 tion to act inconsistently with its religious mission  
6 as related to marriage, family, sexuality, or gender  
7 identity, except as these matters pertain to race,  
8 color, or national origin. Nothing in this provision  
9 shall be interpreted to deny an accrediting agency  
10 the authority under section 496(a) of the Higher  
11 Education Act (20 U.S.C. 1099b(a)) to take action  
12 necessary to ensure that the courses or programs of  
13 instruction, training, or study offered by an institu-  
14 tion of higher education are of sufficient quality to  
15 achieve the stated objective for which the courses or  
16 the programs are offered. An accrediting agency  
17 does not demonstrate that its adverse action against  
18 a religious educational institution is authorized  
19 under section 1099b(a) merely by showing that the  
20 action results from a rule of general applicability.

21           “(3) REMEDIES.—A religious educational insti-  
22 tution harmed by a violation of this subsection may  
23 obtain injunctive relief against the responsible ac-  
24 crediting agency. Upon receiving a copy of such an  
25 injunction, the Department of Education shall deem

1 the affected religious educational institution as ac-  
2 credited for all purposes under Federal law. The De-  
3 partment shall deny recognition for any purpose to  
4 an accrediting agency that knowingly violates this  
5 subsection. An accrediting agency that loses its gov-  
6 ernment recognition may apply with the Department  
7 to restore its recognition if the agency demonstrates  
8 that the violation resulted from mistake or inadvert-  
9 ence. Within two years of the enactment of this Act,  
10 the Department shall issue final rules prescribing  
11 the procedures governing this section.

12 “(d) NO RELIGIOUS TESTS.—No government shall—

13 “(1) exclude a person from an occupation by  
14 depriving a person of professional credentials or im-  
15 posing a fine or penalty, including through a private  
16 right of action, because of the person’s religious be-  
17 liefs or affiliations, provided that the person other-  
18 wise complies with occupational or professional  
19 standards that, in purpose and effect, are neutral to-  
20 ward religion and generally applicable; or

21 “(2) determine eligibility for public office be-  
22 cause of religious beliefs or affiliations.

23 “(e) SCOPE OF APPLICATION.—Subsections (a)  
24 through (d) apply in any case in which—

1           “(1) section 5 of the Fourteenth Amendment to  
2 the Constitution of the United States grants law-  
3 making power to Congress;

4           “(2) action by a government or an accrediting  
5 agency would affect commerce with foreign nations,  
6 among the several States, or with Indian Tribes;

7           “(3) a State or political subdivision receives  
8 Federal financial assistance, to the full extent per-  
9 mitted by Congress’ authority under the Spending  
10 Power in article I, section 8 of the Constitution;

11           “(4) Congress has power under the Necessary  
12 and Proper Clause of article I, section 8 to effec-  
13 tuate the exercise of its enumerated powers; or

14           “(5) the Constitution grants Congress any  
15 other lawmaking power.

16           “(f) JUDICIAL RELIEF.—

17           “(1) CAUSE OF ACTION.—A person or organiza-  
18 tion may assert an actual violation of this section,  
19 or a credible threat of such a violation, as a claim  
20 or defense in a judicial, administrative, or arbitra-  
21 tion proceeding and obtain appropriate relief against  
22 a government or accrediting agency, including attor-  
23 neys’ fees. A State shall not be immune under the  
24 Eleventh Amendment to the Constitution of the  
25 United States from a claim under this section.



1           “(2) REMOVAL.—Any proceeding brought in a  
2 State court for which a claimant invokes this section  
3 as a claim, counterclaim, or defense may be removed  
4 by the claimant to the district court of the United  
5 States for the district and division embracing the  
6 place where such action is pending.

7           “(g) DEFINITIONS.—In section 1107:

8           “(1) The term ‘abridges’ means to diminish,  
9 burden, hinder, or obstruct.

10           “(2) The term ‘accreditation’ means the status  
11 of public recognition that an accrediting agency  
12 grants to an educational institution or program that  
13 meets the agency’s standards and requirements.

14           “(3) The term ‘accrediting agency’ means a  
15 legal entity, or part of a legal entity, that conducts  
16 accrediting activities through voluntary, non-Federal  
17 peer review and makes decisions concerning the ac-  
18 creditation or preaccreditation status of institutions,  
19 programs, or both.

20           “(4) The term ‘adverse action’ includes action  
21 that suspends, revokes, or withholds licenses, per-  
22 mits, certifications, professional credentials, guaran-  
23 tees, contracts, or cooperative agreements; denies or  
24 revokes scholarships, grants, loans, a tax exemption  
25 or tax-exempt status; denies access to government-

1 sponsored facilities, activities, or programs; or that  
2 imposes any other penalty or denies an otherwise  
3 available benefit. Except for a violation of subsection  
4 (a)(1) of this section, adverse action does not include  
5 a State's refusal to subsidize contracts, grants,  
6 loans, or cooperative agreements with exclusively  
7 State revenues because of noncompliance with State  
8 standards that, in purpose and effect, are neutral to-  
9 ward religion and generally applicable. Commingled  
10 State and Federal revenues shall be deemed Federal  
11 revenues. Adverse action does include suspending,  
12 revoking, or withholding scholarships, grants, and  
13 loans, or access to government-sponsored facilities,  
14 activities, or programs to qualified students or grad-  
15 uates of religious educational institutions, notwith-  
16 standing that the scholarships, grants, loans, facili-  
17 ties, activities, or programs are funded with State  
18 revenues.

19 “(5) The term ‘government’ means—

20 “(A) a State, county, municipality, or  
21 other government entity created under the au-  
22 thority of a State;

23 “(B) any branch, department, agency, in-  
24 strumentality, or official of an entity listed in  
25 subsection (g)(5)(A);

1           “(C) any other person acting under color  
2 of State law; and

3           “(D) the United States, a branch, depart-  
4 ment, agency, instrumentality, or official of the  
5 United States, and any other person acting  
6 under color of Federal law.

7           “(6) The terms ‘religion’ and ‘religious’ include  
8 all aspects of religious belief, observance, and prac-  
9 tice, whether or not compelled by, or central to, a  
10 system of religion.

11           “(7) The term ‘religious corporation, associa-  
12 tion, educational institution, or society’ include—

13           “(A) a church, synagogue, mosque, temple,  
14 or other house of worship;

15           “(B) a nonprofit corporation, association,  
16 educational institution, society, or other non-  
17 profit entity that is, in whole or in substantial  
18 part, owned, supported, controlled, or managed  
19 by a particular religion or by a particular  
20 church, denomination, convention, or associa-  
21 tion of churches or other houses of worship; or

22           “(C) a nonprofit corporation, association,  
23 educational institution, society, or other non-  
24 profit entity that holds itself out to the public  
25 as substantially religious, has as its stated pur-

1           pose in its organic documents that it is reli-  
2           gious, and is substantially religious in its cur-  
3           rent operations.

4           “(8) The term ‘religious educational institution’  
5           means any organization covered by section  
6           703(e)(2).

7           “(9) The term ‘religious mission’ includes reli-  
8           gious affiliation, religious tenets, religious teachings,  
9           and religious standards, including policies or deci-  
10          sions related to such affiliation, tenets, teachings, or  
11          standards with respect to housing, employment, cur-  
12          riculum, self-governance, or student admission, con-  
13          tinuing enrollment, or graduation, unless such affili-  
14          ation, tenets, teachings, or standards result in invid-  
15          ious discrimination on account of race, color, or na-  
16          tional origin.

17          “(h) CONSTRUCTION.—This section shall supersede  
18          State or local law as provided for expressly herein. Noth-  
19          ing contained in section 1107 shall be construed as indi-  
20          cating an intent on the part of Congress to occupy the  
21          field in which this Act operates to the exclusion of State  
22          or local laws on the same subject matter.”.

23          **SEC. 8. PRESERVATION OF TAX-EXEMPT STATUS.**

24          Section 501(c)(3) of the Internal Revenue Code (26  
25          U.S.C. 1, et seq.) is amended—

1           (1) by inserting “(A)” before “Corporations,  
2           and community chest . . .”; and

3           (2) by adding at the end the following:

4           “(B)(i) For purposes of Federal law, any deter-  
5           mination whether an organization is organized or op-  
6           erated exclusively for religious, charitable, scientific,  
7           literary, or educational purposes or complies with  
8           legal standards of charity shall be made without re-  
9           gard to the organization’s religious beliefs or prac-  
10          tices concerning marriage, family, or sexuality, ex-  
11          cept insofar as such practices pertain to race or  
12          criminal sexual offenses punishable under constitu-  
13          tionally valid Federal or State law.

14          “(ii) As used in subsection (B)(i), the term ‘re-  
15          ligious’ includes all aspects of religious belief, ob-  
16          servance, and practice, whether or not compelled by,  
17          or central to, a system of religion.”.

18   **SEC. 9. SEVERABILITY.**

19          If any provision of this Act, or the application of any  
20          provision to any individual or circumstance, is held to be  
21          invalid, the remainder of this Act and the application of  
22          its other provisions to any other individuals or cir-  
23          cumstances shall not be affected thereby.